S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 434. A bill to authorize the Secretary of agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Panhandle National Forest Improvement Act of 2003. This bill is an opportunity to provide lands for local benefits and to meet the facility needs of the Forest Service in the Silver Valley of Idaho. This bill will offer for sale or exchange administrative parcels of land in the Idaho Panhandle National Forest that the Forest Service has identified as no longer in the interest of public ownership and that disposing of them will serve the public better. The proceeds from these sales will be used to improve or replace the Forest Service's Ranger Station in Idaho's Silver Valley.

The Forest Service administrative parcels identified for disposal include the land permitted by the Granite/Reeder Sewer District on Priest Lake, Shoshone Camp in Shoshone County, and the North-South Ski Bowl, south of St. Maries.

The bill also directs the Forest Service to improve or construct a new ranger station in the Silver Valley. The current ranger station is in dire need of repair or replacement, and this will ensure my commitment to a continued and increased presence of the Forest Service in the Silver Valley.

This is a win-win situation for the taxpayers, the Forest Service, the residents of the Silver Valley, and the permittees on the parcels of land to be disposed of.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the, ''Sandpoint Land and Facilities Act of 2003''. This bill is a unique opportunity to meet the facility needs of the Forest Service in Sandpoint, ID and to provide facilities for the local county government. This bill will transfer ownership of the local General Service Administration building currently housing the Forest Service to that agency. The bill also provides authority for the Forest Service to work with Bonner County, ID to exchange the existing building to Bonner County in exchange for a new and more functional building to the Forest Service. This transfer of ownership will not only provide the opportunity for the local Forest Service office to obtain a facility that best meets their needs but also will meet the facility needs of Bonner County.

The transfer of this facility will allow the Forest Service to improve service to the public, improve public and employee safety, make the Idaho Panhandle National Forest more financially competitive, and allow increased spending on resource programs that contribute to healthier ecosystems. In turn, Bonner County will benefit by providing to them a building that consolidates county offices so that better services can be provided to the local public, including ADA compliant access to the county courtrooms.

Additionally, the GSA will dispose of a building that is only partially occupied and is remotely located from other GSA facilities.

This is a win-win situation for the Forest Service, Bonner County, GSA, and the taxpayers and an outstanding example of the Federal Government at the local level working with the county government to create common sense solutions that result in more efficient operations and better service to the public.

By Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER):

S. 436. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today, joined by my good friends, Senators GRASSLEY and SPECTER, to introduce the Domestic Surveillance Oversight Act of 2003. This bill does not change or diminish any power available to the government in the pursuit of homeland security, but it does create important mechanisms to allow the Congress and the public to assess how effectively and appropriately the government is using its domestic surveillance powers.

I also rise to speak about an important bipartisan report being released today by myself, Senator SPECTER, and Senator GRASSLEY entitled ''FBI Oversight in the 107th Congress by the Senate Judiciary Committee: FISA Implementation Failures,'' ''FIF Report''. The report summarizes our joint conclusions based upon our bipartisan oversight of the FBI and DOJ's performance in using the Foreign Intelligence Surveillance Act, ''FISA'', an important tool in conducting domestic surveillance. The report distills our mutual findings and conclusions from numerous bipartisan hearings, classified briefings and other oversight activities. It concludes that the FBI continues to be in need of serious reform. The report also sets forth our bipartisan disappointment with the DOJ and FBI's non-responsiveness to our oversight efforts and the resulting necessity for better oversight tools, such as the bill we introduce today.

Our committee worked with the FBI and the Justice Department to achieve initial reforms both through administrative steps and also through legislation. Most notably, last fall we enacted a new Department of Justice charter that included some provisions of the FBI Reform Act. We need to enact the rest of that bipartisan bill.

Taken together, this bill and report represent a bipartisan statement about the importance of oversight and, where possible, sunshine on the government's domestic surveillance efforts. Only by fulfilling our constitutional responsibility to conduct such oversight, can we in Congress help to protect both the security and the liberty of the American people.

In times of national stress there is an understandable impulse for the government to ask for more power. Sometimes more power is needed, but many times it is not. After the September 11 attacks, we worked together in a bipartisan fashion and with unprecedented speed to craft and enact the USA PATRIOT Act which enhanced the government's powers.

Now, as word continues to circulate about a possible sequel to the USA PATRIOT Act that the Department of Justice is considering in secret and that supposedly would give government even more power, it is constructive for us to first examine and understand how Federal agencies are using the power they already have. We must answer two questions.

First, is that power being used effectively, so that our citizens not only feel safer, but are in fact safer?

Second, is that power being used appropriately, so that our liberties are not sacrificed?

In short, before we can craft and enact new laws, we must first make sure that the Department of Justice and FBI are properly using the laws that are already on the books. That is the purpose of enhanced Congressional oversight.

Domestic Surveillance Oversight Act:

Today, with the Senior Senator from Iowa and the Senior Senator from

Pennsylvania, I am introducing the bipartisan Domestic Surveillance Oversight Act of 2003. This bill provides basic information to Congress and the American people about the FBI's use of FISA to conduct surveillance on Americans. Such domestic surveillance is certainly appropriate in some cases, and the bill does not intrude in any way upon law enforcement or diminish its ability to conduct FISA surveillance when necessary and appropriate. Nor does it require the Department of Justice to publicly release any sensitive or classified information. Rather, it seeks reporting only on the aggregate number of FISA wiretaps and other surveillance measures directed specifically against Americans each year. In this way, the public and Congress can assess over time whether the government has turned more of its powerful surveillance techniques on its own citizens, as opposed to non-U.S. persons. If necessary, we can ask it to explain its actions.

The amendment also clarifies that the Foreign Intelligence Surveillance Court, FISC, and FISA Court of Review have the authority to adopt rules and procedures, and it requires that those rules be shared with the Intelligence and Judiciary Committees of the Senate and House of Representatives as well as the Supreme Court. In the last year, and only after requests from Senators GRASSLEY, SPECTER and myself, the FISC shared its rules with Congress for the first time. One of those rules and one which was eventually rejected by the FISA Review Court embodied a controversial legal interpretation of a provision we crafted in the USA PATRIOT Act. The Congress ought to have been immediately informed of that court rule either by the FISC or the DOJ, but it was not. It is entirely appropriate that a court be enabled to promulgate its own rules. It is entirely inappropriate that those rules be kept secret from Congress.

Consistent with national security, the bill directs the Attorney General to include in an annual public report the portions of applications to and opinions of the FISC and FISA Court of Review that contain significant legal interpretations of FISA or the Constitution. These disclosures will not include the facts of any particular case, which this provision requires to be redacted in order to preserve national security. This type of disclosure, however, will prevent secret case law from developing which interprets both FISA and the Constitution in ways unknown to the Congress and the public.

The first annual report required under this provision is also to include the same type of legal information for the four years before the year of the first report.

Finally, the bill would require a report to appropriate committees of Congress on the use of National Security Letters to request information from public libraries or libraries affiliated with high schools or universities. Such letters are functionally equivalent to an administrative subpoena and require no court approval. We have heard from members of the library community that the FBI may be returning to a discredited practice from the Hoover days of monitoring public and college libraries to ascertain what books people are reading. In fact, a media report from Vermont, which I ask consent to place in the RECORD, indicates that bookstore owners there are scared to keep records for just this reason. Again, this provision would not in any way limit the use of National Security Letters, but would merely require an annual report of such activities to Congress, so that we can ascertain whether or not these administrative subpoenas are being used for improper purposes. This section would also ensure that reports on the use of such letters are provided to all appropriate oversight committees.

This enhanced reporting is exactly what was called for by the American Bar Association in a resolution adopted on February 10, and echoed in a Washington Post editorial on February 12, 2003. As the Post editorialized, the Department of Justice ''needs to disclose how it is using the [powers] it already has. Yet the Justice Department has balked at reasonable oversight and public information requests . . . Congress should insist on a full understanding of what the [D]epartment is doing.'' I ask unanimous consent to print a copy both of the ABA resolution as well as the Washington Post editorial in the RECORD.

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

Adopted February 10, 2003:

Section of Individual Rights and Responsibilities (lead sponsor); Section of Litigation; Section of Criminal Justice, Section of Administrative Law and Regulatory Practice; Section of International Law and Practice; Section of Science and Technology Law; Young Lawyers Division.

Resolved, That the American Bar Association urges the Congress to conduct regular and timely oversight, including public hearings (except when Congress determines that the requirements of national security make open proceedings inappropriate), to ensure that government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. (''FISA'' or ''the Act'') do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the Act's purposes of accommodating and advancing both the government's interest in pursuing legitimate intelligence activity and the individual's interest in being free from improper government intrusion.

Further resolved, That the American Bar Association urges the Congress to consider amendments to the Act to

(1) Clarify that the procedures adopted by the Attorney General to protect United States persons, as required by the Act, should ensure that FISA is used when the government has a significant (i.e. not insubstantial) foreign intelligence purpose, as contemplated by the Act, and not to circumvent the Fourth Amendment; and

(2) Make available to the public an annual statistical report on FISA investigations, comparable to the reports prepared by the Administrative Office of the United States Courts, pursuant to 18 U.S.C. sec. 2519, regarding the use of Federal wiretap authority.

[From the Washington Post, Feb. 12, 2003]

PATRIOT ACT: THE SEQUEL

The Justice Department's draft of a second round of law enforcement and domestic security authorities—a kind of sequel to the USA Patriot Act of 2001—offers an unintended glimpse of additional powers that the Bush administration if coveting. The draft, labeled ''CONFIDENTIAL—NOT FOR DISTRIBUTION'' and dated Jan. 9, was obtained last week by the Center for Public Integrity, Washington-based nonprofit. Department officials quickly stressed that it is not a final version. But the document's proposals may become the next battlefield in the struggle to preserve American liberties while enabling the domestic war on terrorism. The proposals range from constructive to dangerous.

A government DNA database for terrorists and suspected terrorists could be useful, though it would need refinement to protect suspects who are proved innocent. Another useful proposal would allow the special appeals court that reviews government surveillance requests in national security cases to appoint lawyers to argue against the government. Under current law, it hears only from one side. The draft would create a federal crime for terrorist hoaxes, which now must be prosecuted under provisions designed for other purposes.

But the draft contains many troubling provisions. It would further expand intelligence surveillance powers into the traditional realm of law enforcement. Like a Senate bill soon to be taken up by the Judiciary Committee, it would allow foreigners suspected of terrorism to be watched as intelligence targets—rather than subjects of law enforcement—even if they could not be linked to any foreign group or state. But it would go further. It would allow intelligence surveillance in certain circumstances even when the government could not produce any evidence of a crime. It also would allow certain snooping with no court authorization, not only—as now—when Congress declared war but when it authorized force or when the country was attacked. The result of such changes would be to magnify the government's discretion to pick the legal regime under which it investigates and prosecutes national security cases and to give it more power unilaterally to exempt people from the protections of the justice system and place them in a kind of alternative legal world. Congress should be pushing in the opposite direction.

Before the department asks Congress for more powers, it needs to disclose how it is using the ones it already has. Yet the Justice Department has balked at reasonable oversight and public information requests. In fact, the draft legislation would allow the department to withhold information concerning the identity of Sept. 11 detainees—a matter now before the courts. At the very least, Congress should insist on a full understanding of what the department is doing before granting the executive branch still more authority.

This bill does not in any way diminish the government's powers, but it does allow Congress and the public to monitor their use. We cannot fight terrorism effectively or safely with the lights turned out and with little or no accountability. It is time to harness the power of the sun to enable us to better win this fight.

FIF Report: The wisdom of this bill is also supported by our bipartisan report, which Senators SPECTER, GRASSLEY, and I also release today, based on a year of bipartisan effort.

Today's FBI oversight report focuses on the use of the immense powers granted under FISA. We expanded the government's FISA powers after September 11 in the USA PATRIOT Act, a law that all three of us had a hand in crafting.

Unfortunately our hearings, briefings and other oversight revealed that the FBI is ill-equipped to implement FISA. Nor are its problems amenable to legal ''quick fixes.'' In fact, many of these problems are not unique to the FISA context, but echo broader and more systemic problems that have plagued the FBI for years.

Here are a few of the report's basic conclusions: *Poor training*: Key FBI agents and officials were inadequately trained in important aspects of not only FISA, but also in fundamental aspects of criminal law. *Excessive secrecy*: Secrecy regarding the most basic legal and procedural aspects of the FISA have hurt, not helped, implementation of FISA. *Headquarters Bureaucracy*: FBI headquarters often not only fails to support the work of many of its best street agents, but it actually sometimes hinders them in doing their important jobs. *Culture of Quashing Criticism*: The FBI has a deep rooted culture of punishing those who point out problems. Just yesterday, in fact, a DOJ Inspector General's Report was released substantiating claims of retaliation against FBI United Chief John Roberts for his approved appearance on 60 Minutes. More troubling, these allegations involved senior officials at the FBI, including the head of the division official charged with investigating claims of misconduct in the FBI. This culture has materially hurt the FBI's intelligence operations.

Unfortunately, as our report describes in detail, we have run into many roadblocks in conducting FBI oversight. Some obstacles were due to a lack of cooperation by the Department of Justice and FBI. The FIF Report outlines many prime examples supporting the necessity of the increased reporting called for in the bill that I introduce with Senators GRASSLEY and SPECTER today. For instance, the FIF Report describes how the FISC issued an unclassified opinion last May strongly criticizing the DOJ and FBI and containing important legal interpretations of FISA and the USA PATRIOT Act amendments to it. Even after repeated requests by myself, Senator SPECTER and Senator GRASSLEY for a copy of this unclassified legal opinion, the DOJ refused to provide us one. Eventually, the FISC, not DOJ, provided us with a copy of this unclassified document and, again only at our request, copies of the FISA Court of Review's argument and opinion were made public. I hope that this resistance towards legitimate oversight will not be shown in the future.

Sunlight is the best solvent for the sticky and ineffective machinery of government, and it is the best disinfectant to discourage the abuse of power. Our comprehensive FBI oversight has revealed that there is much work to be done.

Effective oversight of the powers given to the government for homeland security means fewer blank checks, and more checks and balances.

I ask unanimous consent, that the text of the bill I am introducing, a sectional analysis, and a letter of support be printed in the RECORD.

There being no objection, the additional materials were ordered to be printed in the RECORD, as follows:

S. 436

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 ''Domestic Surveillance Oversight Act of 2003''.

SEC. 2. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

''(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

''(A) All of the judges on the court established pursuant to subsection (a).

''(B) All of the judges on the court of review established pursuant to subsection (b).

''(C) The Chief Justice of the United States.

''(D) The Committee on the Judiciary of the Senate.

''(E) The Select Committee on Intelligence of the Senate.

''(F) The Committee on the Judiciary of the House of Representatives.

''(G) The Permanent Select Committee on Intelligence of the House of Representatives.''.

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''PUBLIC REPORT OF THE ATTORNEY GENERAL

''SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

''(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

''(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

''(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.''.

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''Sec. 601. Public report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

SEC. 3. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.

(a) TITLE 18, UNITED STATES CODE.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: ''The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.''.

(b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

''(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

''(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

''(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).''.

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking ''and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' and inserting '',

the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives''; and

(2) by striking ''and the Committee on Banking, Housing, and Urban Affairs of the Senate'' and inserting '', the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate''.

SECTIONAL ANALYSIS OF THE DOMESTIC SURVEILLANCE OVERSIGHT ACT OF 2003

Sec. 1. Short title. The short title of the bill is the ''Domestic Surveillance Oversight Act of 2003.''

Sec. 2. Additional Improvements to Foreign Intelligence Surveillance Act of 1978 (FISA). This section amends FISA to clarify the authority of the Intelligence Surveillance Court (FISC) and FISA Court of Review to establish such rules and procedures as are reasonably necessary for their operation.

In addition, the bill requires the FISC and FISA Court of Review to transmit such rules and procedures to the judges on the FISC and Court of Review, the Chief Justice of the U.S., and the Judiciary and Intelligence Committees of the Senate and House. Previously, these rules have not been provided to Congress as a matter of course.

This section also adds to the public reporting requirements in FISA. It directs the Attorney General (AG) to include in the annual public report the aggregate number of U.S. persons targeted for any type of order under the act.

The report will also include information about the aggregate number of times FISA is being used for criminal cases, to enhance oversight regarding the changes enacted in the USA PATRIOT Act. The report will list the number of times the AG authorized FISA information to be used in a criminal proceeding or for law enforcement purposes.

Finally, ''in a manner consistent with the protection of national security,'' this section directs the report to include the portions of applications to and opinions of the FISC and FISA Court of Review that involve significant construction or interpretation of FISA or the Constitution. Such disclosures shall not include the facts of any particular case which are to be redacted. The first annual report is to include application and opinion information for the four years preceding the year of the first report to ensure that important legal interpretations, such as FISA Court of Review opinion that was almost not made public last summer, are publicly disseminated.

Sec. 3. Additional Improvements of Congressional Oversight of Surveillance Activities. This section adds to a reporting requirement to the House and Senate Judiciary and Intelligence Committees on the use of National Security Letters. The report will include a statement of requests for information directed to public libraries or libraries affiliated with high schools and universities. The section also would ensure that current reports on the use of such letters are provided to both the intelligence and judiciary committees as well as updating the names of certain pertinent committees that receive such reports. The section would allow Congress to assess the validity of public reports that a long discredited program of domestic library surveillance is being revived.

FEBRUARY 25, 2003.

Hon. PATRICK J. LEAHY,
Senate Judiciary Committee, Russell Senate Building, Washington, DC.
Hon. CHARLES E. GRASSLEY,
Senate Judiciary Committee, Hart Senate Building, Washington, DC.
Hon. ARLEN SPECTER,
Senate Judiciary Committee, Hart Senate Building, Washington, DC.

DEAR SENATORS LEAHY, GRASSLEY AND SPECTER: Wewrite in support of the Domestic Surveillance Oversight Act of 2003. The Foreign Intelligence Surveillance Act (FISA) authorizes secret wiretaps and secret searches of the homes and offices of Americans and other forms of data gathering for national security reasons. While the initial enactment of FISA was an appropriate accommodation of national security interests and individual rights to privacy and due process, since its initial enactment FISA has been expanded in ways that pose an increased threat to individual rights. Moreover, FISA surveillance authorities are now being used more and more; indeed, it appears that the federal government carries out more electronic surveillance under the authority of FISA than under criminal rules.

Given the absolute secrecy of FISA searches and seizures, mechanisms for public accountability are crucial to protect rights of privacy—as well as to insure effective and efficient use of this extraordinary authority. Your bill to require public accounting of the number of US persons subjected to surveillance under FISA, the number of times FISA information is used for law enforcement purposes, and to require disclosure of other information would be an important step in providing for oversight and public scrutiny of these extraordinary powers.

Disclosure of such information is important to informing the American public and will not be harmful to the national security, as it will not give any greater clues as to who is being targeted, or the scope of the anti-terrorism efforts than is already known from the Justice Department's own extensive public descriptions of those efforts.

We commend you on your leadership on this issue and look forward to working with you and your colleagues to achieve appropriate policies for responding to terrorism and other national security threats.

LAURA W. MURPHY,
Director, Washington National Office.
TIMOTHY H. EDGAR,
Legislative Counsel, American Civil Liberties Union.
JAMES X. DEMPSEY,
Executive Director, Center for Democracy and Technology.
KATE MARTIN,
Director, Center for National Security Studies.
MORTON H. HALPERIN,
Director, Open Society Policy Center.

[From the Burlington Free Press, Feb. 19, 2003]

BOOKSTORE OWNERS FIGHT DISCLOSURE ACT

(By Cadence Mertz)

The gears turned in Laurie Kettler's mind as she contemplated how the USA Patriot Act might affect the bookstore she co-owns in St. Albans.

At first, she thought The Kept Writer Bookshop & Cafe had no records that authorities could use to track what her customers are reading. Then it dawned on her. Records of online purchases stay in the system for a year. Authorities could demand those records under a provision of the USA Patriot Act passed in the wake of Sept. 11 to aid in tracking down possible terrorists.

''I guess I'm going to need to do something about that,'' Kettler said of the online records. She doesn't want that information to go to the federal government. ''It just seems like a violation of privacy.''

Efforts to prevent police from obtaining blueprints of their customers' reading habits are on other bookstore owners' minds. Michael Katzenberg, co-owner of Bear Pond Books in Montpelier, has purged lists of the books its customers buy.

Other local bookstores cheer Katzenberg's decision. They cite customer privacy and the First Amendment protecting citizens' rights to free speech. The government is over-stepping its bounds, and bookstore owners will go to lengths to protect the very law that allows authors to publish without censor.

''I support what he did, and I'm right there with him,'' said Mike DeSanto, co-owner of the Book Rack and Children's Pages in Winooski, who declined to disclose whether he has a list of his customers' reading preferences. If he did have a list, he says, he would be considering getting rid of it.

''This is wrong what they're doing,'' DeSanto said of the USA Patriot Act.

Customers at Flying Pig Books in Charlotte participate in a readers' club—after buying $100 of books patrons receive $10 off their next purchase, co-owner Josie Leavitt said. It is unlikely the bookstore would purge that record, which has the titles of customers' past purchases, because of its usefulness, Leavitt said. Customers like to have a reminder of what they have bought in the past, she said.

Faced with a request from law enforcement, Leavitt said the bookstore would refuse to turn over the information. She belongs to the American Booksellers Foundation for Free Expression, the group that helped defend a Colorado bookstore last year against just such an intrusion by law enforcement.

''That's what books are all about. Books represent freedom and if people can't read they're not free,'' Leavitt said.

The Vermont Library Association agrees. The group sent a letter to Vermont's congressional delegation describing the provisions of the USA Patriot Act pertaining to libraries and book stores as unconstitutional.

''They are dangerous steps toward the erosion of our most fundamental civil liberties,'' the October letter reads in part.

Peter Hall, U.S. attorney for Vermont, said the measure would be used only in ''very rare and limited and supervised circumstances,'' Hall said. Bookstore owners can do what they want with records of their customers' purchases, he said.

Borders Books & Music would review requests from authorities on a case-by-case basis, said Tod Gross, manager of the Burlington store. The national chain keeps no records of customer purchases, except for special orders, and those files are purged monthly, Gross said.

Two recent court cases have shown law enforcement's willingness to seek records from bookstores.

Independent counsel Kenneth Starr attempted to obtain a list of the books Monica Lewinsky had bought from a Washington, D.C. bookstore while investigating former President Bill Clinton. Law enforcement in Colorado subpoenaed a bookstore customers' purchases during a drug investigation. A Colorado Supreme Court blocked the subpoena.

Kettler, in St. Albans, said her first thoughts are for her customers' privacy. A woman seeking a book on ovarian cancer

should not have to worry her illness might be disclosed by the shopkeeper, Kettler said.

''I guess I'm going to stop keeping such meticulous records,'' she said.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, on behalf of Senator MCCAIN and myself I am introducing legislation today that would codify the largest water claims settlement in the history of Arizona. This bill represents the tremendous efforts of literally hundreds of people in Arizona and here in Washington over a period of five years. Looking ahead, this bill could ultimately be nearly as important to Arizona's future as was the authorization of the Central Arizona Project, CAP, itself.

Since Arizona began receiving CAP water from the Colorado River, litigation has divided water users over how the CAP water should be allocated and exactly how much Arizona was required to repay the federal government. This bill will, among other things, codify the settlement reached between the United States and the Central Arizona Water Conservation District over the state's repayment obligation for costs incurred by the United States in constructing the Central Arizona Project. It will also resolve, once and for all, the allocation of all remaining CAP water. This final allocation will provide the stability necessary for State water authorities to plan for Arizona's future water needs. In addition, approximately 200,000 acre-feet of CAP water will be made available to settle various Indian water claims in the State. The bill would also authorize the use of the Lower Colorado River Basin Development Fund, which is funded solely from revenues paid by Arizona entities, to construct irrigation works necessary for tribes with congressionally approved water settlements to use CAP water.

Title II of this bill settles the water rights claims of the Gila River Indian Community. It allocates nearly 100,000 acre-feet of CAP water to the Community, and provides funds to subsidize the costs of delivering CAP water and to construct the facilities necessary to allow the Community to fully utilize the water allocated to it in this settlement. Title III provides for long-needed amendments to the 1982 Southern Arizona Water Settlement Act for the Tohono O'odham Nation, which has never been fully implemented.

This bill will allow Arizona cities to plan for the future, knowing how much water they can count on. The Indian tribes will finally get ''wet'' water, as opposed to the paper rights to water they have now, and projects to use the water. In addition, mining companies, farmers, and irrigation delivery districts can continue to receive water without the fear that they will be stopped by Indian litigation.

While some minor issues remain, we have every confidence that these issues will be resolved as the legislation progresses. In addition, we hope that negotiations with the San Carlos Apache Tribe, the only party not yet included in the settlement, will move forward so that all claims can be resolved by this bill.

In summary, this bill is vital to the citizens of Arizona and will provide the certainty needed to move forward with water use decisions. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribes. The parties have worked many years to reach consensus rather than litigate, and I believe this bill represents the best opportunity to achieve a fair result for all the people of Arizona.

Mr. MCCAIN. Mr. President, I am pleased to join my colleague, Senator KYL, as a co-sponsor of this important legislation, the Arizona Water Settlements Act of 2003, which would ratify negotiated settlements for Central Arizona Project, CAP, water allocations to municipalities, agricultural districts and Indian tribes, state CAP repayment obligations, and final adjudication of long-standing Indian water rights claims.

These settlements reflect more than 5 years of intensive negotiations by state, Federal, tribal, municipal, and private parties. I commend all those involved in these negotiations for their extraordinary commitment and diligence to reach this final stage in the settlement process. I also praise my colleague, Senator JON KYL, and Interior Secretary Gail Norton, for their leadership in facilitating these settlements. From my experience in legislating past agreements, I recognize the enormous challenge of these negotiations, and I appreciate their personal dedication to this settlement process.

This legislation is vitally important to Arizona's future because these settlements will bring greater certainty and stability to Arizona's water supply by completing the allocation of CAP water supplies. Pending water rights claims by various Indian tribes and non-Indian users will be permanently settled as well as the repayment obligations of the State of Arizona for construction of the CAP.

I join with Senator KYL today to express support for the agreements embodied in this bill and to encourage conclusion of this settlement process in the near future. Significant progress has been made in resolving key issues since we last sponsored a bill to facilitate this agreement in the 107th Congress. Some of these key issues pertain to the final apportionment of CAP water supplies, cost-sharing of CAP construction and water delivery systems, amendment of the 1982 settlement agreement with the Tohono O'odham Nation, mitigation measures necessitated by sustained drought conditions, and equitable apportionment of drought shortages.

While this bill reflects agreements reached on a host of issues after an intensive and extended effort by the numerous parties involved, it is important to emphasize that this bill does not represent the final settlement. All parties recognize that a very limited number of the provisions of this bill may be modified as the negotiations continue. We fully expect that the legislative process will culminate with a final agreement early in the next congressional session.

Mr. President, we introduce this bill today as an expression of our strong support of the various parties to successfully achieve conclusion to this process. The Arizona Water Settlements Act will be a historic accomplishment that will benefit all citizens of Arizona, the tribal communities, and the United States.

By Mr. BUNNING:

S. 439. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

Mr. BUNNING. Mr. President, the Social Security system is one of this country's most important programs. Millions of older and disabled Americans rely on their Social Security checks each month as a reliable source of income.

We all know the long-term financial problems the Social Security system faces, and it is critical that Congress enact legislation to overhaul the system as soon as possible to ensure that our children and grandchildren can rely on a robust and healthy Social Security program.

Today, I am introducing a bill, the Social Security Protection Act, that will immediately begin protecting the integrity and finances of the Social Security system by combating fraud and abuse.

Fraud and abuse in the Social Security system not only threatens its long-term viability, but it also robs money from the millions of Americans who are contributing a portion of their hard-earned paychecks each month to the program.

The Social Security Protection Act makes several common-sense and much-needed changes, including denying Social Security benefits to individuals who are fugitive felons and parole violators, creating new civil monetary penalties to combat fraud, and providing additional protections to Social Security employees while on the job.

The bill also provides additional oversight of representative payees who are appointed by the Social Security

Administration to manage the finances of beneficiaries who are unable to do so by themselves. Aside from additional oversight, the bill also imposes harsher penalties on representative payees who have misused their clients' funds, and even allows the Social Security Administration in certain circumstances to reissue misused funds to beneficiaries.

Finally, the bill makes some changes to Social Security's attorney-fee withholding process, and expands it to Supplemental Security Income claims, as well. The bill also makes some other minor and non-controversial changes to Social Security law and the Ticket to Work and Work Incentives Improvement Act of 1999.

Last year, a similar version of this legislation came close to passing Congress. I hope that we can work in a bipartisan fashion with the House of Representatives to get this legislation passed so that our Social Security system can be better protected against fraud and abuse.

By Mrs. BOXER:

S. 440. A bill to designate a United States courthouse to be constructed in Fresno, California, as the ''Robert E. Coyle United States Courthouse''; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am pleased to introduce legislation to name the Federal courthouse building now under construction at Tulare and ''O'' Streets in downtown Fresno, CA the ''Robert E. Coyle United States Courthouse.''

It is fitting that the Federal courthouse in Fresno be named for Senior U.S. District Judge Robert E. Coyle, who is greatly respected and admired for his work as a judge and for his foresight and persistence which contributed so much to the Fresno Courthouse project. Judge Coyle has been a leader in the effort to build a new courthouse in Fresno for more than a decade.

In the course of his work, Judge Coyle, working with the Clerk of the United States District Court for the Eastern District, conceived and founded a program called ''Managing a Capitol Construction Program'' to help others understand the process of having a courthouse built. This Eastern District program was so well received by national court administrators that is now a nationwide program run by Judge Coyle.

In addition to meeting the needs of the court for additional space, the courthouse project has become a key element in the downtown revitalization of Fresno. Judge Coyle's efforts, and those in the community with whom he worked, produced a major milestone when the groundbreaking for the new courthouse took place.

Judge Coyle has had a distinguished career as an attorney and on the bench. Appointed to California's Eastern District bench by President Ronald Reagan in 1982, Judge Coyle has served as a judge for the Eastern District for 20 years, including 6 years as senior judge. Judge Coyle earned his law degree from University of California, Hastings College of the Law in 1956. He then worked for Fresno County as a Deputy District Attorney before going into private practice in 1958 with McCormick, Barstow, Sheppard, Coyle & Wayte, where he remained until his appointment by President Reagan.

Judge Coyle is very active in the community and has served in many judicial leadership positions, including: Chair of the Space and Security Committee; Chair of the Conference of the Chief District Judges of the Ninth Circuit; President of the Ninth Circuit District Judges Association; Member of the Board of Governors of the State Bar of California; and President of the Fresno County Bar.

My hope is that, in addition to serving the people of the Eastern District as a courthouse, this building will stand as a reminder to the community and people of California of the dedicated work of Judge Robert E. Coyle.

By Mrs. BOXER:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation to transfer the B.F. Sisk Federal Courthouse in Fresno, CA to the County of Fresno, when the new Federal courthouse is completed.

Fresno County is rapidly growing county in the heart of California's Great Central Valley. The County of Fresno's Superior Court has a serious need for new court space that will grow in the years ahead. The Sisk Building contains courthouses and related space that will help the people of Fresno County meet those needs. The Sisk Building's existing security measures are a perfect fit for Fresno County's justice system.

This legislation is a common sense measure that will allow appropriate utilization of the Sisk Building, while contributing to the ongoing revitalization of downtown Fresno. I am proud that it is yet another opportunity for the Federal Government to improve the lives of Fresno County's people.

By Ms. LANDRIEU:

S. 442. A bill to provide pay protection for member of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise today to offer legislation that will help our Nation's reservists and members of the National Guard who have been called to active duty.

Since 1991, the U.S. military has significantly scaled down its troop levels to reflect the end of the Cold War. With the reduction of active duty troops, the military has become increasingly dependent on the Reserves and National Guard to supplement troops who have been sent to deal with crises all over the world.

In addition to this, we have had to rely on an increasingly diverse group of people to fight our wars. The conflict in Afghanistan was heavily reliant on new technologies in the air and personnel intensive techniques on the ground. In order to properly execute the war on terror, we have relied on highly skilled individuals such as linguists and Civil Affairs personnel who have worked closely with the population of Afghanistan. We will have to rely on them again in Iraq. Many of these men and women have been reservists.

These two trends reflect a dramatic shift in the structure of our armed forces. Gone are the Cold War days when we had a massive military positioned all over the globe. We are now reliant on a much leaner force, which views the Reserves and National Guard as necessary components to any conflict, and not forces of last resort.

Between 1945 and 1989, a period which encompassed most of the Cold War, reservists and Guardsmen were called up four times: during the Korean War, the Berlin Crisis of 1961, the Cuban Missile Crisis, and the Vietnam War. A majority of those mobilized during this period were called up during the Korean War, when over 800,000 troops were activated to supplement the 900,000 active duty forces fighting in Korea.

Between 1990 and today, reservists and Guardsmen have been called up six separate times. Over 230,000 reservists and Guardsmen were mobilized for the Gulf War, forming nearly half of the force that drove Iraqi forces from Kuwait. Since then, reservists and Guardsmen have been activated for the Haiti Intervention, the ongoing Bosnian Peacekeeping mission, the ongoing patrol of the No Fly Zones in Iraq, the Kosovo conflict, and the War on Terrorism which has seen 151,348 reservists and Guardsmen activated in support of Operations Enduring Freedom and Noble Eagle. Many of them are in the Persian Gulf Region today.

Over the past ten years, the OPTEMPO of the Reserves has increased by fifty percent.

This OPTEMPO has had a significant strain on reservists and their families. In almost every instance, when a reservist or Guardsman is activated, their military salary is significantly smaller then their civilian salary. In many cases, service member's income is cut in half. This places a particular strain to reservists and Guardsmen as their household budget is structured by their civilian salary. The decrease in income that activation brings makes it increasingly difficult to pay the bills. Whether or not the Nation is at war, mortgages, rent, credit card debt, student loans, and other household expenses must be paid.

When we send our fighting men and women into harm's way, it is important that they concentrate on one

thing: their mission. When Guardsmen and reservists are worried about having enough money for rent of the mortgage or whether their children have enough to see a doctor, they cannot concentrate on the mission, and this becomes a readiness issue.

Many corporations volunteer to make up the difference between the military and civilian salaries of their Guardsmen and reservists. Not only do these employers sacrifice important members of their companies for national defense, they hold their jobs for them and they voluntarily choose to continue paying them. In some instances, employers have continued to provide health insurance and other benefits. This represents a significant burden that the employer has undertaken, in order to ensure that their employees and their families are taken care of during times of national emergency.

In order to alleviate the burden that these employers face and to encourage more employers to pay the difference to Reserve and Guard employees, I have drafted legislation that would provide an incentive for employers to make up the difference between the military and civilian pay of activated reservists. The Reservists and Guardsmen Pay Protection Act of 2003 provides a tax credit to employers who continue paying their service members after they are activated. It also requires the Federal Government to make up the difference between civilian and military pay for Federal employees who are activated.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 442

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 ''Reservists and Guardsmen Pay Protection Act of 2003''.

SEC. 2. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform service in the uniformed services shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service in the uniformed services.

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given in section 4303 of title 38;

''(2) the term 'service in the uniformed services' has the meaning given that term in section 4303 of title 38 and includes duty performed by a member of the National Guard under section 502(f) of title 32 at the direction of the Secretary of the Army or Secretary of the Air Force;

''(3) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(4) the term 'basic pay' includes any amount payable under section 5304.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after September 11, 2001.

SEC. 3. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following:

''Sec. 45G. Ready Reserve-National Guard employee credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 444. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing a bill to improve flood protection for Sacramento, CA. The flood control project authorized by this bill has been evaluated by the U.S. Army Corps of Engineers and will be conducted in accordance with the Report of the Chief of Engineers dated November 5, 2002. This is a companion bill to one that Representative MATSUI is introducing today in the House.

Currently, Sacramento has woefully inadequate flood protection. This bill would raise the existing walls of Folsom Dam by seven feet, which would substantially increase flood protection for the Sacramento region. Without this improvement, $40 billion of property, including the California State Capitol, 6 major hospitals, 26 nursing home facilities, over 100 schools, three major freeway systems, and approximately 160,000 homes and apartments, are at risk if there is a devastating flood.

For a city of its size, Sacramento falls shockingly below the flood protection that it deserves. The Folsom Mini-Raise is the critical next step in providing Sacramento necessary flood protection, enabling the system to handle storms far larger than any recorded event in the American River Watershed.

Previous plans to raise the level of the Folsom Dam called for the building of a temporary bridge to handle the traffic that would be disrupted while the Folsom Dam Road was closed during the construction project. Security concerns now warrant an indefinite closure of the Folsom Dam Road.

So, in addition to authorizing the Mini-Raise, this bill authorizes the U.S. Department of Transportation to work with the State of California to design and construct a permanent bridge west of and adjacent to Folsom Dam over the American River to replace the current two-lane road over the dam. It will alleviate security concerns by moving traffic away from the dam while still providing the thousands of area commuters with a reliable means of transportation across the river.

This bill would provide important safeguards to the people of one of the fastest growing areas in the Nation. By raising Folsom Dam and replacing the road across the dam, we can greatly increase public safety in the Sacramento area. 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. 444

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 ''Sacramento Public Safety Act of 2003''.

SEC. 2. FLOOD DAMAGE REDUCTION AND ECOSYSTEM RESTORATION, AMERICAN RIVER, CALIFORNIA.

The Secretary of the Army is authorized to carry out the project for flood damage reduction and ecosystem restoration, American River, Sacramento, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers for the project dated November 5, 2002.

SEC. 3. CONSTRUCTION OF PERMANENT BRIDGE ADJACENT TO FOLSOM DAM.

(a) IN GENERAL.—As part of the project authorized by section 2, the Secretary of Transportation shall carry out a project to design and construct a bridge west of and adjacent to Folsom Dam, California. In carrying out the project, the Secretary shall also construct necessary linkages from the bridge to existing roadways.

(b) DESIGN AND CONSTRUCTION.—In designing and constructing the bridge, the Secretary shall—

(1) coordinate with the Secretary of the Army regarding the project authorized by section 2; and

(2) provide appropriate sizing and linkages to support present and future traffic flow requirements for the city of Folsom, California.

(c) GRANT ASSISTANCE.—The Secretary of Transportation shall make a grant to the State of California in an amount sufficient to pay not less than 80 percent of the cost of the project authorized by this section.

Mrs. FEINSTEIN. Mr. President, I rise in support of the legislation being introduced by my colleague from California the Sacramento Public Safety Act.

This Bill would authorize flood control protection and ecosystem restoration through a Mini-Raise of the Folsom Dam as well as authorize the design and construction of a permanent bridge to replace the road that currently runs on top of the Dam.

Providing Sacramento with flood protection is a critical public safety need. Further delays only serve to expand opportunities for a catastrophic flood.

No urban area in the United States is at higher risk of flooding than Sacramento, CA.

Located at the confluence of two major rivers, the American and Sacramento, the floodplain is home to half-a-million residents, $40 billion in property, 5,000 businesses and the necessary supporting infrastructure, all of which has less than 100-year flood protection.

With more than $30 billion in damageable property in the floodplain, the Corps of Engineers has estimated the damage from a flood would range from a minimum of $7 billion to as much as $15 billion.

As one of the largest economic engines in the world, a flood in California's capital city would effectively shut down the State's government and seriously disrupt regional commerce and transportation.

The Mini-Raise will provide Sacramento with a 213-year level of protection. It will allow the system to safely handle a storm 50 percent larger than anything ever recorded in the 3,000-year history of the American River Watershed; it will add 95,000 acre-feet of new emergency flood storage capacity to allow operators to control dam outflows in accordance to what the downstream levees can safely carry; it will bring Folsom Dam into compliance with Federal Dam safety standards; it will restore wildlife habitat along the Lower American River; and it will improve conditions for naturally spawning Steelhead and Salmon by mechanizing temperature control shutters.

The project has wide support at Federal, State, and local level. It is supported by the Army Corp of Engineers and funded in the Bush administration's budget request.

The project has bi-partisan support in Congress including Republican Congressman POMBO, as well as Democrats: ROBERT MATSUI, GEORGE MILLER, MIKE THOMPSON, and ELLEN TAUSCHER.

It has the local support of Heather Fargo, Mayor of Sacramento; Deborah Ortiz, California State Senator; Darrell Steinberg, California Assemblyman; Illa Collin, Chairman of the Sacramento County Board of Supervisors; Butch Hodkins, Executive Director of the Sacramento Area Flood Control Agency; Karolyn W. Simon, President of American River Flood Control Alliance; Donald Gerth, California State University, Sacramento; and Vicki Lee, Conservation Chair of the Sierra Club.

The bill also calls for a permanent bridge to replace the road that currently runs atop Folsom Dam. Given the recent announcement by the Bureau of Reclamation and the Department of the Interior to close the road over the Dam, the need for such a bridge has become doubly important. This bridge will serve the needs of nearly 20,000 commuters who use the Folsom Dam Road every day.

I want to thank my colleague from California for introducing this critical piece of legislation and I ask for support from the rest of the Senate.

By Ms. LANDRIEU:

S. 445. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

Ms. LANDRIEU. Mr. President, many bills were introduced in the last Congress that would lower the age at

which Reservists can receive retirement benefits. Most of these bills were met with resistance from the Department of Defense, due to cost estimates over a 10-year period. It is my hope that his Bill, the Reserve Retirement and Retention Act of 2003, will serve as a compromise measure and deliver retirement benefits to Reservists and Guardsmen at an earlier age. This legislation would lower the retirement age of a Reservist by one year for every 2-year period that he or she serves past the requisite 20 years for retirement. For example, if a Reservist should serve for 22 years, he or she could receive retirement benefits at age 59. This legislation will serve as a critical tool in encouraging the most experienced Reservists and Guardsmen to stay past the 20-year mark. It is my hope that this measure will encourage our Reservists and Guardsmen to stay in their units longer, while making their retirement benefits more generous for them and their families.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 445

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 ''Reservists Retirement and Retention Act of 2003''.

SEC. 2. ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.

(a) AGE AND SERVICE REQUIREMENTS.—Subsection (a) of section 12731 of title 10, United States Code, is amended to read as follows:

''(a)(1) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

''(A) satisfies one of the combinations of requirements for minimum age and minimum number of years of service (computed under section 12732 of this title) that are specified in the table in paragraph (2);

''(B) performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed 20 years of service computed under section 12732 of this title before October 5, 1994, the number of years of qualifying service under this subparagraph shall be eight; and

''(C) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

''(2) The combinations of minimum age and minimum years of service required of a person under subparagraph (A) of paragraph (1) for entitlement to retired pay as provided in such paragraph are as follows:

''Age, in years, is at least:	The minimum years of service required for that age is:
55	30
56	28
57	26
58	24
59	22
60	20.''.

(b) 20-YEAR LETTER.—Subsection (d) of such section is amended by striking ''the years of service required for eligibility for retired pay under this chapter'' in the first sentence and inserting ''20 years of service computed under section 12732 of this title.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to retired pay payable for that month and subsequent months.

By Ms. LANDRIEU:

S. 447. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, When the President give the order to activate reservists and National Guardsmen, the lives of those men and women are put on hold. Businesses, careers, and families are left behind so that America's interests may be served. Students make up a substantial part of our National Guard and Reserve forces. When these students are activated, it jeopardizes their academic standing, as well as their scholarships and grants. This bill would preserve their academic standing for the duration of their service as well as a one year period that follows that service. It would also preserve their scholarships and grants, as well as entitle them to a refund of unused tuition and fees. Federal law already safeguards the employment status of activated reservists and Guardsmen. It is time that we extend the same guarantee to students.

This legislation would require colleges, universities, and community colleges to grant National Guardsmen and reservists a leave of military absence when they are called to active duty. This leave of absence would last while the student is serving on active duty and a one year period at the conclusion of active service. This bill would preserve the academic credits that the student had earned before being activated. It would also preserve the scholarships and grants awarded to the student before being activated. Under this legislation, students would be entitled to receive a refund of tuition and fees or credit the tuition and fees to the next period of enrollment after the student returns from military leave. If a student elects to receive a refund, it would allow them to receive a full refund, minus the percentage of time the student spent enrolled in classes.

The protections that are already afforded our reservists and Guardsmen are appropriate considering the hardships they endure on the nation's behalf. We need to acknowledge the many college students who are in the ranks of the Guard and Reserve and extend to them the protections they deserve. In this day of uncertainty on the world stage, our reservists must be prepared to be called up at a moments notice. Thousands have already been activated for Operations Enduring Freedom, and many thousands more are either in Kuwait or on their way there. Once they get to their duty station, they need to focus all of their attention on the mission. This legislation provides our student reservists with the proper safeguards on their academic career which will allow them to accomplish their mission.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 447

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 ''Reservist Opportunities and Protection of Education Act''.

SEC. 2. LEAVE OF ABSENCE FOR MILITARY SERVICE.

(a) OBLIGATION AS PART OF PROGRAM PARTICIPATION REQUIREMENTS.—Section 487(a)(22) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amended by inserting ''and with the policy on leave of absence for active duty military service established pursuant to section 484C'' after ''section 484B''.

(b) LEAVE OF ABSENCE FOR MILITARY SERVICE.—Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 484B (20 U.S.C. 1091b) the following new section:

''SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.

''(a) LEAVE OF ABSENCE REQUIRED.—Whenever a student who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution while such student is serving on active duty, and for one year after the conclusion of such service.

''(b) CONSEQUENCES OF MILITARY LEAVE OF ABSENCE.—

''(1) PRESERVATION OF STATUS AND ACCOUNTS.—A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being ordered to such duty without loss of academic credits earned, scholarships or grants awarded, or, subject to paragraph (2), tuition and other fees paid prior to the commencement of the active duty.

''(2) REFUNDS.—

''(A) OPTION OF REFUND OR CREDIT.—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student. Notwithstanding the 180-day limitation referred to in section 484B(a)(2)(B), a student on a military leave of absence under this section shall not be treated as having withdrawn for purposes of section 484B unless the student fails to return at the end of the military leave of absence (as determined under subsection (a) of this section).

''(B) PROPORTIONATE REDUCTION OF REFUND FOR TIME COMPLETED.—If a student requests a refund during a period of enrollment, the percentage of the tuition and fees that shall

be refunded shall be equal to 100 percent minus—

''(i) the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with section 484B(d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the period of enrollment; or

''(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the period of enrollment.

''(c) ACTIVE DUTY.—In this section, the term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term—

''(1) does not include active duty for training or attendance at a service school; but

''(2) includes, in the case of members of the National Guard, active State duty.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 64—AUTHORIZING EXPENDITURES BY THE SENATE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL submitted the following resolution; from the Committee on Indian Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 64

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed $1,051,310.00, of which amount (1) no funds may be expended for the procurement of the services or individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $1,848,350.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $787,173.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its finding, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2003.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of the salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through February 28, 2005, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 65—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Judiciary and the Committee on Rules and Administration:

S. RES. 65

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004, through February 28, 2005 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period of March 1, 2003, through September 30, 2003, under this resolution shall not exceed $4,605,727, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(B) for the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $8,110,222, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1936).

(C) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $3,458,551, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through September 30, 2003, October 1, 2003 through September 30, 2004; and October 1, 2004 through February 28, 2005, to be paid from the Appropriations account for ''Expenses of Inquires and Investigations.''

SENATE CONCURRENT RESOLUTION 8—DESIGNATING THE SECOND WEEK IN MAY EACH YEAR AS ''NATIONAL VISITING NURSE ASSOCIATIONS WEEK''

Ms. COLLINS (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 8

Whereas visiting nurse associations (VNAs) are nonprofit home health agencies that, for over 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;