These are two examples, but Americans in all 50 states have suffered. That is why Senator ALLEN and I have joined together with 17 co-sponsors on both sides of the aisle to advance this legislation to ensure that American victims of state-sponsored terrorism are justly compensated for their pain, suffering, and losses.

Current law allows American citizens to sue terrorists for compensation for their losses. Many Americans have won verdicts and judgments in our federal courts, yet have been unable to collect even though the U.S. Treasury lawfully controls at least $3.7 billion in blocked or frozen assets of the seven foreign governments known to sponsor terrorism. Our own government has worked to prevent these families from collecting. In fact, our own State Department and Justice Department have gone into federal court to single out and block the 52 Americans held hostage in Iran and their families from even being able to pursue justice in our federal courts, let alone collect compensation.

To be clear, current law only applies to terrorist states. At present, seven foreign governments are officially designated by the U.S. State Department as state sponsors of terrorism. They are Iran, Iraq, Libya, Syria, Sudan, North Korea, and Cuba. It is those state sponsors of international terrorism, not the American taxpayer, who must be compelled to pay these costs first and foremost.

The Harkin-Allen Amendment sends a clear message to foreign governments that sponsor international terrorism: If you sponsor terrorism, if you attack innocent Americans, we will pursue you, we will bring you to justice, and America will literally make you pay.

American victims of state-sponsored terrorism deserve to be compensated for their pain, suffering, and losses by those terrorists who sponsor and commit these terrible acts. The Congress should clear the way for those with court-ordered judgments to be paid from blocked terrorist assets and, in so doing, deter future acts of state-sponsored terrorism against innocent Americans.

Again, I appreciate the Senator from Virginia taking the initiative on this and getting this amendment up when I was unavoidably detained yesterday. I hope we have a resounding vote in favor of its passage.

Mr. ALLEN. Will the Senator yield?

Mr. HARKIN. I yield.

Mr. ALLEN. I say to my good friend from Iowa, Senator HARKIN, this is referred to as the Harkin-Allen amendment. I thank you for your great leadership. All of us have a lot of busy times around here, but we are teamed together for the victims who ought to get just compensation from these terrorists.

Mr. HARKIN. I thank the Senator from Virginia for his kindness and generosity and for propounding that unanimous consent request. He is a gentleman.

Several Senators addressed the Chair.

Mr. HARKIN. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. I ask for the yeas and nays on both amendments—I withdraw that.

Madam President, I ask unanimous consent I be allowed to proceed for no more than 3 minutes on the Leahy-Hatch amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TERRORIST BOMBINGS CONVENTION

Mr. LEAHY. Madam President, the Senator from Iowa has left the floor. I note he and the Senator from Virginia—we had attempted to move the Harkin-Allen amendment through the Judiciary Committee yesterday. There was an objection to moving it, on the Republican side; otherwise, I would think we could have had it on the floor as a freestanding matter.

We are considering the Leahy-Hatch substitute for the Terrorist Bombing Convention. This bill brings the United States into immediate compliance with two international conventions signed by the United States. Both conventions were entered into after the terrorist bombings at the U.S. embassies in Kenya and Tanzania. If anybody wants to know why these treaties are important, look at the news today, the horrific car bombing outside the U.S. consulate in Karachi, Pakistan.

We grieve for the victims; we mourn with the families of the dead; and we pray for the speedy recovery of the injured. And, Mr. President, we act. Not tomorrow—not next month—but today. We act to protect future victims. We act to punish future evil doers. We act to show that the United States will lead the international community in the fight to end such terrorist bombings. That is precisely what my bill, S. 1770, and the Leahy-Hatch substitute does. Although I introduced this bill over six months ago, today's events should serve as a jolt to us all. The time for delay and obstructionism and partisan bickering is over. It is time to pass this bill.

I am pleased the Senate is considering the Leahy-Hatch substitute amendment to S. 1770, the ''Terrorist Bombing Convention and Suppression of the Financing of Terrorism Convention Implementation Acts of 2001.'' This bill will bring the United States into immediate compliance with two important international conventions, which were signed by the United States and transmitted to the United States Senate for ratification by President Clinton. Both Conventions were entered into after the terrorist bombings at the United States embassies in Kenya and Tanzania.

Consideration of these important treaties was inexcusably delayed when the Senate was under Republican control, and passage of this implementation legislation has been likewise blocked by an anonymous Republican hold. As I urged in a statement on the floor of the Senate on June 7, Republican obstructionism on this anti-terrorism legislation should stop, the anonymous Republican hold on this bill should be lifted and this bill should pass.

The International Convention for the Suppression of Terrorist Bombings—''Bombing Convention''—was adopted by the United Nations General Assembly in December 1997 and signed by the United States in January 1998. In September 1999, it was transmitted to the Senate by President Clinton for ratification, but no action was taken on this treaty while the Senate remained under Republican control.

The International Convention for the Suppression of Financing Terrorism—''Financing Convention''—was adopted by the United Nations General Assembly in December 1999 and signed by the United States in January 2000. In October 2000, it was transmitted to the Senate by President Clinton for ratification, but, again, no action was taken on this treaty while the Senate remained under Republican control.

When the Senate reorganized under a Democratic majority last summer, the Foreign Relations Committee under the leadership of Chairman BIDEN moved expeditiously to report these conventions to the full Senate. The antibombing treaty, in particular, sat in the Foreign Relations Committee for approximately 2 years without action during the Clinton administration when the Senate was under Republican control. Senator BIDEN deserves credit for acting quickly to report these treaties shortly after he assumed chairmanship of the Foreign Relations Committee. Under the leadership of Majority Leader DASCHLE, the two treaties were considered by the Senate, which gave its consent to ratification by unanimous consent on December 5, 2001.

Yet even as Senator BIDEN and Majority Leader DASCHLE were pushing to move the treaties themselves through the Senate, the Bush administration did not transmit proposed implementing legislation to the Judiciary Committee before or during the time that we were working together day and night to write the USA PATRIOT Act, the bipartisan antiterrorism legislation responding to the events of September 11. I remain puzzled why the administration felt that this measure should be separated from that effort.

Both treaties require the signatory nations to enact certain, precisely worded criminal provisions in their laws in order to be in compliance. That is what S. 1770, the Leahy bill, does. I introduced S. 1770, on December 5, 2001, shortly after passage of the USA Patriot Act, as a separate bill. This was the same day that the Senate agreed to ratify both treaties. I then tried to

move the bill quickly through the Senate, but an anonymous Republican hold blocked passage.

Again this year I tried to move the bill through the Senate, but again there was an anonymous hold from the Republican side of the aisle which blocked its passage. Had there not been a hold placed on the bill last year, I am quite sure that we could have resolved any remaining issues in conference, as the Republican-controlled House was simultaneously passing its own version of my bill.

After the anonymous hold was placed on S. 1770 at the end of the last session, we received a letter from the Department of Justice on January 29, 2002, about the bill. The letter stated that the Department ''support[ed] the legislation but recommend[ed] several modifications.'' None of the modifications which the Department recommended dealt with issues that were necessary for compliance with the treaties, the basic purpose of the bill. The legislation I originally introduced would bring this country into full compliance with those important obligations and take away an excuse from nations that are hesitant to cooperate in the war against terrorism.

The recent spate of horrible suicide bombings around the world and the fact that the convention prohibiting terrorist financing entered into force on April 10, 2002, demonstrate the pressing need for this legislation. As if that was not enough, only last month the FBI Director warned that he believes that suicide bombings in the United States are ''inevitable,'' bringing home the point that this legislation is required both to fight terrorism at home and abroad. Nevertheless, S. 1770 has been subjected to an anonymous Republican hold since December of last year.

In the post-September 11 environment it is almost beyond my understanding why any Member of this body would secretly obstruct passage of an important piece of antiterrorism legislation—yet here we are in June, blocked from compliance with two international terrorism treaties by a secret Republican hold. As the Administration has made clear, both Conventions are:

important to insure that all nations have in place laws to enable full and effective international cooperation against terrorism. By enacting this legislation, the United States will be in a position to lead the cooperative effort against terrorist bombings and terrorist finances.

See Statement of Administration Policy, December 19, 2001.

The legislation meets our obligations under the treaties in the following ways. Both conventions require signatory nations to adopt criminal laws prohibiting specified terrorist activities in order to create a regime of universal jurisdiction over certain crimes. Articles 2 and 4 of the Bombing Convention require signatory countries to criminalize the delivery, placement, discharge or detonation of explosives and other lethal devices ''in, into, or against'' various defined public places with the intent to kill, cause serious bodily injury, or extensively damage such public places. The Bombing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes.

Articles 2 and 4 of the Financing Convention require signatory countries to criminalize willfully ''providing or collecting'' funds, directly or indirectly, with knowledge that they are to be used to carry out acts which either (1) violate nine enumerated existing treaties, or (2) are aimed at killing or injuring civilians with the purpose of intimidating a population or compelling a government to do any act. The Financing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes. Signatories must criminalize such acts under Article 2 whether or not ''the funds were actually used to carry out'' such an offense.

Both conventions require that signatory nations exercise limited extraterritorial jurisdiction and extradite or prosecute those who commit such crimes when found inside their borders. The conventions also require that signatories ensure that, under their domestic laws, political, religious, ideological, racial or other similar considerations are not a justification for committing the enumerated crimes. Thus, signatory nations will not be able to assert such bases to deny an extradition request for a covered crime. Finally, Article 4 of each convention requires that signatory states make the covered offenses ''punishable by appropriate penalties which take into account the grave nature of [the] offenses.''

S. 1770 and the substitute amendment, consistent with the House version of this bill, H.R. 3275, create two new crimes (one for bombings and another for financing terrorist acts) that track precisely the language in the treaties, and bring the United States into compliance. The legislation also provides extraterritorial jurisdiction as required by the conventions. Furthermore the bill creates domestic jurisdiction for these crimes in limited situations where a national interest is implicated, while excluding jurisdiction over acts where the conventions do not require such jurisdiction and there is no distinct federal interest served.

The bill, again consistent with the H.R. 3275, also contains ''ancillary provisions'' that would make the two new crimes predicates for money laundering and RICO charges, and for wiretaps. The two provisions would also be subject to an 8-year statute of limitations and included as a ''federal crime of terrorism.'' Finally, civil asset forfeiture would be available for the new terrorism financing crime. Existing anti-terrorism crimes are predicates for each of these tools, and providing law enforcement with these ancillary provisions is both consistent and appropriate.

Neither international convention requires a death penalty provision for any covered crime. Indeed, the Department of Justice, in a memorandum dated November 14, 2001 to the Subcommittee on Crime of the House Judiciary Committee, made amply clear that ''the death penalty is not required by the Convention'' and would not be required to bring the United States into compliance. This should come as no surprise, given international sentiment opposing the United States' use of the death penalty in other contexts.

The inclusion of a death penalty provision in the implementing legislation for these conventions could lead to complications in extraditing individuals to the United States from countries that do not employ the death penalty. Therefore, unlike the House version of the implementing legislation, the original Senate version of S. 1770 contained no new death penalty provision.

The Administration's insistence on adding yet another death penalty to our federal criminal laws is especially inexplicable given the context of this implementing legislation. The chief purpose of the Terrorist Bombing Convention is to foster international cooperation and decrease hurdles to extradition in terrorism cases. The United States, understandably, wants those who victimize its citizens around the world to be subject to trial and punishment in our own courts. Beyond that purpose, the legislation is largely duplicative of existing state and federal laws.

Even in the recent terrorism context, however, where the desire to assist the United States is at its peak, our closest allies have balked or obstructed our prosecution efforts when the death penalty has been implicated, wasting valuable time in our proactive efforts to prevent future attacks. For instance, according to press reports France offered legal assistance to Zacarrias Moussaoui, the so-called ''20th Hijacker,'' in part due to the decision to seek the death penalty in his case. Spain also refused to extradite a highly dangerous group of terrorists to the United States based upon concerns about the death penalty, and a European Union raises similar concerns. This week the Washington Post reported that Germany also is refusing to fully cooperate in the prosecution of Moussaoui because the United States is seeking the death penalty in that case. In short, the primary purpose of this implementing legislation, fostering international cooperation, may be defeated by the White House's insistence on the inclusion of a death penalty provision in this bill.

Nevertheless, at the insistence of the White House, the substitute amendment would allow the government to seek the death penalty in bombing

cases where death results, by reference to the existing death penalty provision found in 18 U.S.C. §2332a, prohibiting the use of weapons of mass destruction.

Unlike H.R. 3275, the original Senate version of S. 1770 also did not contain a third new crime for ''concealment'' of material support for terrorists. The Department of Justice conceded in the November, 2001, memorandum that this provision was not necessary to bring the United States into compliance with the conventions, stating, ''the concealment offense set forth in proposed 18 U.S.C. §2339(c)(b) does not directly implement the Convention.'' Indeed, in the wake of the passage of new money laundering provisions in the USA PATRIOT Act, P.L. No. 107–56, and due to the existence of a concealment crime under 18 U.S.C. §2339A, with which the Department of Justice recently charged several people in New York, including a criminal defense attorney, such legislation is largely duplicative of existing law. More problematic, however, is the fact that the House bill provided a lower mens rea requirement than §2339A, an important change that was not highlighted or explained in the Administration's accompanying materials.

The substitute amendment contains a new crime of concealment that tracks the existing mens rea requirements of §2339A, so that a large class of non terrorist related activity is not inadvertently covered. This new crime would be punishable by ten years imprisonment.

Finally, the original Senate bill contained an important new tool for international cooperation between law enforcement which is not included in H.R. 3275 and has been deleted from the substitute amendment. Currently, there is no clear statutory authority allowing domestic law enforcement agents to share Title III wiretap information with foreign law enforcement counterparts. This may create problems when, for example, the DEA seeks to alert Colombian authorities that a cocaine shipment is about to leave a Colombian port but the information is derived from a Title III wiretap.

The original bill would have clarified the authority for sharing wiretap derived information, specifically in the Title III context. The bill provided a clear mechanism through which law enforcement could share wiretap information with foreign law enforcement, while at the same time ensuring that there are appropriate safeguards to protect this sensitive information against misuse. It added a subsection to 18 U.S.C. §2517, permitting disclosure of wiretap information to foreign officials (1) with judicial approval, (2) in such a manner and under such conditions as a court may direct, and (3) consistent with Attorney General guidelines on how the information may be used to protect confidentiality. Unfortunately, due to the White House's objection, the substitute removes it from the bill.

I am pleased that obstructing has stopped on this important implementing legislation for two anti-terrorism treaties that are intended to increase protections for our national security by enhancing international cooperation in the fight against terrorism.

I ask unanimous consent for the substitute to be printed in its entirety the record at the conclusion of my remarks along with the sectional analysis including a summary of the changes made by the substitute to the original bill.

ANTI-TERRORISM CONVENTIONS IMPLEMENTATION—SECTION-BY-SECTION ANALYSIS

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

Title I of this bill implements the International Convention for the Suppression of Terrorist Bombings, which was signed by the United States on January 12, 1998, and was transmitted to the Senate for its advice and consent to ratification on September 8, 1999. Twenty-eight States are currently party to the Convention, which entered into force internationally on May 23, 2001. The Convention requires State Parties to combat terrorism by criminalizing certain attacks on public places committed with explosives or other lethal devices, including biological, chemical and radiological devices. The Convention also requires that State Parties criminalize aiding and abetting, conspiring and attempting to undertake such terrorist attacks.

Section 101. Short Title

Section 101 provides that title I may be cited as ''The Terrorist Bombings Convention Implementation Act of 2001.''

Section 102. Bombing Statute

Section 102 adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2332f and entitled ''Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities,'' which makes terrorist acts covered by the Convention a crime. New section 2332f supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to unlawfully place or detonate an explosive in certain public places and facilities with the intent to cause death or serious bodily injury, or with the intent to cause extensive destruction, where such destruction results in, or is likely to result in, major economic loss. Conspiracies and attempts to commit such crimes are also criminalized. This provision implements Article 2, paragraphs 1, 2 and 3 of the Convention.

Inclusion of the term ''unlawfully'' in subsection (a), which is mirrored in Article 2 of the Convention defining the offenses, is intended to allow what would be considered under U.S. law as common law defenses. For purposes of subsection (a), whether a person acts ''unlawfully'' will depend on whether he is acting within the scope of authority recognized under and consistent with existing U.S. law, which reflects international law principles, such as self defense or lawful use of force by police authorities. This language is not to be construed as permitting the assertion, as a defense to prosecution under new section 2332f, that a person purportedly acted under authority conveyed by any particular foreign government or official. Such a construction, which would exempt State-sponsored terrorism, would be clearly at odds with the purpose of the Convention and this implementing legislation.

With respect to the mens rea provision of subsection (a), it is sufficient if the intent is to significantly damage the targeted public place or facility. Further, for the purpose of subsection (a), when determining whether the act resulted in, or was likely to result in, major economic loss, the physical damage to the targeted place or facility may be considered, as well as other types of economic loss including, but not limited to, the monetary loss or other adverse effects resulting from the interruption of its activities. The adverse effects on non- targeted entities and individuals, the economy and the government may also be considered in this determination insofar as they are due to the destruction caused by the unlawful act.

Subsection (b) establishes the jurisdictional bases for the covered offenses and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 8(1)), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the jurisdiction of a State Party. While current Federal or State criminal laws encompass all the activity prohibited by the Convention that occurs within the United States, subsection (b)(1) ensures Federal jurisdiction where there is a unique Federal interest, e.g., a foreign government is the victim of the crime or the offense is committed in an attempt to compel the United States to do or abstain from doing any act.

Subsection (c) establishes the penalties for committing the covered crimes at any term of years or life. This provision differs from the Administration proposal, which sought to add a new death penalty provision for this crime, despite the fact that such a provision is not required for compliance under the Convention and may create hurdles in seeking extradition to the United States under this statute.

Subsection (d) sets forth certain exemptions to jurisdiction as provided by the Convention. Specifically, the subsection exempts from jurisdiction activities of armed forces during an armed conflict and activities undertaken by military forces of a State in the exercise of their official duties.

Subsection (e) contains definitions of twelve terms that are used in the new law. Six of those definitions (''State or government facility,'' ''infrastructure facility,'' ''place of public use,'' ''public transportation system,'' ''other lethal device,'' and ''military forces of a State'') are the same definitions used in the Convention. Four additional definitions (''serious bodily injury,'' ''explosive,'' ''national of the United States,'' and ''intergovernmental organization'') are definitions that already exist in other U.S. statutes. One of those definitions (''armed conflict'') is defined consistent with an international instrument relating to the law of war, and a U.S. Understanding to the Convention that is recommended to be made at the time of U.S. ratification. The final term (''State'') has the same meaning as that term has under international law.

Section 103. Effective Date

Since the purpose of Title I is to implement the Convention, section 103 provides that the new criminal offense created in Section 102 will not become effective until the date that the Convention enters into force in the United States. This will ensure immediate compliance of the United States with its obligations under the Convention.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

Title II implements the International Convention for the Suppression of the Financing of Terrorism, which was signed by the United States on January 10, 2000, and was

transmitted to the Senate for its advice and consent to ratification on October 12, 2000. The Convention is not yet in force internationally, but will enter into force 30 days after the deposit of the 22nd instrument of ratification with the U.N. Secretary-General. Once in force, the Convention requires State Parties to combat terrorism by criminalizing certain financial transactions made in furtherance of various terrorist activities. The Convention also requires that State Parties criminalize conspiracies and attempts to undertake such financing.

Section 201. Short Title

Section 201 provides that title II may be cited as ''The Suppression of Financing of Terrorism Convention Implementation Act of 2001.''

Section 202. Terrorism Financing Statute

Section 202(a) adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2339C and entitled ''Prohibitions against the financing of terrorism,'' which makes financial acts covered by the Convention a crime. New section 2339C supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to provide or collect funds with the intention or knowledge that such funds are to be used to carry out certain terrorist acts. Conspiracies and attempts to commit these crimes are also criminalized. This subsection implements Article 2, paragraphs 1, 3, 4 and 5 of the Convention.

Subsection (b) establishes the jurisdictional bases for the covered offenses under section 2339C(a) and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 10), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the territory of a State Party. The structure of this provision is designed to accommodate the structure of the Convention, which sets forth both mandatory and permissive bases of jurisdiction, and excludes certain offenses that lack an international nexus. Some portions of this provision go beyond the jurisdictional bases required or expressly permitted under the Convention, however, where expanded jurisdiction is desirable from a policy perspective because a unique Federal interest is implicated and is consistent with the Constitution.

Subsection (c) establishes the penalties for committing the covered crimes at imprisonment for not more than 20 years, a fine under title 18, United States Code, or both. This penalty is consistent with the current penalties for money laundering offenses. See 18 U.S.C. §1956.

Subsection (d) contains 13 definitions of terms that are used in the new law. Two of those definitions (''government facility,'' and ''proceeds'') are the same definitions used in the Convention. The definition for ''funds'' is identical to that contained in the Convention with the exception that coins and currency are expressly mentioned as money. The definitions for ''provides'' and ''collects'' reflect the broad scope of the Convention. The definition for ''predicate acts'' specifies the activity for which the funds were being provided or collected. These are the acts referred to in subparagraphs (A) and (B) of section 2339C(a)(1). The definition of ''treaty'' sets forth the nine international conventions dealing with counter-terrorism found in the Annex to the Convention. The term ''intergovernmental organization,'' which is used in the Convention, is specifically defined to make clear that it contains within its ambit existing international organizations. The definitions for ''international organization,'' ''serious bodily injury,'' and ''national of the United States'' incorporate definitions for those terms that already exist in other U.S. statutes. One of the definitions (''armed conflict'') is defined consistent with international instruments relating to the law of war. The final term (''State'') has the same meaning as that term has under international law.

Subsection (e) creates a civil penalty of at least $10,000 payable to the United States, against any legal entity in the United States, if any person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a) of the new section 2339C. This civil penalty may be imposed regardless of whether there is a conviction of such person under subsection (a), and is in addition to any other criminal, civil, or administrative liability or penalty allowable under United States law. Subsection (e) fulfills Article 5 of the Convention.

Section 203. Effective Date

Section 203 provides that those provisions of the Act that may be implemented immediately shall become effective upon enactment. However, two jurisdictional provisions will not become effective until the Financing Convention enters into force for the United States. Those provisions are the new 18 U.S.C. §§2339C(b)(1)(D) and (2)(B). In addition, new 18 U.S.C. §2339C(d)(7)(I), which is a definitional section specifically linked to the Bombing Convention, will not become effective until that Convention enters into effect.

TITLE III—ANCILLARY MEASURES

Title III, which is not required by the International Conventions but will assist in federal enforcement, adds the new 18 U.S.C. §§2332f and 2339C to several existing provisions of law.

Section 301. Ancillary Measures

Sections 2332f and 2339C are made predicates under the wiretap statute (18 U.S.C. §2516(1)(q)) and under the statute relating to the provision of material support to terrorists (18 U.S.C. §2339A). Sections 2332f and 2339C are also added to those offenses defined as a ''Federal crime of terrorism'' under 18 U.S.C. §2332b(g)(5)(B), as amended by the USA PATRIOT Act. P.L. No. 107–56. In addition, a provision is added to the civil asset forfeiture statute that makes this tool available in the case of a violation of 18 U.S.C. §2339C. These provisions are consistent with the treatment of similar Federal crimes already in existence.

TITLE IV—FOREIGN DISCLOSURE OF WIRETAP INTERCEPTS

This provision, which is not required by the International Conventions, clarifies that Federal law enforcement authorities may disclose otherwise confidential wiretap information to their foreign counterparts with appropriate judicial approval. This provision is intended to ensure effective cooperation between domestic and foreign law enforcement in the investigation and prosecution of international criminal organizations.

Section 401. Short Title

Section 401 provides that title IV may be cited as ''The Foreign Law Enforcement Cooperation Act of 2001.''

Section 402. Amendment to Wiretap Statute

Section 402 adds a new subsection to 18 U.S.C. §2517 that governs the disclosure of otherwise confidential information gathered pursuant to a Title III wiretap. This provision clarifies the authority of domestic law enforcement officers to disclose such information as may show a violation of either domestic or foreign criminal law to foreign law enforcement officials. The provision requires a court order prior to making such a disclosure and sets the standards for the issuance of such an order. It is intended to allow foreign disclosure only to enforce the criminal laws of either the United States or the foreign nation. It also requires that an attorney for the government certify that the foreign officials who are to receive the wiretap information have been informed of the Attorney General's guidelines protecting confidentiality. This provision is intended to enhance the ability of domestic law enforcement to work with their foreign counterparts to investigate international criminal activity at the same time as protecting against improper use of such wiretap information.

Mr. LEAHY. Madam President, we must act. The United States must lead the international community in the fight to end such terrorist bombings. This is precisely what the Leahy-Hatch substitute does. We have been trying to pass this legislation for 6 months. We have been trying to clear it. We have been involved with the White House to reach a consensus.

I thank Senator HATCH for his work, and the White House. We have worked out the whole matter with the White House and with Senators. I urge its passage. I urge its passage with as large a vote as possible.

I yield the remainder of our time.

Mr. ENZI. Madam President, I rise in support of H.R. 3275. I am very pleased that the Senate is considering this valuable legislation which would make the United States compliant with two very important treaties.

I believe one of our most significant duties, as the United States Senate, is the consideration of treaties for ratification. We alone have the responsibility to give advice and consent to international understandings and agreements made by the executive branch of our Government.

The two treaties this legislation addresses are part of a nearly four-decade process of conventions considering acts of terrorism. As we debate this legislation, we are examining long-term global means to address the threat of terrorism. The Convention on the Suppression of Terrorist Bombings and the Convention for the Suppression of the Financing of Terrorism require the United States and any country adopting the treaties to criminalize terrorist bombings and to criminalize direct or indirect financing of terrorist acts.

The Financing Convention addresses some of the issues we worked on last year. The Senate has already approved antiterrorism legislation that included provisions dealing with money laundering issues which help deter and punish terrorist acts and would enhance law enforcement investigatory tools. The legislation established rule-making procedures for the U.S. Treasury, clarified guidelines for international banking, and maintained accountability considerations for individuals and financial institutions. I believe it is imperative that we continue to address terrorist financing domestically as well as internationally. In response to requests by the United States, countries throughout the world began the

search for terrorists' financial assets. The freezing of these assets is a first step to the eradication of global terrorist organizations.

On September 28 of last year, the United Nations Security Council adopted Resolution 1373 which established a set of legally binding obligations for each member nation. Now, this is quite significant because there are not a lot of legally binding resolutions considered by the Security Council. Resolution 1373 requires each nation to prevent the financing of terrorism, deny safe haven to terrorists, and increase cooperation and information sharing in these efforts. Resolution 1373, which passed with our support, also directs nations to ratify all outstanding terrorism related conventions.

Nations, both allies and former adversaries, overwhelmingly acted to sign, ratify, and become compliant with a number of terrorism conventions. It has taken the United States nearly 9 months to do so. The Senate Foreign Relations Committee held a hearing on these treaties last October and approved them in November. The full Senate ratified the treaties in December.

Now, most people might think that once the Senate gives its advice and consent to a treaty, it is ratified and the United States is full party to the agreement. This could only be seen as a ''virtual'' ratification. It is not, however, until the United States is fully compliant with the treaty that the President can deposit our articles of ratification and we become full treaty members.

It is this last step where the Senate faltered. We had the House approved implementing legislation last December. We are only now, in June, contemplating its passage. We cannot drag our feet any longer.

Today we are considering implementing language. We are ready to vote. We are ready to make the United States compliant with important treaties that can help us fight against terrorism. The amendment language is identical to the version passed by the House in December. It is the right language, the appropriate language and should pass the Senate today.

I encourage my colleagues to support this amendment, support the fight against terrorism, and support making the United States compliant to these two valuable international agreements.

Mr. FEINGOLD. Madam President, I rise today to oppose a provision in H.R. 3275, the Terrorist Bombings Convention Implementation Act, and the proposed Leahy-Hatch amendment to S. 1770, the Senate version of this implementing legislation, which would authorize the use of the death penalty by the Federal Government.

This bill seeks to implement into Federal law the obligations of the United States under the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. The U.S. signed these conventions, which were later ratified by the Senate on December 5, 2001. These two conventions are vital to our efforts to fight terrorism. These conventions will fill an important gap in international law by expanding the legal framework for international cooperation in the investigation, prosecution, and extradition of persons who engage in bombings and financially support terrorist organizations. Both conventions require participating countries to pass specific criminal laws to implement those nations' obligations under the conventions.

But while these conventions do not require a death penalty, the House bill and the proposed amendment to the Senate bill would authorize the use of the death penalty by the United States. Not only do I oppose the expansion of the Federal death penalty at a time when Americans are questioning the fairness of the administration of this punishment, but I also fear that expanding the Federal death penalty through this implementing legislation will undermine our fight against terrorism.

I fear that the inclusion of a death penalty could actually thwart the purpose of these conventions. Instead of encouraging international cooperation in the fight against terrorism, this implementing legislation threatens to hamper international cooperation to prevent and punish terrorist bombings and financing of terrorist organizations. Many nations, including our closest allies in the fight against terrorism, may refuse to extradite suspects to nations where those suspects will face the death penalty. Already our allies like France and Germany have expressed their concerns about extraditing individuals or sharing information concerning al-Qaeda suspects out of concern that the United States will seek the death penalty against suspected terrorists. As this experience obviously shows, it doesn't serve the cause of justice, peace, or freedom to include a death penalty provision in this important bill.

Moreover, this is not the time to expand the Federal death penalty. Americans are increasingly recognizing that the current death penalty system is broken, and risks executing the innocent or applying the ultimate punishment disproportionately to those who may live in the ''wrong'' part of the country, have the ''wrong'' color skin, or just not have the money to pay for a ''dream team'' defense.

These problems plague the integrity of the justice system at the state and federal levels. A report released by the Justice Department in September 2000 showed troubling racial and geographic disparities in the administration of the federal death penalty. The color of a defendant's skin or the federal district in which the prosecution takes place can affect whether a defendant lives or dies in the federal system. Former Attorney General Janet Reno ordered a further analysis of why these disparities exist. And Attorney General Ashcroft has agreed to continue this study.

We have not yet seen the results of this study, nor have we had the opportunity to review and understand what the results might mean for the fairness and integrity of our federal justice system. While this important study is underway, Congress should not create even more death-eligible crimes.

As Governor George Ryan of Illinois said at a hearing I held on June 12th in the Senate Judiciary Subcommittee on the Constitution on the report of the Illinois Governor's Commission on Capital Punishment, ''especially after September 11, . . . the United States must be a model for the rest of the world. And that means our justice system should be the glowing example for the pursuit of truth and justice. It must be fair and compassionate.''

There is no question that we should prosecute and punish severely those responsible for the horrific attacks on our nation on September 11th or those who may plan or perpetrate acts of terror in the future. But I am very concerned that the bill's provision for the death penalty against suspected terrorists could undermine the purpose of the conventions and our ability to seek vital information and cooperation from other nations. I fear that the death penalty provision will weaken, not strengthen, our hand in pursuing terrorists, especially our global efforts to bring alleged terrorists to justice and to prevent future acts of terror.

For these reasons, I cannot in good conscience support H.R. 3275, the proposed Leahy substitute amendment to H.R. 3275, the proposed Leahy-Hatch amendment to S. 1770, or S. 1770, if the amendment should be adopted.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TERRORISM RISK INSURANCE ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2600, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2600) to ensure the continued financial capacity of the insurers to provide coverage for risks from terrorism.

Pending:

Santorum amendment No. 3842, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts.

Allen amendment No. 3838, to provide for satisfaction of judgments from frozen assets