

and second time by unanimous consent, and referred as indicated:

By Mr. SESSIONS (for himself and Mr. DEWINE):

S. 768. A bill to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 769. A bill to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. MURKOWSKI, Mr. INOUE, Mr. HARKIN, and Mr. WELLSTONE):

S. 770. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance.

By Mr. ROBB:

S. 771. A bill to amend title 38, United States Code, to authorize the memorialization at the columbarium at Arlington National Cemetery of veterans who have donated their remains to science, and for other purposes; to the Committee on Veterans Affairs.

S. 772. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BREAU:

S. 773. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

S. 774. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses; to the Committee on Finance.

By Mr. TORRICELLI:

S. 775. A bill to require the Administrator of the Environmental Protection Agency to conduct a feasibility study for applying airport bubbles as a method of identifying, assessing, and reducing the adverse environmental impacts of airport ground and flight operations and improving the overall quality of the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 776. A bill to authorize the National Park Service to conduct a feasibility study for the preservation of the Loess Hills in western Iowa; to the Committee on Energy and Natural Resources.

By Mr. FITZGERALD:

S. 777. A bill to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI:

S. 778. A bill for the relief of Blanca Echeverri; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. FITZGERALD, Mr. MOYNIHAN, and Mr. SCHUMER):

S. 779. A bill to provide that no Federal income tax shall be imposed on amounts received by Holocaust victims or their heirs; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 780. A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide for the participation of the Secretary of the Interior in the America's Agricultural Heritage Partnership, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 781. A bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications that is applicable to telephone communications; to the Committee on the Judiciary.

S. 782. A bill to amend title 18, United States Code, to modify the exception to the prohibition on the interception of wire, oral, or electronic communications to require a health insurance issuer, health plan, or health care provider obtain an enrollee's or patient's consent to their interception, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 783. A bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. MACK, Mr. FRIST, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. SARBANES, Mr. CONRAD, Mr. JOHNSON, Mr. WELLSTONE, Mr. SMITH of Oregon, Ms. COLLINS, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. INOUE, Mr. CRAIG, Mr. GRAHAM, Mr. KERREY, Mr. HARKIN, and Mr. LEAHY):

S. 784. A bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program; to the Committee on Finance.

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

S. 785. A bill for the relief of Frances Schochenmaier; to the Committee on Armed Services.

By Ms. MIKULSKI (for herself, Ms. SNOWE, Mr. SARBANES, Ms. COLLINS, and Mr. LOTT):

S. 786. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes; to the Committee on Finance.

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

S. 787. A bill to amend the Truth in Lending Act to enhance consumer disclosures regarding credit card terms and charges, to restrict issuance of credit cards to students, to expand protections in connection with unsolicited credit cards and third-party checks, and to protect consumers from unreasonable practices that result in unnecessary credit costs or loss of credit, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BURNS (for himself, Mr. ENZI, and Mr. CRAIG):

S. 788. A bill to amend the Federal Meat Inspection Act to provide that a quality

grade label issued by the Secretary of Agriculture may not be used for imported meat and meat food products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN:

S. 789. A bill to amend title 10, United States Code, to authorize payment of special compensation to certain severely disabled uniformed services retirees; to the Committee on Armed Services.

By Mr. LAUTENBERG:

S. 790. A bill to amend the Federal Food, Drug, and Cosmetic Act to require manufacturers of bottled water to submit annual reports, and for other purposes; to the Committee on Environment and Public Works.

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

S.J. Res. 18. A joint resolution honoring World War II crewmembers of the U.S.S. Alabama on the occasion of the 1999 annual reunion of the U.S.S. Alabama Crewmen's Association; to the Committee on Veterans Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. JEFFORDS (for himself, Mr. GREGG, Ms. COLLINS, Mr. LOTT, Mr. DEWINE, Mr. HAGEL, Mr. ENZI, Mr. BROWNBACK, Mr. HATCH, Mr. ASHCROFT, and Mr. COVERDELL):

S. Con. Res. 25. A concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; to the Committee on Armed Services.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SESSIONS (for himself and Mr. DEWINE):

S. 768. A bill to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States; to the Committee on the Judiciary.

### MILITARY AND EXTRATERRITORIAL JURISDICTION ACT OF 1999

Mr. SESSIONS. Mr. President, I rise to introduce the Military and Extraterritorial Jurisdiction Act of 1999. This bill will close a legal loophole through which civilians who commit crimes while accompanying the Armed Forces overseas evade punishment. Today, when a civilian accompanies the military outside the United States, whether a relative, a dependent, or a civilian contractor—and there are many—the civilian is not subject to prosecution under the Uniform Code of Military Justice and does not fall under any of the general Federal criminal laws.

These individuals can only be prosecuted for their crimes if the host country chooses to do so. However, there are many circumstances in which the host country does not choose to

prosecute. They just often do not have an interest in the case. Additionally, in situations such as Somalia and Haiti, when our troops are rapidly deployed, typically no agreement exists governing how civilians will be prosecuted until months into the operation. Indeed, many times there are no laws in effect really in those countries. So we believe that something must be done in this regard.

There is a glaring deficiency here and it has come to my attention through a tragic incident. A U.S. Army dependent, not a soldier, living on an Army base in Germany, sexually molested two dependent children. The Army investigators found probable cause to believe that the sexual acts had occurred. However, under German law, no action could be taken against this juvenile.

Sometimes prosecutors are restricted by legal prohibitions, and sometimes they just have no interest in prosecuting a case involving Americans.

As of March 31, 1996, there were more than 240,000 family dependents and 96,000 civilian employees overseas. These persons accompany our troops to represent the United States, but many times they are in effect outside the law.

In addition to the sexual molestation incident that I have already mentioned, examples of crimes that have gone unpunished due to this loophole are rape, assault, battery, vandalism, and drug dealing. Although the offenders may receive some sort of administrative punishment, such as being barred from certain areas of the base or monetary fines, these administrative noncriminal penalties are inadequate for the more serious violations.

Because the military continues to rely heavily on civilian assistance and support, the United States must develop an appropriate and effective criminal process to deal with the misbehavior of civilians. It is important to the morale of our military forces that enlisted men and women working outside the United States along with civilian personnel do not believe that civilians who may commit a crime against them are beyond criminal prosecution.

This bill would extend the reach of title 18 of the United States Criminal Code to include those civilians that accompany the military outside the United States. When one of these civilians commits an offense that Congress has established as a maritime crime, the U.S. attorney's office would have the option to exercise jurisdiction and prosecute the offender in the United States. The bill would employ title 18, United States Code section 3238, which provides that an accused be tried in the U.S. district court where the offender first appears when he is brought back to the United States.

Finally, in order to prevent legal conflicts with a jurisdiction recognized by the United States, this bill only applies if the host country has already prosecuted or is in the process of prosecuting the accused.

The need for this legislation was most recently described in a report submitted by the Overseas Jurisdiction Advisory Committee to the Secretary of Defense, the Attorney General, and to this Congress. This panel was established in section 1151 of the 1996 National Defense Authorization Act.

In the act, Congress recognized this jurisdictional loophole needed to be examined so it established this advisory committee to study the problems of civilians who commit criminal acts when accompanying the Armed Forces overseas. This committee was composed of experts in military and civilian law from all branches of the armed services, the Department of Justice, and the State Department. The advisory committee found that this problem was serious enough that "legislation is needed to address misconduct by civilians accompanying the forces overseas in peacetime settings." These experts believed that the jurisdictional void must be closed to "maintain order and discipline."

The American Government must have the authority to discipline people it sends overseas to represent and serve this country. It is inconsistent with the American system of justice that a civilian employee working with service members and dependents of service members not be subject to American criminal laws. This piece of legislation is an important step toward recognizing the changing nature of our Armed Forces and making sure that the Criminal Code is keeping pace with the military's changing dynamic.

As a former U.S. attorney for 12 years myself, and one who has met frequently with victims, nothing can be more frustrating than to see a person or a family victimized by some awful act and have to tell them: There is no law that will vindicate you. Even though under various other circumstances it would be a plain crime, for some technical reason there is not a way to legally right this wrong.

So I believe this is an important bill. It closes a loophole involving more and more Americans each year. We simply do not need to cede away the authority to prosecute criminal acts to nations that may have no interest whatsoever in vindicating the rights of an American service man or woman who has been a victim of a crime.

I believe this is an important act. It has broad support, the support of the military and support of other officials of this Government. We think it is a needed step and I commend it to my fellow Members of the Senate.

I also want to express my appreciation for an Alabama family whose child was a victim of a crime, a sexual act, in a foreign country, who is here in this Capitol today, at the Senate today, and without whose support and encouragement this piece of legislation would not become law and would not have reached this point.

Mr. DEWINE. Mr. President, I rise today with my colleague, Senator SES-

SIONS, to reintroduce legislation that would close the loopholes that permit civilians accompanying the Armed Forces and those serving with the Armed Forces from evading punishment for crimes they committed while abroad. Under current law, many illegal acts committed abroad by dependents, civilian employees, and those servicing with the Armed Forces go substantially unaddressed by either military or civilian courts. Administrative punishments have proven equally inadequate to address this problem.

When civilians accompany the Armed Services outside the United States, they are not subject to prosecution under Federal criminal law or the Uniform Code of Military Justice. This has proven to be a double-edged sword. While foreign nations frequently have no interest in vindicating crimes committed by American civilians against other Americans, despite the extreme seriousness of the offense, there have been instances where the United States has had to turn over American civilians to host countries for potentially harsh punishment because of the absence of appropriate enforcement action. Unfortunately, this problem is likely to worsen as there are a large number of dependents overseas, and the number of civilian employees of the Armed Services overseas is increasing. As for those serving with the Armed Forces, criminal prosecutions by the military court or administrative alternatives sometimes simply discharge the individual and send them home, rather than imposing any serious punishment for a crime.

The case that has united Senator SESSIONS and me behind this legislation is that of an Ohio resident, Amy McGough, who was stationed in Germany, along with her husband who is from Alabama. Mrs. McGough's 8-year-old son and 5-year-old daughter were repeatedly raped and molested by a neighbor boy who was supposed to be baby-sitting them. While the Criminal Investigations Division of the Army found sufficient facts, neither the Army nor Federal prosecutors had jurisdiction to prosecute the case, and the German government would not intervene because of the age of the perpetrator.

In such cases, our bill would guarantee that civilians, or those serving with the Armed Forces in certain circumstances, who commit an illegal act punishable under the Federal law by more than a year's imprisonment, will be subject to the special maritime or territorial jurisdiction of the United States for prosecution by a military court or for Federal criminal prosecution. Neither civilians connected with the Armed Forces nor those serving with the Armed Forces abroad accused of rape, child molestation or some other serious felony will simply be allowed to resign or leave the foreign country to avoid punishment. They will be subject to Federal prosecution.

We need to make sure that an appropriate criminal process exists in these circumstances. Letting these individuals back on America's streets does little to hold them accountable, and nothing to protect our communities here at home. I appreciate the efforts of my colleague, Senator SESSIONS, who is also a member of the Armed Services Committee, in working with me to introduce this legislation to address our mutual concern.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 769. A bill to provide a final settlement on certain debt owed by the city of Dickinson, ND, for the construction of the bascule gates on the Dickinson Dam; to the Committee on Energy and Natural Resources.

THE DICKINSON DAM BASCULE GATES  
SETTLEMENT ACT OF 1999

Mr. CONRAD. Mr. President, I rise today to introduce the Dickinson Dam Bascule Gates Settlement Act of 1999 and I am pleased that my colleague from North Dakota, Senator DORGAN, is an original cosponsor of the bill. This legislation would permit the Secretary of the Interior to accept a one-time, lump-sum payment for the city of Dickinson, ND, in lieu of the annual payments required under the city's existing repayment contract for construction of the "bascule gates" on the Dickinson Dam on the Heart River. This bill would resolve a long-standing issue for the city of Dickinson and the Bureau of Reclamation. The Dickinson Dam Bascule Gates Settlement Act is nearly identical to a bill I introduced last June, and it is my hope that the Senate will quickly consider and pass this important piece of legislation.

Mr. President, the history of the bascule gates is long and complex. The Bureau of Reclamation constructed the Dickinson Dam on the Heart River in 1949 and 1950 to supply water to the city of Dickinson, and for flood control, recreation, and other purposes. The reservoir created by this dam was named Patterson Lake in about 1960.

The need for additional water supply for the city was identified in the early 1970's, and the bascule gates were constructed in the early 1980's, to provide additional water storage capacity in Lake Patterson. At the time, the city expressed reservations over the cost of the bascule gates and the viability of the gates, since the city was not aware of any other location in a northern climate in which the gates had been tested or proven. In 1982, shortly after the gates were operational, a large ice block caused excessive pressure on the hydraulic system, causing it to fail. Construction modifications were made to the gate hydraulic system and a dicing system were added in 1982, adding further costs to the project.

In 1991, the city began to receive its municipal water supply from the Southwest Pipeline Project, a project constructed in part with funds provided for North Dakota's statewide water

project, the Garrison Diversion project, which is another Bureau of Reclamation project. The Southwest Pipeline brings high-quality water from Lake Sakakawea on the Missouri River to the city of Dickinson and other communities in southwest North Dakota. The water is of much higher quality than the water from the city's previous supply from Lake Patterson, and has helped spur economic development in the region. While the citizens of the area now benefit from a higher quality water supply, the city no longer benefits from the additional water supply provided by the bascule gates. The result is the city is paying for two Bureau of Reclamation projects, while it is using water from only one of those projects for its municipal water supply. The city has repaid more than \$1.2 million to the United States for the bascule gates, despite the fact that the gates now provide almost no direct benefit to the city.

The city has previously investigated alternatives to the current situation. The city has discussed the option of assuming title to the dam and bascule gates, as well as attempting to negotiate a new agreement with the Bureau of Reclamation administratively. However, because the terms of the existing contract are outlined statutorily, new legislation is required to make any changes to the current repayment contract.

The legislation I am introducing today would do three primary things. First, it would permit the Interior Secretary to accept a lump-sum payment of \$300,000 from the city and terminate the remaining annual payments required under the existing repayment contract. This is an increase from last year's legislation, which called for a \$150,000 final settlement. Enacting this legislation would end the issue of paying for the construction of these gates for both the city and the Federal government.

Second, my bill would require the Secretary to reallocate the costs of operation and maintenance for the bascule gates and the Dickinson Dam. The bill does not prescribe any particular reallocation formula, but does require the Secretary to consider the fact that the current benefits of the dam and bascule gates are primarily for flood control, recreation, and fish and wildlife purposes. In my view, operation and maintenance costs should be borne by those who benefit from a particular project.

Finally, my bill would permit the Secretary to enter any appropriate water service contracts in the future if the city or any other entity uses water from Patterson Lake for municipal water supply or for other purposes. It is only fair that if the city benefits in the future from the water stored behind the bascule gates that we preserve an option for recovering additional costs from those beneficiaries.

Mr. President, this legislation represents a win-win situation for the

residents of the Dickinson area and for the Federal Government. I hope this Congress will carefully study this issue and quickly pass this important legislation.

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. 769

*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 "Dickinson Dam Bascule Gates Settlement Act of 1999".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) in 1980 and 1981, the Bureau of Reclamation constructed the bascule gates on top of the Dickinson Dam on the Heart River, North Dakota, to provide additional water supply in the reservoir known as Patterson Lake for the city of Dickinson, North Dakota, and for additional flood control and other benefits;

(2) the gates had to be significantly modified in 1982 because of damage resulting from a large ice block causing excessive pressure on the hydraulic system, causing the system to fail;

(3) since 1991, the City has received its water supply from the Southwest Water Authority, which provides much higher quality water from the Southwest Pipeline Project;

(4) the City now receives almost no benefit from the bascule gates because the City does not require the additional water provided by the bascule gates for its municipal water supply;

(5) the City has repaid more than \$1,200,000 to the United States for the construction of the bascule gates, and has been working for several years to reach an agreement with the Bureau of Reclamation to alter its repayment contract;

(6) the City has a longstanding commitment to improving the water quality and recreation value of the reservoir and has been working with the United States Geological Survey, the North Dakota Department of Game and Fish, and the North Dakota Department of Health to improve water quality; and

(7) it is in the public interest to resolve this issue by providing for a single payment to the United States in lieu of the scheduled annual payments and for the termination of any further repayment obligation.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **BASCULE GATES.**—The term "bascule gates" means the structure constructed on the Dam to provide additional water storage capacity in the Lake.

(2) **CITY.**—The term "City" means the city of Dickinson, North Dakota.

(3) **DAM.**—The term "Dam" means Dickinson Dam on the Heart River, North Dakota.

(4) **LAKE.**—The term "Lake" means the reservoir known as "Patterson Lake" in the State of North Dakota.

(5) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

**SEC. 4. FORGIVENESS OF DEBT.**

(a) **IN GENERAL.**—The Secretary shall accept a 1-time payment of \$300,000 in lieu of the existing repayment obligations of the City under the Bureau of Reclamation Contract No. 9-07-60W0384, dated December 19, 1988, toward which amount any payments

made by the City to the Secretary on or after June 2, 1998, shall be credited.

(b) OWNERSHIP.—Title to the Dam and bascule gates shall remain with the United States.

(c) COSTS.—

(1) IN GENERAL.—In consultation with the City and the State of North Dakota, the Secretary shall reallocate responsibility for the operation and maintenance costs of the Dam and bascule gates.

(2) CONSIDERATION OF BENEFITS.—The reallocation of costs shall reflect the fact that the benefits of the Dam and bascule gates are mainly for flood control, recreation, and fish and wildlife purposes.

(d) WATER SERVICE CONTRACTS.—The Secretary may enter into appropriate water service contracts if the City or any other person or entity seeks to use water from the Lake for municipal water supply or other purposes.

Mr. DORGAN. Mr. President, I rise to join my colleague from North Dakota, Mr. CONRAD, in introducing a bill to provide a final settlement on certain debts owned by the City of Dickinson, North Dakota, to the Bureau of Reclamation. The legislation is virtually identical to that introduced during the last Congress.

The Dickinson Dam Bascule Gates Settlement Act will provide long overdue relief to the citizens of Dickinson. Let me briefly explain why the debt liquidation is needed and appropriate. For one thing, the Bureau of Reclamation built a faulty project. The debt was incurred by the City of Dickinson for construction of a dam with gate structures which never worked properly. In addition, the need for the dam to help provide a reliable local water supply was eclipsed by the construction of the Southwest Pipeline, a project of the same Bureau of Reclamation.

The legislation itself is actually quite simple. It would permit the Secretary of the Interior to accept one final payment from the City of Dickinson in place of a series of payments now required by city's current repayment contract.

My colleague has described in some detail the complicated and frustrating story of the dam and bascule gates project. Let me underscore a couple of major points. In 1949 and 1950, the dam was constructed to provide an adequate water supply for the City of Dickinson, as well as some flood control and recreation. The bascule gates were added to augment storage capacity in the reservoir called Patterson Lake. Despite the city's concerns about the use of a gate structure on the dam, which had not previously been used in a northern climate, the gates actually failed in 1982. The ensuing modifications increased the cost of the project.

Another twist in the story is that by 1991 the city no longer needed the Patterson Lake water supply. As noted, it began to receive its water supply from the Southwest Pipeline. This is a major distribution network of the Garrison Diversion Unit, another Bureau of Reclamation project. This system provides both higher quality and more reliable

water supplies than the city's previous supply from Patterson Lake.

Consequently, it makes no sense for the City of Dickinson to have two water supply systems when it needs only one—especially when the first system was a faulty one. The city has already repaid more than \$1.2 million for the bascule gates, even though they now provide virtually no benefit to the city.

Last year, I was able to pass an appropriations amendment to provide partial relief for the city's debt. Unfortunately, this provision stalled in the conference committee. The North Dakota delegation also added an amendment for more complete debt relief to a package of water management projects, which did not pass in the last days of 1998 session.

Thus, we need to provide authority for Dickinson to settle its debt, to reallocate costs for operation and maintenance of the bascule gates and Dickinson Dam, and to permit the Secretary of the Interior to enter into appropriate water service contracts with the city for any beneficial use of the water in Patterson Lake. The proposed legislation will address those three objectives while also providing a fair settlement for the Federal Government and the City of Dickinson.

I want to commend my colleague from North Dakota for his leadership and cooperation in developing a sound solution to this problem. In term, I urge my colleagues to consider and pass this needed legislation.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. MURKOWSKI, Mr. INOUE, Mr. HARKIN, and Mr. WELLSTONE):

S. 770. A bill to provide reimbursement under the medicare program for telehealth services, and for other purposes; to the Committee on Finance.

THE COMPREHENSIVE TELEHEALTH ACT OF 1999

Mr. CONRAD. Mr. President, today, I am pleased to be joined by Senator DASCHLE, Senator WELLSTONE, Senator INOUE, Senator HARKIN, and Senator MURKOWSKI to introduce legislation to help improve health care delivery in rural and underserved communities throughout America through the use of telecommunications and telehealth technology.

Telehealth encompasses a wide variety of technologies, ranging from the telephone to high-tech equipment that enables a surgeon to perform surgery from thousands of miles away. It includes interactive video equipment, fax machines and computers along with satellites and fiber optics. These technologies can be used to diagnose patients, deliver care, transfer health data, read X-rays, provide consultation and educate health professionals. Telehealth also includes the electronic storage and transmission of personally identifiable health information, such as medical records, test results, and insurance claims.

The promise of telehealth is becoming increasingly apparent. Throughout

the country, providers are experimenting with a variety of telehealth approaches in an effort to improve access to quality medical and other health-related services. Those programs are demonstrating that telecommunications technology can alleviate the constraints of time and distance, as well as the cost and inconvenience of transporting patients to medical providers. Many approaches show promising results in reducing health care costs and bringing adequate care to all Americans. For the first time, technological advances and the development of a national information infrastructure give telehealth the potential to overcome barriers to health care services for rural Americans and afford them the access that most Americans take for granted. But it is clear that our nation must do more to integrate telehealth into our overall health care delivery infrastructure.

Because so many rural and underserved communities lack the ability to attract and support a wide variety of health care professionals and services, it is important to find a way to bring the most important medical services into those communities. Telehealth provides an important part of the answer. It helps bring services to remote areas in a quick, cost-effective manner, and can enable patients to avoid traveling long distances in order to receive health care treatment.

We have made progress. The Balanced Budget Act of 1997 includes a provision that provides for some Medicare reimbursement of telehealth services. Unfortunately, however, the Health Care Financing Administration interpreted the legislative language too narrowly and severely limited the services that are covered. This bill clarifies the intent of Congress regarding Medicare reimbursement and thereby increases access to these services in underserved areas.

The first element of my proposal clarifies and expands Medicare reimbursement for telehealth. Medicare reimbursement policy is an essential component of helping to integrate telehealth into the health care infrastructure and is particularly important in rural areas, where many hospitals do as much as 80% of their business with Medicare patients. Because the Secretary defined reimbursable services so narrowly in the BBA, this legislation clarifies that all services that are covered under Medicare Part B if you drive to a doctor's office, are covered via telehealth. In particular, it clarifies that the technology called "store and forward", which is a cost-effective method of transferring information, is included in this reimbursement policy. Finally, this bill expands coverage from health professional shortage areas, as enacted in 1997, to cover all rural areas.

The second element of this proposal asks the Secretary of Health and Human Services to submit a report to the Congress on the status of efforts to

ease licensing burdens on practitioners who cross state lines in the course of supplying telehealth services. Currently, consultation by almost any licensed health professional in this situation requires that the practitioner be licensed in both states.

In talking with telehealth providers in my state, and with experts on the Ad Hoc Committee, I have been told repeatedly that this is one of the most significant barriers to developing broad, integrated telehealth systems. More importantly, they tell me states have actively been using licensure to close their borders to innovative telehealth practice. Many states have taken legislative action to ensure that out-of-state practitioners must be fully licensed in their state in order to provide telehealth services, even if they are fully licensed in their own state. During a discussion with a telehealth practitioner from my home state of North Dakota, I was told about a group of telehealth specialists who, among their small group practice, were licensed in more than thirty different states. That means they pay thirty different fees, are responsible for thirty different continuing education requirements, and are overseen by thirty different regulatory bodies. This is a costly and burdensome procedure for many practitioners, but the burden falls particularly heavily on rural practitioners, who face long travel times to acquire continuing education, and who frequently run on lower profit margins than urban practitioners.

While I am not prepared at this time to propose that the federal government get involved with professional licensure, I have asked the Secretary to study the issue and report to Congress yearly on the status of efforts by states and other interested organizations to address this issue. This will allow us to reach out to the states and work together to find solutions to cross-state licensure concerns. As part of this report, I have asked to the Secretary to make recommendations to Congress, if appropriate, about possible federal action to lower the licensure barrier.

A third element of my proposal involves coordination of the Federal telehealth effort. The Department of Health and Human Services has created an informal interagency task force that is examining our federal agency telehealth efforts. This group reported on Federal activities related to telehealth and provided a thorough examination of many of the important issues in telehealth.

My bill attempts to use that task force to inventory Federal activity on telehealth and related technology, determine what applications have been found successful, and recommend an overall Federal policy approach to telehealth. Many departments and agencies of the Federal government are engaged in telehealth activity, including the Veterans Administration, Department of Defense, Department of Agriculture, Office for the Advancement of Telehealth, and many others. The more these agencies work together to coordi-

nate the Federal effort and consolidate Federal resources, the more effective the Federal government will be in contributing to telehealth in a positive way. I believe this is especially important in light of the GAO report calling for an expanded role for this group and more coordination of telehealth issues across the Federal agencies. The efforts of this group, along with the ongoing activities of the Congressional Ad Hoc Steering Committee, will provide a renewed focus for telehealth across the Federal government. Such coordination will also help protect the American taxpayer from unnecessary duplication of effort.

The fourth part of my proposal helps communities build home-grown telehealth networks. It attempts both to build a telehealth infrastructure and foster rural economic development and incorporates many of the most important lessons learned from other grant projects and studies on telehealth from across the Federal government.

Clearly, the scarcity of resources in many rural communities requires that the coordination and use of those resources be maximized. My bill encourages cooperation by various local entities in an effort to help build sustainable telehealth programs in rural communities. It plants seed money to encourage health care providers to join with other segments of the community to jointly use telecommunications resources. Using a unique loan forgiveness program, it rewards telehealth systems that supply appropriate, high-quality care while reducing overall health care costs.

Most importantly, it does not create a system where various technological approaches are imposed upon communities. Rather it enables potential grantees to determine user-friendly approaches that work best for them. This home-grown approach to developing user-friendly telehealth systems, as well as the preference for coordinating resources within communities, will help ensure the long-term viability of such programs after the grant expires.

Mr. President, my proposal continues our national efforts to integrate telecommunications technology into the rapidly evolving health care delivery system. I am very encouraged by the positive feedback I have received from telehealth networks across the country. I have continued to work with telehealth networks and representatives to strengthen this proposal. As a result, I have made several changes in the bill that I believe will make this a stronger proposal. But, as with any complex issue, I understand that some may prefer different approaches. I would like to continue to encourage all interested parties to come forward with creative solutions to these important issues. It is my hope that telehealth legislation can be included in the comprehensive rural health care legislation in this Congress so we can continue to improve access to needed health care services for rural and underserved populations.

By Mr. ROBB:

S. 771. A bill to amend title 38, United States Code, to authorize the memorialization at the columbarium at Arlington National Cemetery of veterans who have donated their remains to science, and for other purposes; to the Committee on Veterans' Affairs.

#### VETERANS LEGISLATION

Mr. ROBB. Mr. President, late last summer, a Virginian contacted my office to request my intervention in a matter which had brought considerable anguish and frustration to her family.

She informed me that her father, a decorated veteran of World War II and a career civil servant, had recently passed away. Before his death, however, he made two simple requests: one, that his body be donated to science, and two, that his ashes be placed in the Arlington National Cemetery. His widow, now 72, honored the first of those wishes. But in honoring the first request, she found out that the second was precluded.

The family learned that, due to various legal concerns, ashes of organ donors who donate their bodies to science are not returned to the families of the donors. Unfortunately, due to the regulations governing Arlington National Cemetery, veterans cannot be memorialized in the Columbarium unless their remains are actually interred there. Oddly, it so happens that if his spouse had predeceased him, her remains would already have been interred in a niche at Arlington, awaiting his remains.

While I can appreciate that limited space at Arlington has necessitated adherence to strict guidelines for burial and memorialization, I cannot see the virtue in denying appropriate recognition for an entitled veteran simply because he has donated his remains to science. In fact, I would like to encourage more veterans to do just that.

All of us recognize the great need for viable remains for both transplantation and for medical study. Veterans who make this courageous commitment should be suitably recognized and their loved ones should know that a grateful nation has made a place for them at one of our country's most sacred memorials.

With that said, I submit this bill which seeks to modify current regulations to allow otherwise qualified veterans, who have donated their remains to science, to be memorialized at the Columbarium in Arlington National Cemetery, notwithstanding the absence of their cremated remains.

Mr. President, I salute these veterans and their devoted families, and 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. 771

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

**SECTION 1. MEMORIALIZATION AT COLUMBARIUM AT ARLINGTON NATIONAL CEMETERY OF VETERANS WHO HAVE DONATED THEIR REMAINS TO SCIENCE.**

(a) **AUTHORITY TO MEMORIALIZE.**—(1) Chapter 24 of title 38, United States Code, is amended by adding at the end the following:

**“§2412. Arlington National Cemetery: memorialization at columbarium of veterans who have donated their remains to science**

“The Secretary of the Army may honor, by marker or other appropriate means at the columbarium at Arlington National Cemetery, the memory of any veteran eligible for inurnment in the columbarium whose cremated remains cannot be inurned in the columbarium as a result of the donation of the veteran's organs or remains for medical or scientific purposes.”.

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following:

“2412. Arlington National Cemetery: memorialization at columbarium of veterans who have donated their remains to science.”.

(b) **APPLICABILITY.**—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply to veterans who die on or after January 1, 1996.

By Mr. ROBB:

S. 772. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

**CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES  
CLARIFICATION**

Mr. ROBB. Mr. President, I rise to introduce legislation that will correct current calculations of federal retirement annuities that unfairly penalizes federal civil servants who switch to part-time service at the end of their careers.

The Congress included provisions in the 1986 Civil Service amendments contained in the Consolidated Omnibus Budget Reconciliation Act that reformed the part-time service calculations for retirement, so that part-time workers would not receive the same annuities as full-time workers. I believe that was a fair and equitable reform. However, after receiving a letter from one of my fellow Virginians, L. David Jones, it is clear that there have been errors in the interpretation of the provision.

Mr. Jones worked for the Naval Research Lab until his retirement in February, 1995. He worked there full-time for 30 years and part-time for five years after his 30 years of full-time service. He elected part-time service at the end of his career to not only to ease into retirement, but to help his colleagues better manage an increased workload. But because of the misinterpretation of the provision, he would have been better off retiring at the end of his 30 years. Instead of being praised for his additional service, his situation now serves as a cautionary tale for others who wish to transition into retirement and help their colleagues: if you switch to part-time service after a long career

as a full-time worker, your annuities will be reduced. Clearly, that is not the intent of the provision.

Mr. Jones and his wife sought judicial remedies to no avail. He and his family simply want his annuity calculated accurately. That is why I am introducing this legislation today.

Mr. President, by passing this legislation we will ensure that federal retirees like Mr. Jones and others are not unjustly penalized for working part-time at the end of their careers. I look forward to working with my colleagues on the Government Affairs Committee to ensure its consideration and favorable recommendation as quickly as possible.

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. 772

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

**SECTION 1. CIVIL SERVICE RETIREMENT SYSTEM  
ANNUITY COMPUTATIONS BASED ON  
PART-TIME SERVICE.**

(a) **IN GENERAL.**—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(3) In the administration of paragraph (1)—

“(A) subparagraph (A) of such paragraph shall apply to any service performed on a part-time basis before, on, or after April 7, 1986;

“(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

“(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.”.

(b) **APPLICATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the amendment made under subsection (a) shall apply to the computation of any annuity with a date of commencement on or after April 7, 1986.

(2) **ANNUITY PAYMENTS.**—The computation of an annuity based on the amendment made under subsection (a) shall apply only with respect to annuity payments made on or after the first day of the first applicable pay period beginning 90 days after the date of enactment of this Act.

By Mr. BREAUX:

S. 773. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

**AMENDMENT TO INTERNAL REVENUE CODE  
SECTION 355(B)(2)**

Mr. BREAUX. Mr. President, I rise today to again introduce a bill that would make a technical change in the Internal Revenue Code. We often talk about the need to simplify the Tax Code. The change I propose today would do that.

This change is small but very important. It would not alter the substance of current law in any way. It would, however, greatly simplify a common corporate transaction. This small tech-

nical change will alone save corporations millions of dollars in unnecessary expenses and economic costs that are incurred when they divide their businesses.

The Treasury Department agrees that there is a technical problem with the drafting of the Tax Code and has agreed to work with me on this proposal. In fact, the President included a similar provision to correct this problem in his budget. I am introducing today the same bill I introduced during the last session of Congress, but expect to work with Treasury to perfect the language and make sure that corporations are not further hampered by this problem.

Corporations, and affiliated groups of corporations, often find it advantageous, or even necessary, to separate two or more businesses. The division of AT&T from its local telephone companies is an example of such a transaction. The reasons for these corporate divisions are many, but probably chief among them is the ability of management to focus on one core business.

At the end of the day, when a corporation divides, the stockholders simply have the stock of two corporations, instead of one. The Tax Code recognizes this is not an event that should trigger tax, as it includes corporate divisions among the tax-free reorganization provisions.

One requirement the Tax Code imposes on corporate divisions is very awkwardly drafted, however. As a result, an affiliated group of corporations that wishes to divide must often engage in complex and burdensome preliminary reorganizations in order to accomplish what, for a single corporate entity, would be a rather simple and straightforward spinoff of a business to its shareholders. The small technical change I propose today would eliminate the need for these unnecessary transactions, while keeping the statute true to Congress's original purpose.

More specifically, section 355 (and related provisions of the Code) permits a corporation or an affiliated group of corporations to divide on a tax-free basis into two or more separate entities with separate businesses. There are numerous requirements for tax-free treatment of a corporate division, or “spinoff,” including continuity of historical shareholder interest, continuity of the business enterprises, business purpose, and absence of any device to distribute earnings and profits. In addition, section 355 requires that each of the divided corporate entities be engaged in the active conduct of a trade or business. The proposed change would alter none of these substantive requirements of the Code.

Section 355(b)(2)(A) currently provides an attribution or “lookthrough” rule for groups of corporations that operate active businesses under a holding company, which is necessary because a holding company, by definition, is not itself engaged in an active business.

This lookthrough rule inexplicably requires, however, that "substantially all" of the assets of the holding company consist of stock of active controlled subsidiaries. The practical effect of this language is to prevent holding companies from engaging in spin-offs if they own almost any other assets. This is in sharp contrast to corporations that operate businesses directly, which can own substantial assets unrelated to the business and still engage in tax-free spinoff transactions.

In the real world, of course, holding companies may, for many sound business reasons, hold other assets, such as non-controlling (less than 80 percent) interests in subsidiaries, controlled subsidiaries that have been owned for less than five years (which are not considered "active businesses" under section 355), or a host of nonbusiness assets. Such holding companies routinely undertake spinoff transactions, but because of the awkward language used in section 355(b)(2)(A), they must first undertake one or more (often a series of) preliminary reorganizations solely for the purpose of complying with this inexplicable language of the Code.

Such preliminary reorganizations are at best costly, burdensome, and without any business purpose, and at worst, they seriously interfere with business operations. In a few cases, they may be so costly as to be prohibitive, and cause the company to abandon an otherwise sound business transaction that is clearly in the best interest of the corporation and the businesses it operates.

There is no tax policy reason, tax advisors agree, to require the reorganization of a consolidated group that is clearly engaged in the active conduct of a trade or business, as a condition to a spinoff. Nor is there any reason to treat affiliated groups differently than single operating companies. Indeed, no one has ever suggested one. The legislative history indicates Congress was concerned about non-controlled subsidiaries, which is elsewhere adequately addressed, not consolidated groups.

For many purposes, the Tax Code treats affiliated groups as a single corporation. Therefore, the simple remedy I am proposing today for the problem created by the awkward language of section 355(b)(2)(A) is to apply the active business test to an affiliated group as if it were a single entity.

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. 773

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

#### **SECTION 1. MODIFICATION OF ACTIVE BUSINESS DEFINITION.**

(a) IN GENERAL.—Section 355(b)(2) of the Internal Revenue Code of 1986 (defining active conduct of a trade or business) is amended by

adding at the end the following: "For purposes of subparagraph (A), all corporations that are members of the same affiliated group (as defined in section 1504(a)) shall be treated as a single corporation."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions or transfer after the date of the enactment of this Act.

By Mr. BREAUX:

S. 774. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses; to the Committee on Finance.

#### **BUSINESS MEAL DEDUCTION FOR SMALL BUSINESSES**

Mr. BREAUX. Mr. President, I rise today to introduce a very important bill for small businesses in Louisiana and throughout our country that I also introduced during the 105th Congress. My bill would restore the 80 percent deduction for business meals and entertainment expenses, thus eliminating a tax burden that has seriously hampered many small businesses in our country.

Small business is a powerful economic engine, both nationwide and in Louisiana. Small businesses have helped to create the prosperity that we have all enjoyed in the last few years. They are leaders in the innovation and technology development that will sustain our economy in the 21st century. Nationwide, small business employs 53 percent of the private work force, contributes 47 percent of all sales in the country, and is responsible for 50 percent of the private gross domestic product.

For these reasons, I believe the tax code should encourage, not discourage, small business development and growth. For the more than 225,000 self-employed and for the thousands of small businesses in Louisiana, business meals and entertainment take the place of advertising, marketing, and conference meetings. These expenses are a core business development cost. As such, a large percentage of these costs should be deductible.

For many years, businesses were allowed to deduct 100 percent of business meals and entertainment expenses. In 1987, this deduction was reduced to 80 percent. The deduction was further reduced in 1994 to 50 percent because of the misconception that these meals were "three martini lunches."

Contrary to this perception, studies show that the primary beneficiary of the business meal deduction is not the wealthy business person. Studies indicate that over two-thirds of the business meal spenders have incomes of less than \$60,000 and 37 percent have incomes below \$40,000. Low to moderately priced restaurants are the most popular types for business meals, with the average check equaling less than \$20. In addition, 50 percent of most business meals occur in small towns and rural areas.

In 1995, just one year after the deduction was reduced to 50 percent, the

White House Conference on Small Business established the restoration of the deduction as one of its top priorities for boosting small business. In Louisiana alone, it is expected that the positive economic impact of this proposal could exceed \$67 million in industries, such as the travel and restaurant industry, that employ over 120,000 people. I urge my colleagues to support this legislation.

By Mr. TORRICELLI:

S. 775. A bill to require the Administrator of the Environmental Protection Agency to conduct a feasibility study for applying airport bubbles as a method of identifying, assessing, and reducing the adverse environmental impacts of airport ground and flight operations and improving the overall quality of the environment, and for other purposes; to the Committee on Environment and Public Works.

#### **THE RIGHT TO KNOW ABOUT AIRPORT POLLUTION ACT**

Mr. TORRICELLI. Mr. President, I rise today to introduce the Right To Know About Airport Pollution Act, and ask that my remarks be placed in the RECORD at the appropriate place. This important legislation will allow the Environmental Protection Agency (EPA), in conjunction with the FAA, to conduct a nationwide study of air, water, solid waste and noise pollution generated by airports across the U.S. every day. In addition, the bill will direct the EPA to determine whether current air emission standards are sufficient to protect the environment, and will require airports to be listed under Community Right To Know laws governing the use of hazardous materials.

Many of my colleagues and I hear everyday from constituents who are concerned by the pollution, including noise pollution, created by airports in our states. In 1996, a Natural Resources Defense Council (NRDC) report confirmed that US airports rival smokestack industries in the amount of pollution they release into the environment. This growing problem affects every state in our nation and millions of our constituents. You do not have to be from a state with a large airport to understand that pollution associated with these facilities severely affects the health and impacts the quality of life of our constituents.

While we must recognize that airport expansion is an inevitable by-product of a vibrant economy, and that the government has a responsibility to foster economic growth and jobs, we also have an equal responsibility to mitigate the hazardous affects of pollution and noise on our constituents. The studies produced as a result of this legislation will give us a better idea as to the magnitude of the pollution problem caused by airports, and will allow us to prepare a commensurate response.

Again, I would like to thank my colleagues who have demonstrated interest in this issue and look forward to the passage of this important legislation.



By Mr. FITZGERALD:

S. 777. A bill to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information; to the Committee on Agriculture, Nutrition, and Forestry.

#### FREEDOM TO E-FILE ACT

Mr. FITZGERALD. Mr. President, I rise today to introduce legislation to streamline the process our farmers follow when filing paper work with the Department of Agriculture (USDA). Currently, when farmers are required to fill out USDA paper work, they are required to travel to their local USDA county offices, complete the paper work, wait in long lines and file these documents in paper form. This process is very inefficient and time consuming.

The bill that I introduce today simply requires USDA to develop a system for farmers to access and file this paper work over the internet. This legislation entitled the "Freedom to E-file Act" simply makes good common sense. As our society has become more technologically advanced so have our farmers. In fact, a 1998 Novartis survey found that over 72 percent of all farmers with 500 acres or more had personal computers. Overall, over fifty percent of all farmers surveyed had computers.

Our agriculturalists use computers not only for financial management and market information but for sophisticated precision agriculture management systems. These sophisticated small business owners could easily file necessary farm program paperwork from their homes and offices if only this option was available.

Farmers are often frustrated with the long lines at county USDA offices, especially during their most hectic times such as harvest season. Our nation's farmers are clearly overburdened by government-required paperwork. This bill is the first step in the right direction toward regulatory reform for our U.S. food producers.

This legislation is budget neutral and USDA would implement the bill using existing funds. I want to recognize and commend my colleague, Congressman RAY LAHOOD, for championing the companion to this bill in the House of Representatives. This bill should enjoy bipartisan support. I urge my colleagues to join me in co-sponsoring this bill important to our nation's farmers.

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. 777

*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 "Freedom to E-File Act".

#### SEC. 2. ELECTRONIC FILING AND RETRIEVAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department of Agriculture and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information.

(b) PROGRESS REPORTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall report to Congress on the progress made toward implementing subsection (a).

By Mr. ABRAHAM (for himself,  
Mr. FITZGERALD, Mr. MOYNIHAN,  
and Mr. SCHUMER):

S. 779. A bill to provide that no Federal income tax shall be imposed on amounts received by Holocaust victims or their heirs; to the Committee on Finance.

#### HOLOCAUST ERA ASSETS TAX EXCLUSION ACT OF 1999

Mr. FITZGERALD. Mr. President, I rise today to introduce the Holocaust Era Assets Tax Exclusion Act of 1999, along with my colleagues Senators MOYNIHAN and SCHUMER. Mr. President, survivors of the Holocaust who had assets withheld from them by Swiss banks or others have finally received justice in the form of a settlement between the banks and the survivor's attorneys in August 1998. The settlement was for \$1.25 billion for survivors worldwide. This settlement will finally return the assets to survivors more than fifty years after they first entrusted them to the banks.

In addition to these recipients, there are survivors who are needy and have received one-time payments from the Swiss Humanitarian Fund established by the Swiss government. In both cases, any payment from the Swiss banks or other similar sources like this, should be excluded from taxation because they are receiving back what was rightfully theirs to begin with. The sum total of payments coming to the needy Holocaust survivors in the United States from this fund is \$31.4 million.

Moreover, funds are being established by banks and corporations in France, Austria, Italy, and Germany to compensate claimants for wrongfully held bank deposits, insurance policies, slave labor, and other losses.

Survivors who have sued banks, insurance companies, and manufacturers which profited from slave labor during the Holocaust, did so because there was no other way for them to seek justice. Deprived of their assets, or those of their families for over fifty years, survivors fought unsuccessfully until now to receive what belonged to them.

With the average age of Holocaust survivors at 80, there is little time for debate over these payments which will ease life for the survivors in their final years. To tax them for the long overdue receipt of assets would be wrong and immoral. What these survivors will receive from the various funds will be

money that is rightfully theirs in the first place.

The survivors of man's greatest inhumanity to man deserve justice. After escaping death at the hands of the Nazis, they were again victimized by European bankers and insurers. Those who endured the tortures of slave labor have never been compensated for their servitude to the Nazis. Now that they have received some measure of justice, let us not make them wait any longer for what is rightfully theirs.

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. 779

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

#### SECTION 1. NO FEDERAL INCOME TAX ON AMOUNTS RECEIVED BY HOLOCAUST VICTIMS OR THEIR HEIRS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received by an individual (or any heir of the individual)—

(1) from the Swiss Humanitarian Fund established by the Government of Switzerland or from any similar fund established by any foreign country, or

(2) as a result of the settlement of the action entitled "In re Holocaust Victims' Asset Litigation", (E.D. NY), C.A. No. 96-4849, or as a result of any similar action.

(b) EFFECTIVE DATE.—This section shall apply to any amount received before, on, or after the date of the enactment of this Act.

Mr. ABRAHAM. Mr. President, I am pleased to join Senators FITZGERALD, MOYNIHAN, and SCHUMER in introducing this important legislation, which would prevent the federal government from taxing away any monies obtained by Holocaust survivors or their families in a settlement related to thefts by the Nazis or their sympathizers.

The horrors of the Nazi regime and its atrocities remain very much with us. Many people in America and around the world, particularly Jews, must live every day with memories of atrocities suffered or witnessed, either by themselves or by those they love, during the Nazi terror. Ghettos, death camps and simple murder were the stuff of daily life for millions of innocent people during this terrible time of Nazi power.

Only recently has public attention been properly directed toward another great crime of the Nazi regime and those who cooperated with it: A 1998 study by the Institute of the World Jewish Congress estimates that between \$90 billion and \$140 billion in today's dollars was stolen from the Jewish populations of countries occupied by the Nazis. In addition to committing outright theft and looting, the Nazis seized liquid assets that could be converted easily into cash, such as insurance policy proceeds and bank accounts. Documents discovered by Risk International Services, Inc., an insurance archaeology firm, show that the Nazis specifically targeted insurance policies held by Jews as a source of



funding for their expansionist, totalitarian regime.

Some insurance companies also specifically (and illegally) targeted Jewish families. Knowing that Jewish policy holders soon would be taken to concentration camps, these firms sold specifically tailored policies, taking as much cash as possible up front, with no intention of honoring their obligations.

After the war, Holocaust survivors attempted to collect on their policies, access their bank accounts and/or reclaim assets that had been illegally seized. Unfortunately, governments, banks and insurance companies failed to fulfill their duty to treat Holocaust victims with justice and dignity. Instead, Mr. President, they refused to honor policies or return stolen assets. In this way they compounded crime with crime and denied people who already had suffered more than most of us could bear the rightful means by which to rebuild their lives.

Finally, after over 50 years of injustice, Holocaust survivors and their families are reclaiming what is rightfully theirs. But, even as we support these efforts to reclaim stolen property, I believe we must do our part in protecting the proceeds. Under current law, any money received by Holocaust survivors in their settlements with banks and other organizations that once cooperated with the Nazis would be treated as gross income for federal tax purposes.

Mr. President, I firmly believe that victims of the Holocaust have suffered far too much for any such taxation to be just. These settlements represent but a fraction of what is owed to those who suffered under Nazi tyranny. To treat them as income subject to taxation would be wrong.

This is why this legislation is so important. It will prevent the federal government from taxing away any monies obtained by Holocaust survivors or their families in a settlement related to thefts by the Nazis or their sympathizers. It will prevent yet another injustice from being done to those who survived the brutal Nazi regime. It will also keep our nation firmly on the side of justice.

By Mrs. FEINSTEIN:

S. 781. A bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications that is applicable to telephone communications; to the Committee on the Judiciary.

#### TELEPHONE PRIVACY ACT OF 1999

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce today the "Telephone Privacy Act of 1999." This legislation would prohibit the recording of a telephone call unless all the parties on the call have given their consent.

I am introducing this bill because our nation's telephone privacy laws are confused and in conflict. We need a na-

tional law governing telephone privacy so that telephone users have a uniform standard to rely on.

Currently, thirty-seven states require only the consent of one party to record a phone call. Fifteen states require the consent of all parties to be taped. This jumbled collection of telephone privacy laws leaves most consumers confused about their rights to protect their phone calls from surreptitious taping.

Today, consumers who seek to block surreptitious taping of their phone calls face an incredible burden. The problem is especially acute during interstate calls because the legality of surreptitiously recording a phone call depends on the state where the call is recorded. Thus, when a party makes an interstate call, one's rights may depend on the laws governing taping in other states.

The recent well-publicized taping of Monica Lewinsky's phone conversations by Linda Tripp illustrates this problem. Maryland, where Linda Tripp recorded the conversations, is a state that requires the consent of all parties. However, Washington D.C., where Monica Lewinsky lived at the time, requires only one-party consent. Two people living within a half-hour drive from each other should have the same laws apply to them.

In practice, any person who wants to protect herself against surreptitious recording must know the telephone privacy laws of other states. Our laws cannot reasonably expect a consumer to have this knowledge. People who make lots of interstate calls might be forced into the position of knowing the telephone privacy laws of all 50 states.

Not only will the Telephone Privacy Act of 1999 promote uniformity of laws, it will also create a standard that better protects privacy. The Telephone Privacy Act would require an all-party consent standard for taping phone calls no matter where one lived in the United States. It would end the practice of one-party consent that exists under Federal law and in a number of states.

While surreptitious taping has legitimate uses, such as lawful surveillance by the police, our laws should not reward the practice of surreptitious taping. This practice violates individual privacy and offends common decency.

Phone calls remain one of the few avenues of communication where people still feel safe enough to have intimate conversations. We should protect this expectation of privacy. If a telephone user intends to tape a phone call, the other party on the line ought to be informed.

Moreover, the one-party consent standard is an anachronism. It is inconsistent with other more privacy-respecting provisions of our communication laws. Federal law makes it a felony, for example, for a third party to tap or record a telephone conversation between others. It is also a felony to surreptitiously tape a cellular telephone call.

The bill has been carefully drafted so that it does not affect the rights of law enforcement officials to tape or monitor conversations as they are carrying out their duties.

Nor does it affect the practice of businesses taping customer calls, as long as the customer is notified at the outset that the call is being taped. It also does not affect the right of people to surreptitiously tape threatening or harassing phone calls.

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. 781

*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 "Telephone Privacy Act of 1999".

#### SEC. 2. REVISION OF CONSENT EXCEPTION TO PROHIBITION ON INTERCEPTION OF ORAL, WIRE, OR ELECTRONIC COMMUNICATIONS APPLICABLE TO TELEPHONE COMMUNICATIONS.

Paragraph (d) of section 2511(2) of title 18, United States Code, is amended by striking "unless such communication" and all that follows and inserting "unless—

"(i) such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

"(ii) in the case of a telephone communication, any other party to such communication has not given prior consent to such interception."

By Mrs. FEINSTEIN:

S. 782. A bill to amend title 18, United States Code, to modify the exception to the prohibition on the interception of wire, oral, or electronic communications to require a health insurance issuer, health plan, or health care provider obtain an enrollee's or patient's consent to their interception, and for other purposes; to the Committee on the Judiciary.

#### PATIENTS' TELEPHONE PRIVACY ACT

Mrs. FEINSTEIN. Mr. President, today I introduce a bill to protect the medical privacy rights of patients when they talk to their health care insurers or providers. The bill requires health care insurers and providers to obtain patients' "express consent" before tape-recording or monitoring conversations.

Today, the health insurance industry routinely tape-records and monitors incoming telephone calls of patients with questions about their health insurance coverage. This bill halts that common practice with two simple rules.

First, health insurance companies and health care providers must obtain the patient's "express consent" before tape-recording or monitoring a conversation. Second, health insurance companies and health care providers must give patients the option not to be tape-recorded or monitored.