

Bob McCurley's duties as Kiwanis International Foundation president have taken him around the world in his efforts to improve the lives of the underprivileged. Under his leadership, the foundation has provided grants to meet the needs of children from Bulgaria and Haiti to India and Cambodia. In particular, the Kiwanis International Foundation has raised millions of dollars to combat iodine deficiency disorders, the leading preventable cause of mental retardation in the world today.

Mr. McCurley earned degrees in both engineering and law from the University of Alabama. He is director of the Alabama Law Institute and an adjunct professor at the Alabama School of Law. He has also served as a municipal judge and has authored 12 books on law and government.

Mr. McCurley has been a member of Kiwanis in Gadsden and Tuscaloosa for more than 30 years. He led the Kiwanis organization in Alabama in 1983-1984, served as Trustee and then Vice President of Kiwanis International from 1987-1992, and since 1994 has served the Kiwanis International Foundation as a Trustee, Treasurer, and President. In addition to Kiwanis, he has served his community as a volunteer in leadership positions with the March of Dimes, Boys Club, Focus on Senior Citizens, and Association for Retarded Children.

Robert L. McCurley Jr.'s charitable work has made a difference in countless lives in Alabama and throughout the world. UNICEF estimates that Kiwanis support of iodine deficiency disorder programs is saving more than 8 million children each year from mental and physical disabilities. I would like to congratulate Mr. McCurley on a stellar term as President of the Kiwanis International Foundation, and wish him and his family the best in the future.●

#### TRIBUTE TO LAWRENCE AND KIM BUTTERFIELD

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Lawrence and Kim Butterfield for their commitment to higher education, and their generosity to the many students who will be able to attend Spalding University because of their gift.

Spalding University has 2.5 million reasons to be grateful to Lawrence and Kim Butterfield of Louisville, Kentucky. Their recent \$2.5 million contribution to Spalding University will allow the school to expand their current overseas travel and study programs, and provide additional student scholarships. The Butterfield's kindness and generosity will ensure that countless students from all backgrounds will receive a quality education and the opportunity to succeed in whatever field of study they choose. Their contribution also will enable students to have the incredible experience of traveling and studying abroad. Students who could not otherwise have af-

forded this opportunity will now be able to participate because of Lawrence and Kim.

Spalding University will benefit from the many students who will be able to attend classes because of the Butterfield's gift of scholarship funds. The gift of an education is truly the gift that keeps on giving. When Lawrence and Kim provide a scholarship for a student at Spalding, they give the student a quality education and life-long career opportunities. But the gift goes further than the individual recipient—it also is a gift to the University and to the Louisville community.

On behalf of myself and my colleagues in the United States Senate, I offer sincere thanks to the Butterfield's for their gift to the students and faculty at Spalding University, to the Louisville community, and to the education of today's youth.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

##### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT OF THE U.S. RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1999—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 133

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on October 17, 2000, during the recess of the Senate, received the following message from the President of the United States, together with accompanying report; which was referred to the Committee on Health, Education, Labor, and Pensions.

*To the Congress of the United States:*

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal year 1999, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(l) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.  
THE WHITE HOUSE, October 17, 2000.

#### MESSAGE FROM THE HOUSE

##### ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on October 13, 2000, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 4516. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2001, and for other purposes.

Under the authority of the order of the Senate of January 6, 1999, the enrolled bill was signed by the President pro tempore (Mr. THURMOND) on October 13, 2000.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 1155: A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes (Rept. No. 106-504).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JEFFORDS (for himself, Mr. KENNEDY, and Mr. DODD):

S. 3208. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance consumer protection in the purchase of prescription drugs from interstate Internet sellers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KERRY, Mr. SARBANES, Mr. SCHUMER, Mr. BIDEN, Mr. MOYNIHAN, Mr. ROTH, and Mr. L. CHAFEE)):

S. 3209. A bill to direct the Secretary of the Interior to carry out a resource study of the approximately 600-mile route through the States of Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, used by George Washington and General Rochambeau during the Revolutionary War; to the Committee on Energy and Natural Resources.

By Mr. SESSIONS:

S. 3210. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process for consumers and employees; to the Committee on the Judiciary.

By Mr. HARKIN:

S. 3211. A bill to authorize the Secretary of Education to provide grants to develop technologies to eliminate functional barriers to full independence for individuals with disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MCCONNELL:

S. Res. 377. A resolution authorizing the taking of photographs in the Chamber of the United States Senate; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. KENNEDY, and Mr. DODD):

S. 3208. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance consumer protection in the purchase of prescription drugs from interstate Internet sellers; to the Committee on Health, Education, Labor, and Pensions.

INTERNET PRESCRIPTION DRUG CONSUMER PROTECTION ACT OF 2000

• Mr. JEFFORDS. Mr. President, I am here today to join with my colleagues in the Senate and House in a bipartisan effort to address the relatively new development of Internet pharmacies. The ever-increasing cost of prescription drugs has led a growing number of Americans to turn to Internet pharmacies to try to find savings. Our goal with the Internet Prescription Drug Consumer Protection Act is to allow American consumers to place the same confidence and trust in Internet pharmacies as they do in traditional brick-and-mortar pharmacies. The bill we are introducing today is a starting point in addressing this issue. If there is not enough time to pass this bill in the remaining days of the session, then I hope to return to this issue early in the next Congress and finish what we have started.

We are well aware that the explosion of Internet commerce has put all manner of goods and services literally at our fingertips. In this respect, health care products and prescription drugs are no different from books, compact disks, or the many other products sold online. But there is a potential for very serious dangers when purchasing prescription drugs online. On March 21 of this year, I chaired a hearing of the Health, Education, Labor, and Pensions Committee to examine this issue.

In the search for lower-priced prescription drugs, American consumers can, unwittingly, order prescription drugs from rogue web sites that appear to be American-based companies, but are actually overseas sites offering low-priced prescription drugs that are unapproved, counterfeit, contaminated, expired, mislabeled, manufactured in unapproved facilities, or not stored or handled in a proper manner.

I believe legitimate Internet pharmacies that operate legally and ethically can offer valuable services to many Americans and have an important role in E-commerce. But there must be an appropriate regulatory system that protects American consumers from illegal and unethical behavior which can endanger lives, and which combats any rogue Internet operators.

Our legislation contains several provisions to protect consumers. But the most important is clearly the one that allows states to obtain nationwide injunctive relief against unlawful Internet sellers, as requested by the National Association of Attorneys General. Currently, in their efforts to combat illegal actions by a few Internet pharmacies, several states' Attorneys General have filed suit against the same companies and the same doctors. To simply prevent those bad actors

from doing business in their state, each Attorney General has to file an action in his or her state court. This duplication of effort drains resources that could be utilized against other offenders. Since the states' primary goal is to prevent rogue sites from harming citizens, nationwide injunctive relief would allow each state to help protect all the citizens of this nation. This power would be directly analogous to the national injunctive relief contained in the federal telemarketing statute.

A number of witnesses at our hearing testified that the most prominent danger presented to consumers is the rogue pharmacies operating in countries other than the United States. In this case, the federal government is clearly the most appropriate entity to deal with international rogue pharmacists, and this legislation provides remedies. Our bill also provides for better coordination between federal and state authorities.

Mr. President, this legislation represents a great deal of work by Senator KENNEDY and myself. Representatives BLILEY, KLINK, and UPTON have worked on this issue as well, and I understand that they are introducing companion legislation in the House. I am pleased that we have been able to work in a bipartisan and bicameral fashion on such a complicated issue. Any time Congress attempts to respond to emerging technologies, similar challenges are faced.

I recognize that we are introducing this bill late in the session and that several members have expressed concern with certain aspects of our proposal. I want to assure my colleagues that this legislation is a starting point. This will provide my colleagues with the opportunity to make comments and suggestions on the different policy areas. We have written this bill with bipartisan cooperation, and I look forward to continuing in that spirit as we work to ensure the safety of Internet pharmacies.●

• Mr. KENNEDY. Mr. President, the Internet is transforming all aspects of our society, including health care. Web-based businesses, such as Internet pharmacies, can offer convenience and an opportunity for privacy for large numbers of consumers buying online. The Internet also creates opportunities, however, for scam artists and unprincipled suppliers to market contaminated, expired, ineffective, or counterfeit medications to unsuspecting patients. Today, these bad actors can easily prey on patients who turn to the Internet for easy access or low-priced medications.

Clearly, effective oversight is needed to protect consumers using the Internet and root out illegal operators without interfering with legitimate Internet commerce. Americans are entitled to the same protections on the Internet that they enjoy in other commercial settings.

So far, existing Federal and State laws have had only limited success in protecting consumers from unlawful

Internet sellers of prescription medications.

Today, some physicians issue prescriptions for patients they have never seen, let alone seriously examined. Patients can purchase prescription drugs on the Internet without adequate safeguards that the drugs are appropriate and of high quality. Because web sites can be easily created and designed, patients may think they have purchased their medications from a U.S.-licensed pharmacy when, in fact, they have not. The prescription drugs they receive may be sold out of someone's garage or from a country with few, if any, standards for manufacturing, storing or shipping these products.

Several states and Federal agencies have taken enforcement actions against unlawful Internet sellers, but with limited results. While the number of legitimate Internet pharmacies remains small, the number of illegal sellers continues to grow. We must do more to protect patients when they buy prescription drugs online. Patients should have the same protections when purchasing their medications over the Internet as when buying from a "bricks-and-mortar" pharmacy.

At a hearing on Internet pharmacies by the Senate Health, Education, Labor and Pensions Committee in March, state and Federal regulators asked the Committee for additional enforcement tools to combat illegal sales of prescription drugs over the Internet. The National Association of Attorneys General called for Federal legislation to require Internet entities that sell prescription medications to disclose information about their businesses, and to give the states the authority to stop illegal sales nationwide, rather than only within their own borders. At a hearing by the House Commerce Committee in May, the Department of Justice asked for authority to freeze domestic assets of illegal foreign web sites.

The Internet Prescription Drug Consumer Protection Act of 2000, which Senators JEFFORDS, DODD, and I are introducing today, gives these needed tools to federal and state law enforcement officials to protect the public from those who sell prescription drugs illegally on the Internet. A companion bill is being introduced by Congressmen BLILEY, KLINK, and UPTON in the House, and I commend Congressman KLINK in particular for his leadership and guidance on this issue.

Today's consumer protection laws were enacted before the development of the Internet. This legislation will fill the gaps in current law that permit these illegal sellers to evade prosecution. The bill is supported by the National Association of Attorneys General, the American Pharmaceutical Association, the American Society of Health-System Pharmacists, drugstore.com, and the National Consumers League.

Our legislation recognizes that states need additional enforcement tools to

take effective action against unlawful domestic Internet sellers, and Federal agencies need additional enforcement tools to take effective action against illegal foreign sellers.

First, the Act requires Internet sellers of prescription drugs to disclose on their web sites and to the appropriate state licensing board their street address, telephone number, and states where they are licensed to sell their products. Consumers have a right to know with whom they are dealing on the Internet, just as they do when they walk into their local pharmacy.

Second, the bill authorizes a state to go to federal court to obtain a nationwide injunction against an unlawful Internet seller. Currently, a state can stop an illegal web site operator from selling drugs to citizens in its state, but the illegal operator is free to sell in the other 49 states. For many illegal sellers, the risk of a state injunction is merely a cost of doing business. Under this legislation, illegal sellers will be out of business altogether.

The Federal Government has little authority to bring criminals in other countries to justice. However, it can freeze the U.S. assets of foreign sellers if given the proper authority. This legislation gives the Department of Justice the ability to stop illegal foreign operators from collecting payments from U.S. customers. If they can't turn a profit, they'll stop selling.

As electronic commerce evolves, cooperative multinational efforts will be needed to assure adequate protections for consumers. Our proposal lays the foundation to achieve this goal. It requires the Secretary of Health and Human Services to make recommendations to Congress for coordinating activities of the federal government with those of other countries to curb illegal Internet sales from abroad.

Consumers also have an important role to play. Informed purchasers are well prepared to avoid illegal web sites. This legislation requires the Secretary of Health and Human Services to educate the public about the potential dangers of buying medications online and about effective public and private sector consumer protections.

This legislation is an important step toward making medications online a safe purchase for consumers. I look forward to working with my colleagues to expedite its passage.

I ask that a summary of the bill and letters of support for it be printed in the RECORD.

The materials follow.

#### INTERNET PRESCRIPTION DRUG CONSUMER PROTECTION ACT OF 2000: SUMMARY

Use of the Internet to buy prescription medications is growing rapidly, and many consumers can benefit from the convenience and potential privacy of this new option. Unfortunately, illegitimate sellers threaten patient safety in this quickly evolving environment. Many of these operations are fly-by-night or foreign businesses that easily evade prosecution. Consumers who buy prescription drugs from such web sites can be harmed from inappropriately prescribed

medications, dangerous drug interactions, and contaminated drugs. Consumers may also be defrauded by paying money but never receiving the medications they ordered or receiving ineffective or counterfeit drugs. Because today's laws were enacted before the development of the Internet, there are gaps in current law that leave consumers vulnerable to unscrupulous business practices. This bill addresses these deficiencies by providing federal and state law enforcement authorities with the tools they need to adequately protect the public when buying medications online.

#### DISCLOSURE REQUIREMENT

Requires interstate Internet sellers of prescription drugs to disclose on their web sites and to the appropriate state licensing board the street address of their place of business, telephone number, and states where they are licensed to sell prescription medications.

#### FEDERAL CAUSE OF ACTION FOR STATES

Authorizes states to go into federal court to obtain a nationwide injunction against an unlawful interstate Internet seller.

#### FREEZING FOREIGN ASSETS

Grants the Department of Justice the authority to stop illegal foreign operators from collecting payments from U.S. customers. The bill also requires the Secretary of Health and Human Services to provide recommendations to Congress for coordinating activities of the federal government with those of other countries to curb illegal Internet sales from abroad.

#### PUBLIC EDUCATION

Requires the Secretary of Health and Human Services to educate the public about the dangers of buying medications online and about effective public and private sector consumer protections.

#### NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

*Washington, DC, October 16, 2000.*

Hon. JIM M. JEFFORDS,

*U.S. Senate, Washington, DC.*

Hon. THOMAS J. BLILEY, Jr.,

*House of Representatives, Washington, DC.*

Hon. EDWARD M. KENNEDY,

*U.S. Senate, Washington, DC.*

Hon. RON KLINK,

*House of Representatives, Washington, DC.*

Re The Internet Prescription Drug Consumer Protection Act of 2000

DEAR SENATOR JEFFORDS, SENATOR KENNEDY, REPRESENTATIVE BLILEY AND REPRESENTATIVE KLINK: As the chair of the Online Pharmacy Working Group for the National Association of Attorneys General, I wish to express the support of my colleagues for legislation you are introducing to address the proliferation of illegal prescription drug sales over the Internet and for your commitment to this issue as the chairs and ranking members of the Senate Health, Education, Labor, and Pensions Committee, the House Commerce Committee and its Subcommittee on Oversight and Investigations, respectively.

As you know, the states have traditionally regulated the practice of prescribing and dispensing medications through state law and licensure requirements. This statutory and regulatory structure ensures the existence of a valid physician-patient or prescriber-patient relationship, the accuracy of prescriptions, and the quality of pharmaceuticals.

The Internet has changed many traditional business practices—including providing new opportunities for consumers to purchase medications from online pharmacies. While the Internet can provide a legitimate, convenient, and effective means for pharmacies to transact business with consumers if operated in full compliance with state laws, it also provides an opportunity for businesses

that are not operating in compliance with state laws to reach consumers. Many of these prescribe and sell drugs without a valid examination by a physician, without a review of a patient's medical records for adverse reactions, without valid prescriptions, without compliance with state laws and licensure requirements, without parental consent, etc. These illegal sites can jeopardize the health and safety of consumers.

The state Attorneys General believe that online pharmacies should not be treated differently than traditional "brick and mortar" pharmacies when it comes to compliance with state laws: if a pharmacy wants to transact business in a certain state, then it should submit to the laws of that state. If the law is broken, the offender should be prosecuted. To date, my state of Kansas and several other states have taken enforcement actions against illegal Internet sites prescribing and/or dispensing prescription drugs to consumers in violation of state law.

These cases are not easy ones for the state to bring. Because of the low start-up costs and anonymity associated with the Internet, it is often difficult for the states to locate those responsible for operating an illegal online pharmacy and those who prescribe and dispense the drugs to consumers, hindering effective investigation and prosecution. Likewise the current lack of nationwide injunctive relief requires each state to separately sue a site to obtain an injunction to protect its consumers, wasting valuable resources.

The bi-partisan and bi-cameral legislation you have introduced will increase the effectiveness of the states' ability to protect consumers. The Internet Prescription Drug Consumer Protection Act of 2000 clearly provides the states with the authority to obtain nationwide injunctive relief, providing an opportunity for a state to obtain an injunction effective in every state, while preserving the ability of other states to seek restitution for their own consumers and penalties and fees in their own state courts. It also addresses the need to ensure we can locate the companies selling prescription drugs by incorporating disclosure and notification requirements that will require companies to maintain accurate, accessible information about their principals and location.

Thank you, again, for your leadership on this issue.

Sincerely

CARLA J. STOVALL,  
*Attorney General of Kansas.*

#### AMERICAN PHARMACEUTICAL ASSOCIATION,

*Washington, DC, October 10, 2000.*

Hon. EDWARD M. KENNEDY,

*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: The American Pharmaceutical Association (APhA), the national professional society of pharmacists, is pleased to support the Internet Prescription Drug Consumer Protection Act of 2000. This proposal is commendable for building on existing State regulation of pharmacy practice and prescription dispensing by other providers, rather than creating a redundant Federal regulation system.

This bill is important to pharmacists as it provides our patients better protection against fraudulent Internet sellers. This bill also complements APhA's work to help consumers know what to look for in an Internet pharmacy. I have enclosed a sample of the information APhA has disseminated broadly to assist consumers in choosing an Internet pharmacy. We look forward to working with the Secretary of Health and Human Services and the Food and Drug Administration to

educate the public about the dangers of purchasing prescription drugs from unlawful Internet sources.

APhA especially supports the provision authorizing injunctions against alienation of property as a preliminary step to address the significant problem of international prescription drug sellers—sellers not bound to the important requirements regulating domestic pharmacies and pharmacists. We strongly support efforts to coordinate Federal agency activity addressing interstate Internet sellers operating from foreign countries. The Association and its members look forward to working with you to refine this approach in certain areas, such as the 75-mile exemption, and to help this proposal become law.

The American Pharmaceutical Association is the first established and largest professional association of pharmacists in the United States. APhA's more than 50,000 members include practicing pharmacists (including pharmacists in legitimate Internet pharmacy practices), pharmaceutical scientists, pharmacy students, and others interested in advancing the profession. The Association is a leader in providing professional information and education for pharmacists and an advocate for improved health through the provision of comprehensive pharmaceutical care.

Please contact Susan C. Winckler, RPh., APhA's Group Director of Policy and Advocacy or Lisa M. Geiger, APhA's Director of State and Federal Policy, should you or your staff require any assistance from APhA. Thank you for your leadership in addressing this important issue.

Sincerely,

JOHN A. GANS,  
*PharmD, Executive Vice President.*

AMERICAN SOCIETY OF HEALTH-SYSTEM PHARMACISTS,

*Bethesda, MD, October 6, 2000.*

Hon. EDWARD M. KENNEDY,  
*Senate Russell Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of the American Society of Health-System Pharmacists (ASHP), the 30,000-member national professional association that represents pharmacists who practice in hospitals, health maintenance organizations, long-term care facilities, home care, and other components of health care systems, I am writing to support continued efforts to improve patient safety. Your legislation, the "Internet Prescription Consumer Protection Act of 2000," provides a significant step towards ensuring that medications obtained via the Internet met the same quality and assurance standards as those products obtained through more traditional means.

ASHP recognizes that the majority of pharmacies selling prescription drugs over the Internet are legitimate entities that offer important health benefits to the patient, including greater accessibility, convenience and access to information. However, legislation is needed to ensure that rogue sites do not exploit and endanger consumers. Current state and federal regulation of Internet pharmacies, as well as voluntary industry initiatives, are not sufficient to ensure patient safety.

The Internet Prescription Drug Consumer Protection Act meets ASHP's policy position on regulating online pharmacy. The bill mandates the disclosure of important provider information, works to ensure that a legitimate patient-prescription relationship exists, and enhances state and federal enforcement authority. These important safety measures will foster greater confidence in the quality of the pharmaceutical products reaching the American public.

Again, we applaud the introduction of your legislation and hope the Congress will come together in a bipartisan manner to address this important patient safety issue in the remaining days of the 106th Congress. We also look forward to working with you further to address the foreign source aspect of the public health problem. Please feel free to have your staff contact Kathleen M. Cantwell, ASHP's Assistant Director and Counsel for Federal Legislative Affairs (301-657-3000 ext. 1326) if we can be of assistance.

Sincerely,

HENRI R. MANASSE, Jr.,  
Ph.D., Sc.D.,  
*Executive Vice President and Chief Executive Officer.*

DRUGSTORE.COM,  
*Bellevue, WA, October 12, 2000.*

Hon. PATTY MURRAY,  
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

Re: Internet Prescription Drug Consumer Protection Act of 2000

DEAR SENATOR MURRAY: We understand that legislation will be introduced in the Senate to impose certain requirements on interstate Internet sellers which sell prescription drugs to consumers, and to facilitate legal action against those sellers making illegal sales of prescription drugs over the Internet. We have reviewed a copy of the legislation provided by Senate staff last week. It is our opinion that the legislation does not impose undue burdens on legitimate Internet pharmacies, such as drugstore.com, and that it represents a step forward in providing consumers with information enabling them to distinguish between legitimate pharmacies and rogue operators. The legislation also authorizes additional law enforcement tools to facilitate the prosecution of those rogues.

We were pleased to see the legislation's acknowledgement that "legitimate Internet sellers of prescription drugs can offer substantial benefits to consumers. These potential benefits include convenience, privacy, valuable information, lower prices, and personalized services." drugstore.com is proud to be the leading online drugstore. We believe that our success in attracting more than 1.2 million customers is the direct result of our commitment to provide safe, secure, legitimate and innovative pharmacy services. We are using the Internet to help our customers make clear, informed decisions about their health and well-being.

As this legislation was being developed, we were concerned that it would impose unreasonable burdens on legitimate online pharmacies, such as drugstore.com, that are already complying with all existing state and federal laws. However, we believe that the Web site disclosure requirements contained in the bill are reasonably circumscribed to avoid such burdens. Such requirements mandate that an interstate Internet seller disclose to consumers such fundamental information as its address and the states in which it is licensed. drugstore.com already discloses that and more on its Web site, and, therefore, does not find such requirements objectionable. We hope that the regulations promulgated by the Department of Health and Human Services under the authority of Sec. 3(a)(6) will acknowledge the apparent intent of the bill not to impose unreasonable burdens on legitimate Internet pharmacies. In that regard, drugstore.com enthusiastically supports the National Association of Boards of Pharmacy's VIPPS (Verified Internet Pharmacy Practices Sites) certification program. That's because we believe the VIPPS certification helps consumers distinguish between legitimate Internet phar-

macies and illegitimate rogue sites. We, therefore, recommend VIPPS as a model for the purpose of promulgating regulations to implement the disclosure requirements of this bill.

We leave to law enforcement authorities the question as to whether the additional enforcement powers authorized by the bill provide sufficient effective mechanisms to investigate and prosecute questionable Internet sites. We take note of the fact that other proposals would have imposed monetary penalties against Internet operators who knowingly dispense a prescription drug without a valid description—a provision missing from this bill. Consistent with drugstore.com's position that rogue sites should be held accountable for their noncompliance with the law, we would have preferred that such penalties be retained as a disincentive to those inclined to violate the law. However, we hope that the enforcement powers included in the bill will be used effectively against illegal operators.

One of the greatest dangers posed to Internet consumers and to legitimate Internet pharmacies across the country is the problem of rogue operators domiciled overseas. Again, we reiterate that the Federal government must exert a much greater effort to address this problem, including working with foreign governments and increasing import surveillance, to deny these rogue sites a safe harbor in the United States.

Finally, we support and encourage consumer education initiatives regarding the dangers and pitfalls of buying from rogue sites, and are pleased to see that the bill mandates such public education. Recently, we participated with the Food and Drug Administration in the CybeRxSmart coalition that is designed to educate and increase consumer awareness on how to purchase prescription drugs safely and legitimately via the Internet. Given the importance of Internet commerce, both to consumers and the economy, we would have preferred that the bill made mandatory the involvement of private sector Internet health care providers in the development of consumer education programs in order to draw on their extensive expertise and enhance the support of such activities.

In summary, we believe that, if sufficient resources are made available to back up the will of Congress as stated in this bill, the Internet Prescription Drug Consumer Protection Act of 2000 can increase consumer awareness of those unsafe Internet sites and enforce federal and state laws against interstate Internet sellers which mislead, and jeopardize the health and safety of, consumers.

We appreciate your attention to this important issue.

Sincerely,

PETER M. NEUPERT,  
*CEO and President.*

NATIONAL CONSUMERS LEAGUE,  
*Washington, DC, October 10, 2000.*

Hon. EDWARD KENNEDY,  
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: The National Consumers League, America's oldest non-profit consumer advocacy organization, is pleased to support the Internet Prescription Drug Consumer Protection Act of 2000. With the increasing use of the Internet to purchase prescription drugs, consumers need adequate protection and information when purchasing medications online. Unfortunately, there are numerous websites that are willing to sell consumers prescription medications without a valid prescription from a licensed provider. These sellers threaten consumer and patient safety and stigmatize the

universe of Internet pharmacies, many of which comply with state and federal regulations governing the prescribing and dispensing of medications.

This legislation will provide valuable protections for consumers by addressing the deficiencies that currently exist for state and federal law enforcement agencies to take action against illegitimate sellers. By requiring all Internet pharmacy websites to be licensed in any state that they sell or ship prescription drugs, consumers will have the confidence that their health and safety are being protected and the purchases they make will be legitimate.

Further, we commend the requirement of a consumer education component in this legislation. Without adequate public education consumers would still remain vulnerable to unscrupulous Internet sites despite the enhanced enforcement tools provided in the legislation.

The National Consumers League supports this important piece of legislation and commends you and the other Members of Congress for helping to improve patient safety and enhance consumer protections online. We look forward to working with you on this bill.

Sincerely,

LINDA F. GOLODNER,  
*President.*•

Mr. DODD. Mr. President, I rise today to join Senators KENNEDY and JEFFORDS in introducing the "Internet Prescription Drug Consumer Protection Act of 2000," legislation that offers much-needed safeguards for consumers who purchase prescription drugs over the Internet. This legislation will, for the first time, require online sellers of pharmaceuticals to comply with the same basic standards as traditional brick-and-mortar pharmacies and will create additional enforcement tools so that states and federal agencies can take effective action against online pharmacies that endanger the public safety.

As with most of the recent advances in technology over the past decade, the ability to shop over the Internet has brought with it new benefits, as well as new worries. While many of us applaud the advantages that e-commerce has provided, when it comes to the purchase of products with a direct and immediate impact on health and safety—such as prescription drugs—we must seriously consider the risks that come with convenience.

While some online pharmacies have adopted all the safeguards of traditional pharmacies, such as hiring licensed pharmacists and requiring valid prescriptions before dispensing drugs, increasingly, unscrupulous companies have used the anonymity of cyberspace to hide from federal and state safety regulations, placing the health of their customers at serious risk. These unethical companies can easily take advantage of the fact that, as consumers, we may leave our common sense behind when we turn on our computers. Too often, we assume that simply because a business has a website, it must be legitimate.

Consequently, we've received hundreds of reports of Internet pharmacies selling powerful prescription drugs to

consumers simply on the basis of answers to a health questionnaire—without the patient ever setting foot in a doctor's office. This practice, which has been condemned as unethical by the American Medical Association, places patients at serious risk for misdiagnoses and dangerous drug interactions. Perhaps even more frightening is that some Internet sellers are dispensing contaminated or counterfeit drugs to their unsuspecting customers. And, unfortunately, the ease with which websites can be created and removed and the difficulty regulators have in determining the identity of the corporations behind the websites create obstacles to states and federal agencies trying to shut down unlawful sellers.

This legislation would require online sellers of prescription drugs to dispense medications only with valid prescriptions, to notify state boards of pharmacy in each state in which they operate of the establishment of their service, and to provide full disclosure of the address and telephone number of the business's headquarters on their website. Under this bill, Internet sellers who do not adhere to these basic standards will risk serious legal sanctions, including permanent prohibition from conducting further business and the freezing of assets.

While we should ensure that legitimate pharmacies can continue to serve their customers on the information superhighway, we need to act immediately to derail those who would use the Internet in unsafe or illicit ways. The legislation we introduce today will give state and federal agencies the appropriate authority to protect American consumers from unscrupulous Internet sellers. I urge all of my colleagues to join us as cosponsors of this important legislation.

By Mr. DASCHLE (for Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KERRY, Mr. SARBANES, Mr. SCHUMER, Mr. BIDEN, Mr. MOYNIHAN, Mr. ROTH, and Mr. L. CHAFEE)):

S. 3209. A bill to direct the Secretary of the Interior to carry out a resource study of the approximately 600-mile route through the States of Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, used by George Washington and General Rochambeau during the Revolutionary War; to the Committee on Energy and Natural Resources.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

WASHINGTON-ROCHAMBEAU REVOLUTIONARY  
ROUTE NATIONAL HERITAGE ACT OF 2000

• Mr. LIEBERMAN. Mr. President, 219 years ago this month, a small army camped at the gates of a small port in Virginia. And turned the world upside down. This collection of often poorly fed, poorly paid, and poorly armed men made a sacrifice from which we all ben-

efit today. In October 1781, a few thousand American and French soldiers laid siege to Yorktown, forced the surrender of Cornwallis and his British regulars, and won American independence.

Although we often remember the victory at Yorktown, too often we lose sight of the heroic efforts that made it possible. Too often we forget that this victory was the culmination of a miraculous campaign—when two nations, two armies, and two great men put aside their differences and worked together for a common purpose.

It is my opinion that no single monument or battlefield would do justice to the scope of this event. That is why I, along with my colleagues, Senators DODD, KERRY, BIDEN, ROTH, SCHUMER, MOYNIHAN, SARBANES, and CHAFEE, am privileged to call for a national commemoration of the events leading to our victory at Yorktown and the end of the American Revolution. We have been strongly supported in this effort by the work of dedicated volunteers across the country—members of the Sons of the American Revolution in all of our states. I would especially like to acknowledge the help of Albert McJoynt and Win Carroll, for their work with my staff on this important project.

The Washington-Rochambeau Revolutionary Road is 600 miles of history, winding from Providence, Rhode Island to Yorktown, Virginia. In the opinion of my colleagues and I, it is well worthy of designation as a National Historic Trail. Let us document the events in the cities and towns all along the road to Yorktown and the birth of this great nation of ours. Let us celebrate the unprecedented Franco-American alliance and the superhuman efforts of Generals George Washington and Jean Baptiste Donatien de Vimeur, Comte de Rochambeau to preserve that alliance in the face of seemingly unsurmountable odds. Let us create a National Historic Trail along whose course we can pause and remember these men and women, their travels, and sacrifices—from the journey's beginning when Rochambeau led the French army out of Newport and Providence, Rhode Island, into New York where he joined Washington's troops, and through a cross section of colonial America to its culmination at the gates of Yorktown.

The story of the alliance and the march is like many in our history—full of heroic characters, brave deeds, and political intrigue. Hollywood should take note: it would make for a blockbuster—and uplifting—adventure. The story unfolds through seven states and countless towns and stars the men and women of the march who left their mark wherever they went.

Each of the towns on the trail makes its own unique contribution to the tale of the journey. Hartford and Wethersfield, in my own state of Connecticut—where the two generals met and through a translator planned their

strategy. In Phillipsburg, New York, the French and American armies first joined together and faced off against the British in New York City. Here, Washington and Rochambeau planned their high risk strategy—abandoning established positions in the north and racing hundreds of miles south to surprise and trap an unsuspecting British army. In Chatham, New Jersey, the French made a show of storing supplies and building bread ovens in order to disguise their march towards Cornwallis in Virginia, to confuse the British. They moved on through Princeton and Trenton, New Jersey—sites of previous colonial victories against great odds.

But the march itself is only part of the story. The unprecedented alliance between France and America was cemented during this journey. Elite troops from one of the great European powers stood with the ragtag but spirited Continental Army to face and defeat the British Empire. Men who shared no common language and had in many cases been enemies in previous wars, shared clothing and food and cultures in order to achieve their goal. And as a proud member of the Armed Services Committee I am pleased to say this was a successful Joint and Coalition operation.

The trail goes through Philadelphia, Pennsylvania—then capital of the colonies. Here Washington and Rochambeau stopped their men outside town, had them clean off the dirt of the trail and marched them through town with drums beating and flags unfurled before the Continental Congress and the people of Philadelphia. The grandeur of their new European ally helped restore the spirit of America during this very uncertain time.

A few days later in Chester, Pennsylvania, Washington, the normally reserved commander-in-chief, literally danced on the dock when he learned the French fleet had arrived in the Chesapeake and trapped the British at Yorktown. For the first time, it seemed that victory for the colonies was possible. The armies marched on to Wilmington, Delaware and Elkton, Maryland, where American troops were finally paid for some of their efforts, using money borrowed by the bankrupt Continental Army from General Rochambeau.

There are two central characters to this drama, without whom the march, siege, and victory would have never happened—Rochambeau and Washington. French ministers hand-selected the celebrated and experienced Rochambeau for the unique “Expédition Particulière” because of his patience and professionalism. Lieutenant General Rochambeau had a distinguished military career. More importantly, he understood the need for America to play the leading role in the war. With dignity and respect, he subordinated himself and his men to Washington and his patchwork forces. While avoiding intrigue and scandal, he overlooked

improprieties and affronts, and provided needed counsel, supplies, and money to Washington and his men. He is undoubtedly one of the key forces helping Washington to victory at Yorktown, and has rightly been called “America’s Neglected Founding Father.”

Our nation’s capital region also played its part in this story. Troops camped in Baltimore near the site of today’s Camden Yards. Some crossed the Potomac near Georgetown, while others camped in Alexandria, Virginia. Along the way, General Washington made a triumphal return to Mount Vernon, and hosted a celebration for his French allies. All along the route, towns were touched and thrilled by the passage of the army and events swirling around them. Within this national commemoration, we should let each tell its own story in its own way.

The force that held it all together throughout the march and on to victory was General Washington. This was not a new role for him. Before the war, Washington was one of the wealthiest men in the colonies and one of its few military heroes. Only he, with his public standing and incredible resolve, could have held together the fledgling Continental Army, the divided loyalties of the American people, a meddling Congress, disloyal generals, and an international alliance, for the six years leading up to the Yorktown Campaign. He overcame his own distrust and doubt and invited his old enemies, the French—who had held him prisoner in an earlier war—to field a European army in the colonies while he was working with all his energy to evict another one. Over the years, he had used his own money and credit to pay and feed his men. And he carefully balanced the need to combine his new nation’s independence with delicate European sensibilities to forge a winning alliance. In these months in 1781, he took a grand risk and won the war. Although the march is not his most famous hour, in many ways it is his finest.

The armies marched on through Williamsburg, Virginia until they reached positions outside Yorktown in late September. Washington and Rochambeau and their troops went on to win this battle and the war. The rest is history. We should work today to ensure that this history, in all its rich detail, is not forgotten. We have the support of many state and local and private and public historic preservation groups in our efforts to establish this trail. We should use their momentum and enthusiasm to make it a reality. This bill begins that process, by directing the Secretary of the Interior to perform a resource study on the establishment of this trail, in coordination with their activities and other Congressionally mandated programs. In a time when it seems we have few heroes, let us take the time to better remember the heroes of our past. Those who sacrificed so much for our freedom today deserve no less.●

Mr. SESSIONS:

S. 3210. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process for consumers and employees; to the Committee on the Judiciary.

THE CONSUMER AND EMPLOYEE ARBITRATION BILL OF RIGHTS

Mr. SESSIONS. Mr. President, I rise to sent to the desk a bill entitled, “The Consumer and Employee Arbitration Bill of Rights.” This bill begins the multi-year legislative process necessary to improve the Federal Arbitration Act so that it will be a cost-effective means of resolving disputes. This bill of rights will provide procedural protections to consumers and employees to ensure that their claims will be resolved under due process of law, in a speedy and cost effective manner.

Congress enacted the Federal Arbitration Act in 1925. It has served us as well for three-quarters of a century. Under the Act, if the parties agree to a contract affecting interstate commerce that contains a clause requiring arbitration, the clause will be enforceable in court. In short, the Federal Arbitration Act allows parties to a contract to agree not to take their disputes to court, but to resolve any dispute arising from that contract before a neutral decision-maker, generally selected by a non-profit arbitration organization. The parties can generally present evidence and be represented by counsel. And the decision-makers will apply the relevant state law in resolving the dispute. Arbitration is generally quicker and less expensive than going to court.

In recent years, there have been some cases where the arbitration process has not worked well, but thousands of disputes have been fairly and effectively settled by arbitrators. Such a system is even more important because of skyrocketing legal costs where attorneys require large contingent fees. Accordingly, I have opposed piecemeal legislative changes to the act. Instead, I believe the time has come for a comprehensive review of how arbitration works and what we can do to enhance its effectiveness.

The approach of reforming arbitration, rather than abandoning the arbitration process provides several benefits. Arbitration is one of the best means of dispute resolution and one that most consumers and employees can afford. Consumers and employees generally cannot afford a team of lawyers to represent them. And their claims are often not big enough so that a lawyer would take the case on a 25 percent or even a 50 percent contingent fee. Thus, the consumer or employee is faced with having to pay a lawyer’s hourly rate for his claim. If he can afford to pay the hourly rate, he must decide whether it makes financial sense to pay a lawyer several thousand dollars to litigate a claim in court for a broken television that cost \$700 new. If this is what consumers and employees are left with, many will have no choice but to drop their claim. This is not right. It is not fair.



This is where arbitration can give the consumer or employee a cost effective forum to assert their claim. Thus, before we make exceptions to the Federal Arbitration Act for some of the most well to do corporations in our society, I think it is our duty to consider how we can improve the system for those less financially able.

A letter I recently received from the National Arbitration Forum contained some interesting comments about the importance of arbitration: the ABA has calculated that 100 million Americans are locked out of court by high legal costs, and that most lawyers will not begin a lawsuit worth less than \$20,000, while arbitration serves as an accessible forum for dispute resolution; consumer class actions increasingly generate little more than coupons for consumers, while contractual arbitration gives a consumer the ability to get his or her case before a neutral party at a reasonable price and in a reasonable amount of time; a recent Roper Study indicates that 59 percent of Americans would choose arbitration over a lawsuit to resolve a claim for money.

Thus, the benefits for customers and employees are readily apparent. Can we improve this system? Yes, but we must take a balanced approach.

Further, arbitration promotes the freedom of parties to make contracts. I was recently contacted by Professor Stephen Ware of the Cumberland School of Law, who reminded us that the promotion of contractual freedom regarding arbitration has long been a primary goal of the Federal Arbitration Act. In any contract, the parties agree to all the terms and clauses included in the contract document. This includes the arbitration clause. This is basic contract law, and the basic principle upon which the Federal Arbitration Act has been supported for 75 years.

But this is not always the case. In certain situations, consumers or employees are not treated fairly. That is what the Consumer and Employee Arbitration Bill of Rights is designed to correct.

The bill will maintain the cost benefits of binding arbitration, but would grant several specific "due process" rights to consumers and employees. The bill is based on the consumer and employee due process protocols of the American Arbitration Association and have broad support. The bill provides the following rights:

No. 1, notice—Under the bill an arbitration clause, to be enforceable, would have to have a heading in large, bold print, would have to state whether arbitration is binding or optional, identify a source that the consumer or employee could contact for more information, and state that a consumer could opt out to small claims court.

This will ensure that consumers who receive credit card notices in the mail will not miss an arbitration clause because it is printed in fine print. Further, it will give consumers and em-

ployees a means to obtain more information on how to resolve any disputes. Finally, the clause would explain that if a consumer's claims could otherwise be brought in small claims court, he is free to do so. Small claims court, unlike regular trial court, provides another inexpensive and quick means of dispute resolution.

No. 2, independent selection of arbitrators—The bill will grant consumers and employees the right to have potential arbitrators disclose relevant information concerning their business ties and employment. All parties to the arbitration will have an equal voice in selecting a neutral arbitrator. This ensures that the large company who sold a consumer a product will not select the arbitrator itself, because the consumer or the employee with a grievance will have the right to nominate potential arbitrators too. As a result, the final arbitrator selected will have to have the explicit approval of both parties to the dispute. This means the arbitrator will be a neutral party with no allegiance to either the seller or the consumer.

No. 3, choice of law—The bill grants consumers and employees the right to have the arbitrator governed by the substantive law that would apply under conflicts of laws principles applicable in the forum in which the consumer resided at the time the contract was entered into. This means that the substantive contract law that would apply in a court where the consumer or employee resides at the time of making the contract will apply in the arbitration. Thus, in a dispute arising from the purchase of a product by an Alabama consumer from an Illinois company, a court would have to determine whether Alabama or Illinois law applied by looking to the language of the contract and to the place the contract was entered into. The bill ensures that an arbitrator will use the same conflict of laws principles that a court would in determining whether Alabama or Illinois law will govern the arbitration proceedings.

No. 4, representation—The bill grants consumers and employees the right to be represented by counsel at his own expense. Thus, if the claim involves complicated legal issues, the consumer or employee is free to have his lawyer represent him in the arbitration. Such representation should be substantially less expensive than a trial in court because of the more abbreviated and expedited process of arbitration.

No. 5, hearing—The bill grants consumers and employees the right to a fair hearing in a forum that is reasonably convenient to the consumer or employee. This would prevent a large company from requiring a consumer or employee to travel across the country to arbitrate his claim and to expend more in travel costs than his claim may be worth.

No. 6, evidence—The bill grants consumers and employees the right to conduct discovery and to present evidence.

This ensures that the arbitrator will have all the facts before him prior to making a decision.

No. 7, cross examination—The bill grants consumers and employees the right to cross-examine witnesses presented by the other party at the hearing. This allows a party to test the statements of the other party's witnesses and be sure that the evidence before the arbitrator is correct.

No. 8, record—The bill grants consumers and employees the right to hire a stenographer or tape record the hearing to produce a record. This right is key to proving later that the arbitration proceeding was fair.

No. 9, timely resolution—The bill grants consumers and employees the right to have an arbitration proceeding to be completed promptly so that they do not have to wait for a year or more to have their claim resolved. Under the bill a defendant must file an answer within 30 days of the filing of the complaint. The arbitrator has 90 days after the answer to hold a hearing. The arbitrator must render a final decision within 30 days after the hearing. Extensions are available in extraordinary circumstances.

No. 10, written decision—The bill grants consumers and employees the right to a written decision by the arbitrator explaining the resolution of the case and his reasons therefor. If the consumer or employee takes a claim to arbitration, he deserves to have an explanation of why he won or lost.

No. 11, expenses—The bill grants consumers and employees the right to have an arbitrator provide for reimbursement of arbitration fees in the interests of justice and the reduction, deferral, or waiver of arbitration fees in cases of extreme hardship. It does little good to take a claim to arbitration if the consumer or employee cannot even afford the arbitration fee. This provision ensures that the arbitrator can waive or reduce the fee or make the company reimburse the consumer or employee for a fee if the interests of justice so require.

No. 12, small claims opt out—The bill grants consumers and employees the right to opt out of arbitration into small claims court if that court has jurisdiction over the claim and the claim does not exceed \$50,000.

The bill also provides an effective mechanism for consumers and employees to enforce these rights. At any time, if a consumer or employee believes that the other party violated his rights, he may ask and the arbitrator may award a penalty up to the amount of the claim plus attorneys fees. For example, if the company fails to provide discovery to the employee, the employee can make a motion for fees. The amount of fee award is limited, as it is in court, to the amount of cost incurred by the employee in trying to obtain the information from the company. This principle is taken from Federal Rule of Civil Procedure 37.

After the decision, if the losing party believes that the rights granted to him

by the Act have been violated, he may file a petition with the Federal district court. If the court finds by clear and convincing evidence that his rights were violated, it may order a new arbitrator appointed. Thus, if a consumer or employee has an arbitrator that is unfair and this causes him to lose the case, the consumer or employee can obtain another arbitrator.

Mr. President, this bill is the first step to creating a constructive dialog on arbitration reform. This bill of rights will ensure that those who can least afford to go to court can go to a less expensive arbitrator and be treated fairly. It will ensure that every arbitration carried out under the Federal Arbitration Act is completed fairly, promptly, and economically. I look forward to working with my colleagues in the Senate to ensure that consumers and employees who agree in a contract to arbitrate their claims will be afforded due process of law.

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. 3210

*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 "Consumer and Employee Arbitration Bill of Rights".

#### SEC. 2. ELECTION OF ARBITRATION.

(a) CONSUMER AND EMPLOYMENT CONTRACTS.—Chapter 1 of title 9, United States Code, is amended by adding at the end the following:

##### “§ 17. Consumer and employment contracts

“(a) DEFINITIONS.—In this section—  
 “(1) the term ‘consumer contract’ means any written, standardized form contract between the parties to a consumer transaction;  
 “(2) the term ‘consumer transaction’ means the sale or rental of goods, services, or real property, including an extension of credit or the provision of any other financial product or service, to an individual in a transaction entered into primarily for personal, family, or household purposes; and  
 “(3) the term ‘employment contract’—  
 “(A) means a uniform, employer promulgated plan that covers all employees in a company, facility, or work grade, and that may cover legally protected rights or statutory rights; and  
 “(B) does not include any individually negotiated executive employment agreements.  
 “(b) FAIR DISCLOSURE.—In order to be binding on the parties to a consumer contract or an employment contract, an arbitration clause in such contract shall—  
 “(1) have a printed heading in bold, capital letters entitled ‘ARBITRATION CLAUSE’, which heading shall be printed in letters not smaller than ½ inch in height;  
 “(2) explicitly state whether participation within the arbitration program is mandatory or optional;  
 “(3) identify a source that a consumer can contact for additional information on costs and fees and on all forms and procedures necessary for effective participation in the arbitration program; and  
 “(4) provide notice that all parties retain the right to resolve a dispute in a small claims court, if such dispute falls within the

jurisdiction of that court and the claim is for less than \$50,000 in total damages.

“(c) PROCEDURAL RIGHTS.—If a consumer contract or employment contract provides for the use of arbitration to resolve a dispute arising out of or relating to the contract, each party to the contract shall be afforded the following rights, in addition to any rights provided by the contract:

“(1) COMPETENCE AND NEUTRALITY OF ARBITRATOR AND ADMINISTRATIVE PROCESS.—

“(A) IN GENERAL.—Each party to the dispute (referred to in this section as a ‘party’) shall be entitled to a competent, neutral arbitrator and an independent, neutral administration of the dispute.

“(B) ARBITRATOR.—Each party shall have an equal voice in the selection of the arbitrator, who—

“(i) shall comply with the Code of Ethics for Arbitrators in Commercial Disputes of the American Arbitration Association and the State bar association of which the arbitrator is a member;

“(ii) shall have no personal or financial interest in the results of the proceedings in which the arbitrator is appointed and shall have no relation to the underlying dispute or to the parties or their counsel that may create an appearance of bias; and  
 “(iii) prior to accepting appointment, shall disclose all information that might be relevant to neutrality, including service as an arbitrator or mediator in any past or pending case involving any of the parties or their representatives, or that may prevent a prompt hearing.

“(C) ADMINISTRATION.—The arbitration shall be administered by an independent, neutral alternative dispute resolution organization to ensure fairness and neutrality and prevent ex parte communication between parties and the arbitrator.

“(2) APPLICABLE LAW.—In resolving a dispute, the arbitrator—

“(A) shall be governed by the same substantive law that would apply under conflict of laws principles applicable in a court of the forum in which the consumer or employee resided at the time the contract was entered into; and  
 “(B) shall be empowered to grant whatever relief would be available in court under law or equity.

“(3) REPRESENTATION.—Each party shall have the right to be represented by an attorney, or other representative as permitted by State law, at the expense of that party.

“(4) HEARING.—  
 “(A) IN GENERAL.—Each party shall be entitled to a fair arbitration hearing (referred to in this section as a ‘hearing’) with adequate notice and an opportunity to be heard.  
 “(B) ELECTRONIC OR TELEPHONIC MEANS.—Subject to subparagraph (C), in order to reduce cost, the arbitrator may hold a hearing by electronic or telephonic means or by a submission of documents.

“(C) FACE-TO-FACE MEETING.—Each party shall have the right to require a face-to-face hearing, which hearing shall be held at a location that is reasonably convenient for the party who is the consumer or employee, unless in the interest of fairness the arbitrator determines otherwise, in which case the arbitrator shall use the process described in section 1391 of title 28 to determine the venue for the hearing.

“(5) EVIDENCE.—With respect to any hearing—  
 “(A) each party shall have the right to present evidence at the hearing and, for this purpose, each party shall grant access to all information reasonably relevant to the dispute to the other parties, subject to any applicable privilege or other limitation on discovery under applicable State law;

“(B) consistent with the expedited nature of arbitration, relevant and necessary pre-hearing depositions shall be available to each party at the direction of the arbitrator; and

“(C) the arbitrator shall—

“(i) make reasonable efforts to maintain the privacy of the hearing to the extent permitted by applicable State law; and

“(ii) consider appropriate claims of privilege and confidentiality in addressing evidentiary issues.

“(6) CROSS EXAMINATION.—Each party shall have the right to cross examine witnesses presented by the other parties at a hearing.

“(7) RECORD OF PROCEEDING.—Any party seeking a stenographic record of a hearing shall make arrangements directly with a stenographer and shall notify the other parties of these arrangements not less than 3 days in advance of the hearing. The requesting party or parties shall pay the costs of obtaining the record. If the transcript is agreed by the parties, or determined by the arbitrator to be the official record of the proceeding, it shall be provided to the arbitrator and made available to the other parties for inspection, at a date, time, and place determined by the arbitrator.

“(8) TIMELY RESOLUTION.—Upon submission of a complaint by the claimant, the respondent shall have 30 days to file an answer. Thereafter, the arbitrator shall direct each party to file documents and to provide evidence in a timely manner so that the hearing may be held not later than 90 days after the filing of the answer. In extraordinary circumstances, the arbitrator may grant a limited extension of these time limits to a party, or the parties may agree to an extension. The arbitrator shall file a decision with each party not later than 30 days after the hearing.

“(9) WRITTEN DECISION.—The arbitrator shall provide each party with a written explanation of the factual and legal basis for the decision. This written decision shall describe the application of an identified contract term, statute, or legal precedent. The decision of the arbitrator shall be final and binding, subject only to the review provisions in subsection (d).

“(10) EXPENSES.—The arbitrator or independent arbitration administration organization, as applicable, shall have the authority to—

“(A) provide for reimbursement of arbitration fees to the claimant, in whole or in part, as part of the remedy in accordance with applicable law or in the interests of justice; and

“(B) waive, defer, or reduce any fee or charge due from the claimant in the event of extreme hardship.

“(11) SMALL CLAIMS OPT OUT.—Each party shall have the right to opt out of binding arbitration and into the small claims court for the forum, if such court has jurisdiction over the claim. For purposes of this paragraph, no court with jurisdiction to hear claims in excess of \$50,000 shall be considered to be a small claims court.

“(d) DENIAL OF RIGHTS.—

“(1) DENIAL OF RIGHTS BY PARTY MISCONDUCT.—

“(A) IN GENERAL.—At any time during an arbitration involving a consumer contract or employment contract, any party may file a motion with the arbitrator asserting that the other party has deprived the movant of 1 or more rights granted by this section and seeking relief.

“(B) AWARD BY ARBITRATOR.—If the arbitrator determines that the movant has been deprived of a right granted by this section by the other party, the arbitrator shall award the movant a monetary amount, which shall not exceed the reasonable expenses incurred



by the movant in filing the motion, including attorneys' fees, unless the arbitrator finds that—

“(i) the motion was filed without the movant's first making a good faith effort to obtain discovery or the realization of another right granted by this section;

“(ii) the opposing party's nondisclosure, failure to respond, response, or objection was substantially justified; or

“(iii) the circumstances otherwise make an award of expenses unjust.

“(2) DENIAL OF RIGHTS BY ARBITRATOR.—A losing party in an arbitration may file a petition in the district court of the United States in the forum in which the consumer or employee resided at the time the contract was entered into to assert that the arbitrator violated 1 or more of the rights granted to the party by this section and to seek relief. In order to grant the petition, the court must find clear and convincing evidence that 1 or more actions or omissions of the arbitrator resulted in a deprivation of a right of the petitioner under this section that was not harmless. If such a finding is made, the court shall order a rehearing before a new arbitrator selected in the same manner as the original arbitrator as the exclusive judicial remedy provided by this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 9, United States Code, is amended by adding at the end the following:

“17. Consumer and employment contracts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any consumer contract or employment contract entered into after the date that is 6 months after the date of enactment of this Act.

### SEC. 3. LIMITATION ON CLAIMS.

Except as otherwise expressly provided in this Act, nothing in this Act may be construed to be the basis for any claim in law or equity.

Mr. HARKIN:

S. 3211. A bill to authorize the Secretary of Education to provide grants to develop technologies to eliminate functional barriers to full independence for individuals with disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### THE TECHNOLOGY FOR ALL AMERICANS ACT

• Mr. HARKIN. Mr. President, I rise to introduce the Technology for All Americans Act. This Act will maximize our country's potential by helping to close the Digital Divide for people with disabilities. In doing so, it will increase their independence and self-sufficiency and further strengthen our economy and society by enabling the greatest possible number of us to contribute our abilities.

As we celebrate the Americans with Disabilities Act's 10th Anniversary, we are entering a new millennium; one that will be defined by technology. But technology can be a double-edged sword for people with disabilities, who continue to fight for the freedom to live independently.

If the Internet and other technologies are accessible, they will offer people with disabilities unprecedented opportunities for independence and self-sufficiency. But if they are not accessible, they simply will create new barriers to full participation of people

with disabilities in our society and our economy.

Although new technologies have improved the lives of many Americans with disabilities, there remains a significant “Digital Divide” between Americans with and without disabilities. Although people with disabilities are nearly twice as likely as people without disabilities to say that the Internet has improved their lives significantly, they are barely one-quarter as likely to use the Internet and less than half as likely to have access to a computer at home.

The Technology for All Americans Act will begin to bridge this gap. The Act provides incentives for public and private researchers to use universal design and accessibility principles in new technologies, and to develop technologies to eliminate functional barriers to full independence for people with disabilities. It will increase public access to technology by providing grants to States to make public libraries, including those in elementary and secondary schools, technology accessible. It will increase the development and use of accessible technology by providing grants to colleges and universities to establish model curricula incorporating the design and use of accessible technology into academic and professional programs. And it will help children with disabilities maximize their potential in school and after graduation by ensuring their access to technology. In a nutshell, this Act will help ensure that people with disabilities have an equal opportunity to participate in society.

But, this act is not just for people with disabilities. It is, as its name says, for all Americans. When people with disabilities succeed in school, join the workforce, and participate in day-to-day life, we all benefit from their abilities.

History also demonstrates that research on accessible technology benefits everyone. How many people know that the typewriter was invented for an Italian countess who was blind? In 1990, the Television Decoder Circuitry Act, which I introduced, required closed captioning for most television sets so that people who are deaf could watch TV. But today millions of people who are not deaf use closed captioning at home, at work, at gyms, and at sports bars, to name a few. And, millions of people use voice-activated technology at work or in car phones and cell phones. That technology also was intended primarily for people with disabilities.

This trend will accelerate as the Technology Revolution moves forward. The technologies that make things accessible for people with disabilities have applications for all of us.

More and more each day, every American's ability to participate in society is determined by how well they are able to use technology. This Act will help us take the greatest advantage of technology for the benefit of

the greatest number of Americans. This must be one of our priorities as we move into the new millennium.

So I ask my colleagues, people with disabilities, educators, technology experts, and others who are interested to share their ideas with me about this bill and about the issue of making technology accessible to every American, so that next Congress we can ensure that every American has access to the tools that will shape our future. ●

### ADDITIONAL COSPONSORS

S. 61

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 1536

At the request of Mr. DEWINE, the names of the Senator from Missouri (Mr. BOND) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 1536, a bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

S. 2293

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2293, a bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of an established ratio and, after such obligations are satisfied, to provide for rebates to insured depository institutions of such excess reserves.

S. 2412

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 2412, a bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

S. 2440

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 2440, a bill to amend title 49, United States Code, to improve airport security.

S. 2675

At the request of Ms. SNOWE, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 2675, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 2698

At the request of Mr. MOYNIHAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Utah (Mr. HATCH), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Vermont (Mr. LEAHY) were added