736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 740

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 767

At the request of Mr. BAYH, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 767, a bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on Social Security benefits.

S. 877

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1213

At the request of Mr. SPECTER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1213, a bill to amend title 38, United States Code, to enhance the ability of the Department of Veterans Affairs to improve benefits for Filipino veterans of World War II and survivors of such veterans, and for other purposes.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1479

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1479, a bill to amend and extend the Irish Peace Process and Cultural Training Program Act of 1998.

S. 1554

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1554, a bill to provide for secondary school reform, and for other purposes.

S. 1607

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1607, a bill to establish a Federal program to provide reinsurance to improve the availability of homeowners' insurance.

S.J. RES. 17

At the request of Mr. CORZINE, his name was added as a cosponsor of S.J. Res. 17, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 21

At the request of Mr. BUNNING, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. RES. 209

At the request of Mr. JEFFORDS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 209, a resolution recognizing and honoring Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture.

S. RES. 219

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Res. 219, a resolution to encourage the People's Republic of China to establish a market-based valuation of the yuan and to fulfill its commitments under international trade agreements.

S. RES. 220

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 220, a resolution designating the ninth day of September of each year as ''National Fetal Alcohol Syndrome Awareness Day''.

AMENDMENT NO. 1655

At the request of Mrs. FEINSTEIN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mrs. CLINTON), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 1655 proposed to H.R. 2754, a bill making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1619. A bill to amend the individuals with disabilities Education Act to ensure that children with disabilities who are homeless or are wards of the State have access to special education services, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I am pleased to join my colleague Senator DEWINE in introducing legislation to provide a high-quality education to homeless and foster children with disabilities. The Individuals with Disabilities Education Act (IDEA) is based on the bedrock American principle of equal opportunity. IDEA recognizes that students have a civil right to a free, appropriate public education, even if their special needs require additional resources. Because most foster and homeless children face distinct challenges, they require even more attention and consideration to make sure their educational needs are met. The Improving Education for Homeless and Foster Children with Disabilities Act would make small but critical changes to ensure these children have a real opportunity to fulfill their potential.

Students with disabilities face additional challenges in school as do foster and homeless children. But to live in a foster home or in no home at all and to have a disability is truly to have the deck stacked against you. Congress has a long and proud tradition of supporting and protecting educational opportunity for our most vulnerable young people. It's what we did when we passed the Elementary and Secondary Education Act in 1965. It's what we did when we created Head Start, and it's what we did when we started giving out Pell Grants. It's time for us to step up once again and make the changes to make IDEA work for homeless and foster children with disabilities.

The bill that Senator DEWINE and I are introducing today addresses the unique educational needs of children with disabilities who are in foster care or who experience homelessness. Foster children and homeless children face a unique set of challenging circumstances. There are over 500,000 children in foster care. Thirty percent of them are in special education. We know that foster children often do not function well in school. Foster children have usually been separated from their biological families as a result of child abuse or neglect, which can leave both emotional and physical marks for life. Given the shortage of foster parents in this country, children in foster care are often shuttled between many different homes and schools. One young man has shared with me his story of living in more than 100 homes throughout his childhood. Every time these children move to a new home, they may have to attend a new school. And every time these children enroll in a new school, they must start over in securing the supports and services they need to receive the free and appropriate public education that is their civil right.

In addition to frequent absences and transfers, foster children often don't

have parents to advocate for their educational needs. Almost every parent whose child has a disability will tell you that their role as advocate for their child correlates directly to the quality of the education their child receives. Without a parent to advocate for them, foster children can languish for years with unrecognized disabilities or insufficient services to help them succeed in school. These experiences can leave children in foster care without the education and support to lead functional, productive lives.

Homeless children in our country also face significant hurdles to succeed in school, which are exacerbated for children with disabilities. The Urban Institute estimates that 1.35 million children experience homelessness each year. A high proportion of homeless children with disabilities also need special education services, yet many homeless children have great difficulty accessing these services.

Children who experience homelessness desperately need stability in their lives, but they often lack the continuity of staying in one school or even in one school district long enough for an Individualized Education Plan—or IEP—to be developed and implemented. In addition, like foster children, some homeless youth have no legal guardian to watch out for their educational needs and to advocate for their best interests.

Despite this difficult situation, we can help these children with a high-quality education. The Improving Education for Homeless and Foster Children with Disabilities Act amends IDEA to help States and districts meet these challenges. It facilitates greater continuity for students who change schools or school districts, by ensuring that students' IEPs follow them from school to school. It increases opportunities for early evaluation and intervention for homeless and foster infants and toddlers with disabilities. It also provides for representation of foster and homeless children on key committees that make critical decisions affecting special education. This bill expands the definition of ''parent'' to include relatives or other caregivers who are equipped to make sound decisions in a child's best interest when there is no biological parent available to do so. Finally, it improves coordination of services and information so educational and social services agencies can function more efficiently to benefit these children.

As we reauthorize IDEA, we have an obligation to pay extra attention to these children and to provide the resources and support they need. The real test of how we treat children in America is measured in how we treat the most vulnerable among us, and this bill gives us a chance to do the right thing. I urge the Senate to truly ensure that no child is left behind by passing the Improving Education for Homeless and Foster Children with Disabilities Act.

By Mr. BINGAMAN:

S. 1620. A bill to condition the implementation of assessment procedures in connection with the Head Start National Reporting System on Child Outcomes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Head Start Assessment Act of 2003. The purpose of this Act is to ensure that the full-scale implementation of the Head Start National Reporting System takes place after there has been ample opportunity for expert and public commentary on the assessment, Congressional oversight hearings have been held, and the National Academies have completed a study of this issue to ensure that the assessment is reliable and appropriate.

Currently, children in Head Start are assessed 3 times a year on all of the domains of early learning and development, including literacy and math. The National Reporting System (NRS) is an assessment developed by HHS, which would create an additional test for all 4-year olds in Head Start, roughly ½ million children, on literacy and math skills only. Children would be assessed twice a year and according to Administration documents, changes over time in children's scores would be used to judge the success of individual Head Start programs. The new testing program is expected to cost about $20 million each year. Some pilot testing was begun in April and May of 2003 and HHS expects to begin full implementation of the NRS this fall.

The purpose of the bill that I am introducing today is not to undermine this assessment, or to oppose assessment, but to make sure that it is done correctly. As you know, I have a long history of supporting accountability for educational programs. Assessments are important tools for accountability. They can be used to benefit teachers and students and to raise the bar for all educational programs. That being said, a good assessment takes time to develop and the measures and procedures that are used must be thoroughly debated and discussed. I have grave concerns about the speed with which the NRS was developed as well as with the opacity of the process by which HHS has proceeded to date.

Assessing young children is notoriously difficult. They are not used to taking tests and often do not have the emotional maturity to sit still and focus on the task at hand. Their test scores tend to fluctuate across time and can reflect many factors unrelated to their skills. The National Academy of Sciences report, ''Eager to Learn: Educating Our Preschoolers'' made it clear that more research on assessing young children is needed before such assessments should be used for accountability purposes. Because of this, it is crucial that the assessment instruments to be used in the NRS are properly validated and deemed to be appropriate for 4-year old children. At this point, we have little information about exactly what those instruments are and HHS has not made available the results of pilot tests or the comments made by experts on the content of the assessment.

To my mind, the speed with which this assessment was rolled out makes it unlikely that the measures have been properly developed and tested. It has also become clear that the assessment targets only a few of the skills that Head Start seeks to instill in children. For example, social skills are not being assessed and it is clear that without them, children are simply not ready to learn.

It is also very important that sufficient time be taken to insure that English language learners are not put at a disadvantage by being given a test that is not appropriate for them. The test is in English and Spanish, and yet many Head Start children speak Asian or other languages. In my home State of New Mexico, for example, I have heard from Native American Head Start Directors who are concerned that the NRS, in its current form, is not appropriate for their students, who often do not speak English in the home. We should take the time to insure that the assessment tool that is ultimately used is valid and reliable, assesses the gamut of skills that children acquire in Head Start, and is appropriate for children from a wide variety of cultural backgrounds.

It is also crucial that throughout the process of developing these instruments, there is ample consultation both with the public and with experts in early childhood development and research methodology. The results of these consultations and decisions regarding the NRS should be made public. Although HHS claims that they have had many meetings with ''experts'', there is little or no information publicly available that clarifies what went on at these meetings, what decisions were reached, and whether the advice of the experts was or was not heeded in developing the NRS. To date, there has been no Congressional oversight or public task force convened. Development of an assessment tool as important as this one should not occur behind closed doors. Congress and the public have a right to participate in and comment on this process.

My bill would help to insure that the NRS is developed in the proper fashion. The Secretary of HHS would be required to halt the full-scale implementation of the NRS until such time as Congressional oversight hearings have been held, the Secretary has concluded public forums on this issue, and the National Academy of Sciences has conducted a study using a panel of nationally recognized experts in early childhood assessment, child development, and education. The NAS study would provide specific information regarding: a. the skills and competencies that are predictive of school readiness and academic success in young children, b. the

development, selection, and use of instruments to assess literacy, mathematical, emotional and social skills as well as health and physical well-being young children, c. the proper use of early childhood assessments to improve Head Start programs and d. the steps needed to ensure that assessments take into account the racial, cultural, and linguistic diversity of Head Start students, among other things.

I urge my colleagues to support this bill. Head Start is the flagship educational program for low-income children. Studies clearly show that children who attend Head Start programs show gains in their cognitive and social skills, but we also know that more can and should be done for this vulnerable population. Assessments can be an important means to insure that quality is maintained in each Head Start program, but poorly developed or implemented assessments can do more harm than good. Let's take our time, consult with the experts and the public, and come up with a National Reporting System that we can all be proud of.

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. 1620

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 ''Head Start Assessment Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) When used appropriately, valid and reliable assessments can be of positive value for improving instruction and supporting development of young children.

(2) According to the National Academy of Sciences report, Eager to Learn: Educating Our Preschoolers, assessment of children below school age is in ''flux'' and ''all assessments, and particularly assessments for accountability, must be used carefully and appropriately if they are to resolve, and not create, educational problems.''

(3) The Eager to Learn report emphasized that the intended purpose and use of the data to be derived from assessments should be considered in determining which assessment instruments and procedures are most appropriate.

(4) The National Academy of Sciences reports that few early childhood educators and administrators are well-trained in the selection and appropriate use of assessments for young children.

(5) According to the National Academy of Sciences report, From Neurons to Neighborhoods, the emotional and social development of young children is as critical to school readiness as language and cognitive development.

(6) The Head Start Act currently requires programs to assess children in Head Start a minimum of three times a year against certain performance standards, which include all domains of the development and learning of children.

(7) The proposed Head Start National Reporting System on Child Outcomes assessment is not reflective of the full range of skills and competencies that the National Academy of Sciences reports state children require to succeed, and it has not been thoroughly debated by those groups associated with Head Start, including early childhood development and assessment experts, early childhood educators and administrators, family members of children participating in Head Start, or Congress.

SEC. 3. DELAYED IMPLEMENTATION OF ASSESSMENT PROCEDURES IN CONNECTION WITH THE HEAD START NATIONAL REPORTING SYSTEM ON CHILD OUTCOMES.

(a) SATISFACTION OF CONDITIONS.—The Secretary of Health and Human Services shall not proceed with the full-scale implementation of the Head Start National Reporting System on Child Outcomes, as described in the project proposal (68 Fed. Reg. 17815; relating to Implementation of the Head Start National Reporting System on Child Outcomes), until the Secretary certifies to Congress that the following conditions have been satisfied:

(1) OVERSIGHT HEARINGS.—Congressional oversight hearings have been concluded concerning the development and implementation of the Head Start National Reporting System on Child Outcomes.

(2) PUBLIC FORUMS.—The Secretary has concluded, consistent with the requirements of subsection (b), public forums in different regions of the United States, and provided an opportunity for written public comments, concerning early childhood assessment proposals.

(3) STUDY ON EARLY CHILDHOOD ASSESSMENTS.—The Secretary has submitted, consistent with subsection (c), to Congress a study of early childhood assessments focusing on improving accountability, instruction, and the delivery of services. The Secretary shall request the National Academy of Sciences to prepare the study using a panel of nationally recognized experts in early childhood assessment, child development, and education.

(4) AVAILABILITY OF FUNDS.—Without reducing the number of students served by Head Start, sufficient funds are available to—

(A) develop and implement any new Head Start assessments; and

(B) deliver necessary additional technical assistance and professional development required to successfully implement the new assessments.

(b) PUBLIC FORUM PARTICIPATION.—To satisfy the condition specified in subsection (a)(2), the Secretary shall ensure that participation in the required forums includes—

(1) early childhood development and assessment experts;

(2) early childhood educators and administrators; and

(3) family members of children participating in Head Start.

(c) INFORMATION REQUIRED BY STUDY ON EARLY CHILDHOOD ASSESSMENTS.—To satisfy the condition specified in subsection (a)(3), the Secretary shall ensure that the required study contains, at a minimum, specific information regarding the following:

(1) Which skills and competencies are predictive of school readiness and future academic success.

(2) The development, selection, and use of instruments, determined to be reliable and validated for preschoolers, including preschoolers in the Head Start population, to assess the development in young children of—

(A) literacy, language, and mathematical skills;

(B) emotional and social skills; and

(C) health and physical well-being.

(3) The development of appropriate benchmarks and the proper use of early childhood assessments to improve Head Start program effectiveness and instruction.

(4) The resources required for successful implementation of additional assessments within Head Start and how such additional assessments might be coordinated with current processes.

(5) Whether a new assessment would provide information to improve program accountability or instruction that is not already available from existing assessments and reporting procedures within Head Start.

(6) The professional development and personnel needs for successful implementation of early childhood assessments.

(7) The practicality of employing sampling techniques as part of any early childhood assessment.

(8) The practicality of employing observational and work-sampling assessment techniques as part of an early childhood assessment.

(9) Steps needed to ensure that assessments accommodate the racial, cultural, and linguistic diversity of young children, including young children with disabilities.

By Mr. BROWNBACK:

S. 1621. A bill to provide for consumer, educational institution, and library awareness about digital rights management technologies included in the digital media products they purchase, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, I rise to introduce the Consumers, Schools, and Libraries Digital Rights Management Act of 2003, legislation I view as vital for American consumers and our Nation's educational community as they venture forth into the 21st century digital media marketplace.

This legislation responds directly to ongoing litigation between the Recording Industry Association of America and Internet service providers Verizon and SBC Communications. This litigation has opened wide all identifying information an ISP maintains on its subscribers, effectively requiring ISPs to make that information available to any party simply requesting the information. The legislation also creates certain minimal protections for consumers legally interacting with digital media products protected by new digital rights management technologies.

I had intended to introduce individual pieces of legislation on these issues—privacy and digital rights management. However, given that both issues are so relevant to consumers in the digital age, I ultimately decided to present them to my colleagues in one comprehensive bill.

It has been determined by a Federal court that a provision of the Digital Millennium Copyright Act permits the RIAA to obtain this ISP subscriber's identifying information without any judicial supervision, or any due process for the subscriber. Today, right now, solely due to this court decision, all that is required for a person to obtain the name and address of an individual who can only be identified by their Intent Protocol address—their Internet phone number—is to claim to be a copyright owner, file a one page subpoena request with a clerk of the court,

a declaration swearing that you truly believe an ISP's subscriber is pirating your copyright, the clerk will then send the request to the ISP, and the ISP has no choice but to divulge the identifying information of the subscriber—name, address, phone number—to the complaining party. There are no checks, no balances, and the alleged pirate has no opportunity to defend themselves. My colleagues, this issue is about privacy not piracy.

The real harm here is that nothing in this quasi-subpoena process prevents someone other than a digital media owner—say a stalker, a pedophile, a telemarketer or even a spammer from using this quasi-subpoena process to gain the identity of Internet subscribers, including our children. In fact, we cannot even limit this subpoena process to mainstream copyright owners.

This past July, SBC Communications received a subpoena request for the personal information of approximately 60 of its Internet subscribers. The copyright owner that made the request is a hard core pornographer named Titan Media. We cannot permit the continued existence of a private subpoena that can be used by pornographers to easily identify Americans. If you have any doubt, all you need to do is look into the generous amnesty program offered by Titan Media to those it accuses of piracy: buy their porn, and they won't use the subpoena to identify you. The threat of abuse is simply too great, as Titan Media has already demonstrated.

The Consumers, Schools, and Libraries Digital Rights Management Awareness Act of 2003 requires the owners of digital media products to file an actual case in a court of law in order to obtain the identifying information of an ISP subscriber. This will provide immediate privacy protections to Internet subscribers by forcing their accusers to appear publicly in a court of law, where those with illicit intentions will not tread, and provides the accused with due process required to properly defend themselves.

In addition, the bill requires the Federal Trade Commission to study alternative means to this subpoena process, so that we may empower our Nation's intellectual property owners to defend their rights by pursuing those who are stealing from them, but to do so in a safe, private, confidential manner where consumers are concerned, and without burdening the courts. Transitioning to an FTC process will ensure that there can be speedy verification, due process, safety, and maximum protection for the innocent, while preserving maximum civil enforcement against pirates.

I do not offer this legislation to debate the history and merits of the DMCA. I offer this legislation for my colleagues consideration, because I find it untenable that any Internet subscribers' identifying information can be obtained, under government auspices no less, without any oversight or due process.

I want to be celar on an important point. This subpoena is mostly being sought by mainstream digital media owners who are seeking to prevent piracy performed using peer to peer file sharing software. While I am as disappointed as anyone that the mighty RIAA would choose to force a little 12-year-old girl—one of the Internet subscribers identified through an RIAA subpoena—and her mother to pay them $2000 for the girl's piracy, I am still opposed to piracy as much as any Member of Congress. I have a strong record on property rights to back that up. I have no interest in seeking to shield those who have committed piracy from the law or hamper the ability of property owners to defend their rights. My concern with this quasi-subpoena process is with the problems it creates. I have made it very clear to all stakeholders that I stand ready to work on alternative legislation if they perefer something else to this provision, but unfortunately that offer has been flatly rejected.

This week the Senate voted to reverse the Federal Communications Commission's new media ownership regulations. I opposed that resolution, because I do not believe the FCC's amendments to its media outlet ownership rules are a threat to competition and diversity. However, I do stand with my colleagues in supporting a media marketplace where information flows from numerous sources and our constituents are empowered by a full range of robust digital outlets and new digital technologies available to them in the 21st century media marketplace. While well intentioned, I believe my colleagues are simply focusing on the wrong issues in the current debate over media ownership.

Digital rights management, otherwise known simply as DRM, refers to the growing body of technology—software and hardware—that controls access to and use of information, including the ability of individuals to distribute that information over the Internet. Over the past few years the large media companies have persistently sought out new laws and regulations that would mandate DRM in the marketplace, denying consumers and the educational community the use of media products as has been customarily and legally permitted.

As a result, the Consumers, Schools, and Libraries Digital Rights Management Awareness Act of 2003 will preclude the FCC from mandating that consumer electronics, computer hardware, telecommunications networks, and any other technology that facilitates the use of digital media products, such as movies, music, or software, be built to respond to particular digital rights management technologies.

Consumers and the educational community are legally permitted to use media products in a host of ways. Some of these uses are specifically identified in the Copyright Act as limitations on the rights of copyright owners. Many of these uses are the result of court decisions interpreting one of those limitations, the limitation known as Fair Use, and customs based on those court decisions. As a result, consumers can record cable and broadcast programming for non-commercial, private home use. They can lend DVDs and CDs to friends and family. They can make copies of movies and music in different formats so that they can use them with different types of playback devices. Media products can be used for criticism, research, and a range of other educational purposes that include acts of redistribution. All of these uses of content can be made by consumers and the educational community under the Copyright Act, and none of them require the permission of the copyright owner.

The same digital marketplace that has given rise to DRM is also updating the ways consumers and the educational community may use media products in powerful new ways. Broadband connectivity and new digital networking technologies—used in homes, offices, schools, and libraries—raise the prospect of never having to use physical media again. Instead, consumers, employees, students, and library patrons could access legally owned and legally possessed media products that reside on such a network remotely, via the Internet. These developments could revolutionize the information age at its onset.

Digital rights management can both help and hinder this evolutionary process. DRM can be a powerful tool for combating digital piracy. It can tether digital content to specific devices, preventing that content from being used on other devices. DRM can also prohibit Internet redistribution of digital media products.

DRM also has its downside, especially when it is incorporated into digital media products, and purchased unwittingly by consumers. Some consumers have already become acquainted with DRM in the marketplace this way. Less than 2 years ago music labels began selling copy-protected CDs. Consumers came to find their CDs—that look just like the CDs they have been purchasing for years—would not play on many personal computers, and in some instances became lodged inside them. In addition, they could no longer make the legal practice of converting them into digital MP3 files for use on portable MP3 players. More recently, consumers purchasing the popular tax filing software, Turbo Tax, came to realize they could only use the software on the first computer they downloaded it onto, never mind situations where they desperately needed to complete their tax filings on a different computer. I have no doubt that came as a nice surprise to taxpayers pressing to meet filing deadlines. It is my understanding that many consumers are registering their view on this use of DRM by purchasing competing software not so limited.

When combined with government mandates requiring that all consumer appliances use or respond to specific DRM technologies and capabilities, the potential for mass consumer confusion and disservice is clear. I introduce this legislation today, because DRM mandates sought by the major media companies are threatening to create just such an experience for consumers and the educational community. I can think of no greater threat to media and information diversity and competition than large, vertically integrated media and Internet companies using DRM technology mandates to not only control distribution of content, but also the ways in which that content is used by consumers in the privacy of their homes, by teachers in our Nation's classrooms and educational institutions, and by all Americans in our libraries.

Last week, the Federal Communications Commission adopted regulations approving a private sector agreement between the cable TV industry and the consumer electronics industry, called the Cable-CE ''Plug and Play'' agreement. The Plug and Play agreement governs how consumer electronics devices, information technology, and cable TV networks work together. Both the cable TV and CE industries should be commended for working together to make digital TV sets ''cable ready,'' and speeding the transition to digital television for consumers.

This private agreement includes digital rights management provisions—called ''encoding rules—that are aimed at protecting cable TV programming from piracy, but in a manner that seeks to preserve the customary and legal uses of media by consumers and the educational community to the greatest degree possible.

The agreement is technology neutral, in that new DRM content protection technologies may be devised and deemed compliant with the security protocols of the Plug and Play agreement. A proponent of a new content protection technology has a right to appeal to the FCC if Cable Labs rejects that technology, and the FCC will conduct a de novo review based on objective criteria. Unfortunately, the Commission may take a very different approach in protection broadcast digital television programming from piracy in its ''Broadcast Flag'' proceeding, as first proposed by the big media companies, and later joined by a very select group of electronics companies that own the patent in the one DRM technology, 5C approved for use in the proposal. The broadcast flag proposal requires every device that receives digital television content to recognize a ''flag'' that can be attached to DTV programming, and to respond to the flag by encrypting the content using an ''authorized technology'' that would be expressly required by FCC regulation.

Unlike the Plug and plan agreement, the broadcast flag proposal makes it difficult for new DRM technologies to be deemed ''Broadcast Flag'' compliant. The principal approval role for alternate DRM content protection technologies is vested in several big media companies and some of the narrow group of electronics companies owning the patent in 5C. In the only circumstance under this proposal where the FCC would have a role in approving a new technology, the baseline for FCC consideration would be the preordained 5C technology and their associated license terms. I hardly consider a proposal to be technology neutral when such important competitive determinations are placed in the hands of invested stakeholders as gatekeepers. Such a proposal deprives the market place of the very qualities the media companies need to fight piracy: competition and innovation. I commend Intel, one of the 5C companies, for recognizing this grim reality and being bold enough to support a different course, as I will outline in a moment.

The important of technological neutrality in the Plug and Play agreement versus the tech mandate in the Broadcast Flag becomes very clear when you review the particular provisions of each agreement.

In today's world, a DRM technology does not seem to exist that can both permit consumers to use the Internet to legally access content stored in their homes—on a home network for instance—while also preventing the unfettered Internet redistribution of such content. However, because the Cable-CE agreement envisions new DRM technologies, and make it possible for them to be approved for use with cable networks and CE devices, the potential for a new DRM technology that can strike this important balance exists.

Since the Flag proposal is so closed off to new technologies, it is unlikely that it will evolve to permit point-to-point redistribution of digital broadcast content over the Internet, for example, from one's home to one's office or from a son or daughter to any elderly parent. Furthermore 5C is capable of completely locking down the ways consumers and the educational community can record or otherwise use DTV content. It is no wonder then that the technical specifications for the actual Flag itself in major media's proposal provides for the possibility that it can be used to send new, more restrictive encoding rules to consumer electronics devices that operate DTV content.

The Consumers, Schools, and Libraries Digital Rights Management Awareness Act of 2003 will ensure that anti-piracy policies for broadcast DTV will provide maximum protections for industry, but in a manner that relies on innovation, competition, and serving the interests of consumers to achieve that goal.

First, the bill prohibits the Federal Communications Commission from moving forward with any new proceedings that impact the ways in which consumers may access or distribute digital media products, aside from the two previously mentioned proceedings. This will negate any future efforts by the big media companies to further expand the ways in which they can control how content may be legally used.

Second, the bill sets ground rules for the FCC's broadcast flag proceeding. It permits the FCC, if it has such authority, to require consumer electronics companies to detect a Broadcast Flag and prohibit illegal Internet retransmission of digital broadcast programming to the public when it detects the flag. However, this proposal relies on a self-certification requirement, so consumer electronics and information technology companies can deploy competing and innovative DRMs that prohibit DTV piracy immediately, not subject to the whims of industry gatekeepers. Like the Plug and Play agreement this proposal provides a meaningful role for the FCC, not industry stakeholders, to resolve any controversies that may arise with new technologies.

In addition to addressing the threat of FCC tech mandates in the broadcast DTV space, this legislation also addresses other important concerns regarding the introduction of DRM into the marketplace, to prevent some of the experiences of consumers with this important technology to date.

First, the bill provides on year for all stakeholders in the digital media marketplace to voluntarily devise a labeling regime for all DRM-enabled digital media products, including those made available solely online, so consumers will know what they are buying when they but it.

Second, the bill prohibits the use of DRM technologies to prevent consumers from reselling the used digital media products they no longer want, or from donating used digital media products to schools and libraries.

Finally, the bill directs the Federal Trade Commission—our Nation's premier consumer protection agency—to carefully monitor the introduction of DRM into the marketplace, reporting to Congress in incidents of consumer confusion and dissatisfaction, and suggesting measures that can ease the impact DRM has on law abiding consumers.

The Senate has responded to what many view as the threat of increasing consolidation in the media marketplace. If my colleagues are concerned with consolidation in outlet ownership then I have no doubt they will be equally concerned with Federally-mandated controls over how consumers and the educational community may actually use information flowing through those outlets. Piracy Prevention is a goal we can all work together to pursue. DRM-mandated business models, however, should not be the product of this Congress or any agency under our jurisdiction. The Federal Communications Commission seems to be missing this point. I encourage all of my colleagues to work with me to put the

brakes on the FCC. Support the Consumers, Schools, and Libraries Digital Rights Management Awareness of 2003.

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:

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 ''Consumers, Schools, and Libraries Digital Rights Management Awareness Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is not in the interest of our nation's economy, marketplace innovation, nor consumer or educational community welfare for an agency of the Federal government to mandate the inclusion of access or redistribution control technologies used with digital media products into consumer electronics products, computer products, or telecommunications and advanced services network facilities and services, except pursuant to a grant of specific and clear authority from Congress to assure a result in its regulations, and when the mandate is derived from voluntary private-sector efforts that protect the legal, reasonable, and customary practices of end-users.

(2) The limited introduction into commerce of access controlled compact discs has caused some consumer, educational institution, and library confusion and inconvenience, and has placed increased burdens on retailers, consumer electronics manufacturers, and personal computer manufacturers responding to consumer, educational institution, and library complaints.

(3) The private and public sectors should work together to prevent future consumer, educational institution, library, and industry confusion and inconvenience as legitimate access and redistribution control technologies become increasingly prevalent in the marketplace.

(4) The private sector should make every effort, in a voluntary process, to provide for consumer, educational institution, and library awareness and satisfaction as access and redistribution control technology are increasingly deployed in the marketplace.

(5) The Federal Trade Commission, in the absence of successful private sector efforts, should ensure that consumers, educational institutions, and libraries are provided with adequate information with respect to the existence of access and redistribution control technologies in the digital media products they purchase, and how such technologies may implicate their ability to use such products.

(6) It is not in the interests of consumer welfare, privacy, and safety, or for the continued development of the Internet as a communications and economic resource, for the manufacturers of digital media products or their representatives to be permitted to require Internet access service providers merely providing subscribers with transport for electronic communications to disclose a subscriber's personal information, absent due process and independent of the judicial scrutiny required to ensure that such requests are legitimate.

(7) The Federal Trade Commission should ensure that consumers' welfare, privacy, and safety are protected in regards to requests by manufacturers of digital media products or their representatives for Internet service provider disclosure of subscribers' personally identifiable information outside of the judicial process.

(8) It is not in the interests of our nation's economy, marketplace innovation, nor consumer, educational institution, and library welfare to permit the advent of access or redistribution control technologies to limit the existence of legitimate secondary markets for digital media products, a traditional form of commerce that is founded in our nation's economic traditions, provides critical resources for our nation's educational institutions and libraries, and is otherwise consistent with applicable law.

SEC. 3. PROHIBITION ON FCC TECHNOLOGY MANDATES.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) a successful transition to digital television will occur based on the mutual cooperation of all stakeholders, and no one stakeholder's property interests outweigh another's interests;

(2) the transition to digital television will be successful to the degree it meets consumers' expectations based on the ways they have come to expect to be able to receive and use over-the-air television in the privacy of their own homes and otherwise;

(3) digital convergence provides new tools for industry to offer innovative and varied products compared to the traditional analog marketplace, and it also provides. consumers with innovative and varied means of using digital content. In this respect, interoperability between digital television products and digital cable systems remains an important objective;

(4) a successful transition to digital television will maintain this important balance of interests; and

(5) suggestions that consumers do not have certain expectations in the digital marketplace simply because they have never had access to a particular digital capability, or the expectation of using or relying on such a capability, are not dispositive of reasonable and customary consumer access and use practices.

(b) PROHIBITION ON TECHNOLOGY MANDATES.—Except as specifically authorized by Congress the Federal Communications Commission may not require a person manufacturing, importing into, offering for sale, license or distribution in, or affecting, interstate commerce in the United States a device, machine, or process that is designed, manufactured, marketed for the purpose of, or that is capable of rendering, processing, transmitting, receiving or reproducing a digital media product—

(1) to incorporate access control technology, or the ability to respond to such technology, into the design of such a device, machine, or process; or

(2) to incorporate redistribution control technology, or the ability to respond to such technology, into the design of such a device, machine, or process.

(c) EFFECT ON PENDING FCC RULEMAKING PROCEEDINGS.—

(1) Nothing herein shall prohibit or limit the Commission from issuing the regulations proposed for adoption in the ''cable plug and play'' proceeding in CS Docket No. 97–80 and PP Docket No. 00–67.

(2) If the Commission determines that it has the authority to issue regulations in MB Docket No. 02–230, it shall not be barred by subsection (b) of this section from issuing such regulations, provided, however, that such regulations shall—

(A) preserve reasonable and customary consumer, educational institution, and library access and use practices;

(B) not include, directly or indirectly, any requirement that a device, machine, or process designed, manufactured, marketed for the purpose of, or that is capable of rendering, processing, transmitting, receiving or reproducing a digital media product, be manufactured using any particular redistribution control technology or technologies, but only may provide for establishment of objective standards to achieve a functional requirement of preventing illegal redistribution of digital terrestrial television broadcast programming to the public over the Internet; and

(C) provide for manufacturer self-certification, to be enforced exclusively by the Commission pursuant to its existing enforcement authority, that a redistribution control technology meets the requirements in subparagraphs (A) and (B) of this subsection and does not interfere with unrelated distribution of content over the Internet.

SEC. 4. CONSUMER, EDUCATIONAL INSTITUTION, AND LIBRARY AWARENESS.

(a) CONSUMER, EDUCATIONAL INSTITUTION, AND LIBRARY DIGITAL RIGHTS MANAGEMENT AWARENESS ADVISORY COMMITTEE.—The Federal Trade Commission shall, as soon as practicable after the date of enactment of this Act, establish an advisory committee for the purpose of informing the Commission about the ways in which access control technology and redistribution control technology may affect consumer, educational institution, and library use of digital media products based on their legal and customary uses of such products, and how consumer, educational institution, and library awareness about the existence of such technologies in the digital media products they purchase or otherwise come to legally own may be achieved.

(b) ADVISORY COMMITTEE REQUIREMENTS.—In establishing an advisory committee for purposes of subsection (a) of this section, the Commission shall—

(1) ensure that it includes representatives of radio and television broadcasters, television programming producers, producers of motion pictures, producers of sound recordings, publishers of literary works, producers of video games, cable operators, satellite operators, consumer electronics manufacturers, computer manufacturers, any other appropriate manufacturers of electronic devices capable of utilizing digital media products, telecommunications service providers, advanced service providers, Internet service providers, consumer interest groups, representatives of educational institutions, representatives of libraries, and other interested individuals from the private sector, and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee; and

(2) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

(3) require the committee to submit a final report, approved by a majority of members, of its recommendations within one year after the date of the appointment of the initial members.

(c) FTC NOTICE AND LABELING.—Except as provided in subsection (d)—

(1) no person shall offer for sale, license, or use by a consumer, educational institution, or a library an access controlled digital media product or a redistribution controlled digital media product, unless that person has provided clear and conspicuous notice or a label on the product, at the point of sale or distribution to such consumer, educational institution or library as prescribed by the Federal Trade Commission, such that the notice or label identifies any restrictions the access control technology or redistribution control technology used in or with that digital media product is intended or reasonably could be foreseen to have on the consumers', educational institutions', or libraries' use of the product; and

(2) this subsection shall not apply to a distributor or vendor of a digital media product unless such distributor or vendor has actual knowledge that the product contains or is restricted by access control technology or redistribution control technology and that the notice or label described in this subsection is not visible to the consumer, educational institution, or library at the point of distribution or transmission.

(d) APPLICABILITY AND EFFECTIVE DATE.—Subsection (c) shall take effect 1 year after the date of enactment of this Act unless the Commission determines, in consultation with the advisory committee created in subsection (b) of this section, that manufacturers of digital media products have, by such date—

(1) established voluntary rules for notice and labeling of access controlled or redistribution controlled digital media products, including when both access control technology and redistribution control technology are used in or with digital media products, designed to create consumer, educational institution, and library awareness about the ways in which access control technology or redistribution control technology will affect their legal, expected, and customary uses of digital media products; and

(2) agreed voluntarily to implement the rules for notice and labeling of access controlled digital media products or redistribution controlled digital media products, including when both access control technology and redistribution control technology are used in or with digital media products.

SEC. 5. CONSUMER PRIVACY.

(a) IN GENERAL.—Notwithstanding any other provision of law, an Internet access service may not be compelled to make available to a manufacturer of a digital media product or its representative the identity or personal information of a subscriber or user of its service for use in enforcing the manufacturer's rights relating to use of such product on the basis of a subpoena or order issued at the request of the manufacturer or its representative except under a valid subpoena or court order issued at the request of the manufacturer or its representative in a pending civil lawsuit or as otherwise expressly authorized under the Federal Rules of Civil Procedure or the civil procedure rules of a State.

(b) Subsection (a) shall not apply to requests for personal information authorized by another provision of law relating to allegedly unlawful use of a digital media product residing, and not merely stored for a temporary or transient period, on the system or network of the Internet access service.

SEC. 6. SECONDARY MARKETS FOR USED DIGITAL MEDIA PRODUCTS.

(a) CONSUMER SECONDARY MARKETS.—The lawful owner of a digital media product may transmit a copy of that product by means of a transmission to a single recipient as long as the technology used by that person to transmit the copy automatically deletes the digital media product contemporaneously with transmitting the copy.

(b) SECONDARY MARKETS FOR CHARITABLE DONATIONS TO EDUCATIONAL INSTITUTIONS AND LIBRARIES.—A person manufacturing, importing into, or offering for sale in, or affecting, interstate commerce in the United States a digital media product may not incorporate, impose, or attempt to impose any access control technology or redistribution control technology used in or with a digital media product that prevents a consumer from donating digital media products they own to educational institutions or libraries, subject to subsection (a).

(c) NO DISABLING TECHNOLOGY.—A person manufacturing, importing into, or offering for sale in, or affecting, interstate commerce in the United States a digital media product may not incorporate, impose, or attempt to impose any access control technology or redistribution control technology used in or with a digital media product that limits consumer resale of a digital media product described in subsection (a) or charitable donations described in subsection (b) to specific venues or distribution channels.

SEC. 7. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report containing the following information:

(1) The extent to which access controlled digital media products and redistribution controlled digital media products have entered the market over the preceding 2 years.

(2) The extent to which such digital media products allow consumers, educational institutions, and libraries to engage in all lawful uses of the product, and to which the Commission has received complaints from consumers, educational institutions, and libraries about the implementation of return policies for consumers, schools, and libraries who find that an access controlled digital media product or a redistribution controlled digital media product does not operate properly in a device capable of utilizing the product, or cannot be transmitted lawfully over the Internet.

(3) The extent to which manufacturers and retailers have been burdened by consumer, educational institutions, and library returns of devices unable to play or otherwise utilize access controlled digital media products or redistribution controlled digital media products.

(4) The number of enforcement actions taken by the Commission under this Act.

(5) The number of convictions or settlements achieved as a result of those enforcement actions.

(6) The number of requests Internet service providers have received from manufacturers of digital media products or their representatives seeking disclosure of subscribers' personal information, and the number of electronic requests Internet Service Providers have received from manufacturers of digital media products or their representatives requesting that a subscriber be disconnected from their service outside of any judicial process.

(7) Legislative or other requirements the Commission recommends in creating an office within the Commission to receive, verify, and process requests from manufacturers of digital media companies or their representatives to obtain the personal information of a subscriber to an Internet access service they legitimately suspect of misusing their property.

(8) An analysis of the ways consumers, educational institutions, and libraries commonly expect to be able to use digital media products, whether including access control technology or redistribution control technology or otherwise, when they purchase, legally own, or pay to use such products.

(9) Any proposed changes to this Act the Commission believes would enhance enforcement, eliminate consumer, educational institution, and library confusion, or otherwise address concerns raised by end-users with the Commission under this Act.

SEC. 8. ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except with regard to section 3, this Act shall be enforced by the Federal Trade Commission.

(b) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The violation of any provision is an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating sections 4, 5 or 6 of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of sections 4, 5 or 6 is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner as if all applicable terms and provisions of the Federal Trade Commission Act were in incorporated into and made a part of those sections.

(d) 1 YEAR WINDOW FOR COMPLIANCE.—The Commission may not, less than 1 year after the date of enactment of this section, initiate an enforcement action under this section for a violation of section 4.

SEC. 9. DEFINITIONS.

For the purposes of this Act:

(1) ACCESS CONTROLLED DIGITAL MEDIA PRODUCT.—The term ''access controlled digital media product'' means a digital media product, as defined in this section, to which an access control technology has been applied.

(2) ACCESS CONTROL TECHNOLOGY.—The term ''access control technology'' means a technology or process that controls or inhibits the use, reproduction, display, transmission or resale, or transfer of control of a license to use, of a digital media product.

(3) DIGITAL MEDIA PRODUCT.—The term ''digital media product'' means—

(a) a literary work;

(b) a pictorial and graphic work;

(c) a motion picture or other audiovisual work;

(d) a sound recording; or

(e) a musical work, including accompanying words that is distributed, broadcast, transmitted, performed, intended for sale, or licensed on nonnegotiable terms, to the general public, in digital form, either electronically or fixed in a physical medium.

(4) FUNCTIONAL REQUIREMENT.—The term ''functional requirement'' means any rule or regulation enacted by the Federal Communications Commission that requires a device, machine, or process designed, manufactured, marketed for the purpose of, or that is capable of rendering, processing, transmitting, receiving or reproducing a digital media product to be able to perform certain functions or include certain generic capabilities, independent of any requirement that specific technologies be incorporated to meet the functional requirement.

(5) INTERNET.—The term ''Internet'' has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(6) INTERNET ACCESS SERVICE.—The term ''Internet access service'' has the same meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(7) MANUFACTURER.—The term ''manufacturer of a digital media product'' means any person owning any right in the digital media product.

(8) PERSONAL INFORMATION.—The term ''personal information'' has the same meaning given that term in section 1301(8) of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501(8)), including any other information about an individual, and including information that an Internet access service collects and combines with an identifier described in subparagraphs (A) through (F) of that section.

(9) REDISTRIBUTION CONTROLLED DIGITAL MEDIA PRODUCT.—The term ''redistribution

controlled digital media product'' means a digital media product, as defined in this section, to which a redistribution control technology has been applied.

(10) REDISTRIBUTION CONTROL TECHNOLOGY.—The term ''redistribution control technology'' means a technology or process that controls or inhibits the transmission of a digital media product over the Internet following its initial receipt by a member of the public, without regard to whether such transmission is for the purpose of use, reproduction, performance, resale, or transfer of a license to use, the digital media product.

By Mr. DASCHLE (for Mr. GRAHAM of Florida (for himself, Mr. HAGEL, Mrs. CLINTON, Mr. NELSON of Nebraska, Ms. MURKOWSKI, Mr. DAYTON, Mr. AKAKA, and Mrs. MURRAY)):

S. 1622. A bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized; to the Committee on Armed Services.

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

● Mr. GRAHAM. Mr. President, Senators HAGEL, CLINTON, BEN NELSON, MURKOWSKI, DAYTON, MURRAY, AKAKA, and I are introducing legislation to help service members who are injured or become ill while serving in combat. Today, if one of our soldiers, sailors, airmen, or marines fighting in Iraq or in Afghanistan are wounded or suffer an illness, they are evacuated to a military hospital. The problem is when they are discharged from the hospital they are given a bill for the meals they were served while being treated.

Under current law, service members are required to pay for their meals at a rate of $8.10 per day while they are in a military hospital. For example, a Marine Staff Sergeant recently spent 26 days in the hospital recovering from injuries endured when an Iraqi child dropped a hand grenade in the HUMVEE he was driving. Upon his discharge from the hospital, he was handed a bill for $243 for his meals. While eight dollars a day may not seem like a lot of money to you or me, it is to a private who makes less than $14,000 a year. If we are looking to save money, we should not turn first to the pockets of our injured service members.

The bill we introduce today is simple. It will prohibit the Department of Defense from charging troops for meals when they are hospitalized as a result of either injury or illness while in combat or training for combat. This legislation shows strong support for our service members currently in harm's way and helps to alleviate a financial burden on our injured soldiers.

This bill is similar to one filed by Congressman BILL YOUNG in the House of Representatives, but also covers those who become ill while in combat or training for combat. We already know that over 100 soldiers deployed to the Persian Gulf region and Central Asia have contracted pneumonia, 30 that become so ill that they had to be evacuated to hospitals in Europe or the United States. This situation highlights why we must include those who suffer from illness as well as injury. I am grateful to Congressman YOUNG for his leadership on this issue and am hopeful we can work together to quickly pass legislation to end the unfair practice of charging our injured service members for hospital meals.

The cost to the government for correcting this serious injustice is significant. This year, the Department of Defense has recouped only $1.5 million for hospital meals from hospitalized service members world-wide. This legislation is even more limited in scope, as it only applies to those who become ill or injured during combat or situations simulating combat. While I am cognizant of the budget constraints our military is facing, this is a comparatively small expense that will mean a great deal to those service members affected.

Service members and military families are facing many challenges right now. They have to contend with long separations, potential financial hardships from extended Reserve and Guard call-ups, not to mention the very real fear of being wounded in combat. We should not add to these burdens by charging them for their meals after a lengthy hospital stay for a combat-related condition.

I urge my colleagues to join me and my colleagues in quickly moving this legislation.

I ask unanimous consent that the text of the bill, the following editorial in support of ending this injustice from the Omaha World Herald, entitled ''Nickel and Diming the Troops'' be printed in the RECORD.

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

S. 1622

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

SECTION 1. EXEMPTION OF CERTAIN MEMBERS OF THE ARMED FORCES FROM REQUIREMENT TO PAY SUBSISTENCE CHARGES WHILE HOSPITALIZED.

(a) IN GENERAL.—Section 1075 of title 10, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''When''; and

(2) by striking the second sentence and inserting the following:

''(b) EXCEPTIONS.—Subsection (a) shall not apply to any of the following:

''(1) An enlisted member, or former enlisted member, of a uniformed service who is entitled to retired or retainer pay or equivalent pay.

''(2) An officer or former officer of a uniformed service, or an enlisted member or former enlisted member of a uniformed service not described in paragraph (1), who is hospitalized under section 1074 of this title because of an injury or disease incurred (as determined under criteria prescribed by the Secretary of Defense)—

''(A) as a direct result of armed conflict;

''(B) while engaged in hazardous service;

''(C) in the performance of duty under conditions simulating war; or

''(D) through an instrumentality of war.''.

(b) EFFECTIVE DATE.—Section 1075(b) of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act, and shall apply with respect to injuries or diseases incurred on or after that date.

[From the Omaha World Herald, Sept. 16, 2003]

NICKEL-AND-DIMING THE TROOPS

It seems just plain mean-spirited to bill injured soldiers for their food.

The U.S. government does, indeed, put a price on the sacrifices of the men and women injured in military combat: $8.10 per day.

That's the daily food allowance soldiers receive, which in 1981 Congress decided enlisted soldiers must repay to the government when they're ''lucky'' enough to be hospitalized and get free food.

It sounds like good fiscal sense in theory—until you confront the reality of a Marine Corps reservist who lost part of his foot in Iraq, unaware he'd get a $210.60 bill upon discharge from the National Navy Medical Center in Bethesda, Md. Or the many other soldiers like him, sometimes hospitalized for long periods, sometimes handicapped for life.

And the government is busy nickel-and-diming these heroes amid a bureaucracy where a million dollars is penny-ante change. (Once upon a time, it might have bought a hammer and a toilet seat or two.)

Florida Rep. C.W. Bill Young, chairman of the House Appropriations Committee, personally paid the tab for the reservist hospitalized in Bethesda. His bill to correct the inequity, introduced Sept. 3, already has 114 co-sponsors. It seems likely to sail through Congress in the next few weeks.

Technically, the 1981 law does prevent ''double-dipping''—paying the hospitalized soldiers the $8.10 food allowance and feeding them, too. But the government already bends the rules for soldiers in combat. Young's bill would extend that exception to soldiers battling to recover from combat injuries.

What a small price to pay for the men and women who paid so much to protect this country.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 226—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF JOSUE ORTA RIVERA V. CONGRESS OF THE UNITED STATES OF AMERICA, ET AL

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 226

Whereas, in the case of *Josue Orta Rivera* v. *Congress of the United States of America, et al.*, Civil No. 03–1684 (SEC), pending in the United States District Court for the District of Puerto Rico, the plaintiff has named an defendants all Members of the Senate, as well as the Vice President, the President Pro Tem, the Secretary of the Senate, the Sergeant at Arms, and the Congress;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members and Officers of the Senate in civil actions relating to their official responsibilities;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C.