(Mr. NICKLES) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 78, a resolution designating March 25, 2003, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''.

S. RES. 79

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 79, a resolution designating the week of March 9 through March 15, 2003, as ''National Girl Scout Week''.

S. RES. 79

At the request of Ms. COLLINS, her name was added as a cosponsor of S. Res. 79, supra.

AMENDMENT NO. 259

At the request of Mr. DURBIN, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 259 proposed to S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself and Mr. WYDEN):

S. 601. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, for inclusion in the Fort Vancouver National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I rise today as an original co-sponsor of the McLoughlin House Preservation Act.

Dr. John McLoughlin, a powerful 6′4″ man, is known, officially and fondly, as the ''Father of Oregon.'' His compassion played a critical role in the settling of the Northwest by Oregon Trail pioneers. Dr. McLoughlin's generosity to these early pioneers who arrived in the Oregon Territory after their incredible five month journey sick, hungry and without provisions was often the difference between survival and failure during their first winter.

This bill is a testimony to the hard work that one community can achieve. Preservation of the McLoughlin House and the nearby Barclay House, located in Oregon City, Oregon, is important to the cultural identity of Oregon. This bill would make them part of the Fort Vancouver National Park Service administrative site, thereby highlighting the interwoven connection between Fort Vancouver, the fur trade and the beginnings of the Oregon Territory.

Dr. McLoughlin first came to the Northwest in 1824, arriving at Fort George, now called Astoria, Oregon, to establish a supply center for the Hudson's Bay Company. Within a year, he moved to a more favorable location on the northern side of the Columbia, in what is now Washington State, and built a new trading post and named it Fort Vancouver. As the Post Administrator, the good hearted doctor maintained a very good relationship with neighboring Indians and used his medical skills to tend to the terrible fevers that broke out among them.

The Fort belonged to the Hudson's Bay Company that was a rival of American trappers, and although company policy discouraged American settlers, Dr. McLoughlin was not one to refuse a helping hand to any trapper or settler in distress. When frustrated with the Hudson's Bay Company policy opposing American settlers, Dr. McLoughlin resigned and moved to Oregon City on the Willamette Falls. By 1848, Oregon had grown so much that it was officially designated a territory, and by 1859, it became the nation's thirty-third state. McLoughlin remained a vibrant public figure and became the Mayor of Oregon City in 1851. Many of the debates concerning Oregon's statehood are said to have taken place in McLoughlin's living room, and the Oregon State Legislature aptly named him the ''Father or Oregon.''

The McLoughlin House was designated as the National Historic Site, one of the first in the west, in 1941. I thank my constituents in Clackamas County, particularly John Salisbury and the McLoughlin Memorial Association, for all of their hard work to preserve this Oregon treasure. Additionally, I thank Tracy Fortmann with the National Park Service at Fort Vancouver for her advocacy on behalf of the McLoughlin House. Mayor Alice Norris and the former mayors of Oregon City who have worked together to bring this legislation to the attention of the Oregon delegation deserve our thanks as well. Finally, I thank Representative HOOLEY for having the foresight to introduce this legislation in the House of Representatives in the 107th Congress and again in the 108th.

By Ms. SNOWE (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 603. A bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce ''The Pathways to Self-Sufficiency Act of 2003.'' I am pleased to be joined in introducing this important legislation by my colleagues Senators BAUCUS, BINGAMAN and ROCKEFELLER.

This legislation is based upon the highly esteemed Maine program called ''Parents as Scholars''. This program, which uses State Maintenance of Effort, MOE, dollars to pay TANF-like benefits to those participating in post-secondary education, is a proven success in my state and is a wonderful foundation for a national effort.

We all agree that the 1996 welfare reform effort changed the face of this Nation's welfare system to focus it on work. To that end, I believe that this legislation bolsters the emphasis on ''work first''. Like many of my colleagues, I agree that the shift in the focus from welfare to work was the right decision, and that work should be the top priority. However, for those TANF recipients who cannot find a good job that will put them on the road toward financial independence, education might well be the key to a successful future of self-sufficiency.

As we have seen in Maine that education has played a significant role in breaking the cycle of welfare and giving parents the skills necessary to find better paying jobs. And we all know that higher wages are the light at the end of the tunnel of public assistance.

''The Pathways to Self-Sufficiency Act of 2003'' provides States with the option to allow individuals receiving Federal TANF assistance to obtain post-secondary or vocational education. This legislation would give States the ability to use Federal TANF dollars to give those who are participating in vocational or post-secondary education the same assistance as they would receive if they were working.

We all know that supports like income supplements, child care subsidies, and transportation assistance among others, are essential to a TANF recipient's ability to make a successful transition to work. The same is true for those engaged in longer term educational endeavors. This assistance is especially necessary for those who are undertaking the challenge and the financial responsibility of post-secondary education, in the hopes of increasing their earning potential and employability. The goal of this program is to give participants the tools necessary to succeed into the future so that they can become, and remain, self-sufficient.

Choosing to go to college requires motivation, and graduating from college requires a great deal of commitment and work—even for someone who isn't raising children and sustaining a family. These are significant challenges, and that's even before taking into consideration the cost associated with obtaining a Bachelor's degree, with a four year program at the University of Maine currently costing almost $25,000. This legislation would provide those TANF recipients who have the ability and the will to go to college the assistance they need to sustain their families while they get a degree.

The value of promoting access to education in this manner to get people off public assistance is proven by the success of Maine's ''Parents as Scholars'', PaS, program. Maine's PaS graduates earn a median wage of $11.71 per hour after graduation up from a median of $8.00 per hour prior to entering

college. When compared to the $7.50 median hourly wage of welfare leavers in Maine who have not received a post-secondary degree, PaS graduates are earning, on average, $160 more per week. That translates into more than $8,000 per year—a significant difference.

Furthermore,the median grade point average for PaS participants while in college was 3.4 percent,and a full 90 percent of PaS participants' GPA was over 3.0. These parents are giving their all to pull their families out of the cycle of welfare.

Recognizing that work is a priority under TANF, and building upon the successful Maine model, the ''Pathways to Self-Sufficiency Act'' requires that participants in post-secondary and vocational education also participate in work. During the first two years of their participation in these education programs, students must participate in a combination of colas time, study time, employment or work experience for at lest 24 hours per week—the same hourly requirement that the President proposes in his welfare reauthorization proposal.

During the second two years—for those enrolled in a four year program—the participant must work at least 15 hours in addition to class and study time, or engage in a combination activities, including colas and study time work or work experience, and training, for an average of 30 hours per week. And all the while, participants must maintain satisfactory academic progress as defined by their academia institution.

The bottom line is that if we expect parents to move from welfare to work and stay in the work force, we must give them the tools to find good jobs. For some people that means job training, for others that could mean dealing with a barrier like substance abuse or domestic violence, and for others, that might mean access to education that will secure them a good job and that will get them off and keep them off of welfare.

The experience of several ''Parents as Scholar'' graduates were recently captured in a publication published by the Maine Equal Justice Partners, and their experiences are testament to the fact that this program is a critically important step in moving towards self-sufficiency. In this report one Las graduate said of her experience, ''If it weren't for 'Parents as Scholars' I would never have been able to attend college, afford child care, or put food on the table. Today, I would most likely be stuck in a low-wage job I hated barely getting by . . . I can now give my children the future they deserve.''

Another said, ''By earning my Bachelor's degree, I have become self sufficient. I was a waitress previously and would never have been able to support my daughter and I on the tips that I earned. I would encourage anyone to better their education if possible.

These are but a few comments from those who have benefited from access to post-secondary education. And,while these women have been able to attend college and pursue good jobs thanks tori the good will and the support of the people of Maine, Las has strained the state's budget. Giving States the option use Federal dollars to support these participants will make a tremendous difference in their ability to sustain these programs which have proven results. In Maine, nearly 90 percent of working graduates have left TANF permanently—and isn't that our ultimate goal?

I look forward to working with my colleagues to include this legislation in the upcoming welfare reauthorization. It is a critical piece of the effort to move people from welfare to work permanently and it has been missing from the federal program for too long.

By Mr. SMITH (for himself, Mr. WYDEN, Mr. BAUCUS, Mr. ALLEN, Mr. WARNER, Mr. KERRY, Mr. KENNEDY, Mr. AKAKA, Mr. BURNS, Mr. COLEMAN, and Mr. DAYTON):

S. 605. A bill to extend waivers under the temporary assistance to needy families program through the end of fiscal year 2008; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce legislation that would allow States with successful welfare to renew them for the next five years. In this effort, I am joined by Senators WYDEN, BAUCUS, ALLEN, WARNER, KERRY, KENNEDY, AKAKA, BURNS, and COLEMAN. All of our States and several others operate their welfare programs under waivers which allow them flexibility to design programs that work for people in their States.

The most comprehensive evaluation of welfare workforce strategies to date, commissioned and funded by the Department of Health and Human Services, demonstrated that a mixed strategy based on individual degree of job readiness was far and away the most effective way to transition families from welfare to work. This is the approach Oregon and others have taken, and I feel strongly that these States be allowed to continue their innovative and successful programs.

Oregon has long been considered a national leader in developing innovative strategies to serve its low-income citizens. Oregon's welfare waiver, known as ''The Oregon Option,'' was implemented just a few months before passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Oregon Option reflects Oregon's strong belief in moving families forward to sustainable employment. Consistent with Oregon's reputation as an innovator, the Oregon Option also rejects a ''one size fits all'' approach for its low income families.

Oregon uses a labor market test to assess each person's ability to work. Families are expected to engage in intense job search for 45 days and if that process identifies significant barriers to families finding and retaining employment, case managers will work with the families to identify resources available to address those barriers. The case managers then work to develop appropriate plans that engage families in barrier removal activities, such as education, substance abuse or mental health treatment, finding housing for victims of domestic violence, while moving them toward employment. Oregon officials estimate that at any time, approximately 50 percent of all TANF families have substantial barriers to employment.

Oregon has demonstrated success in moving families into employment by fully utilizing its flexibility under the Oregon Option waiver. Oregon, and other states that have used federal flexibility to design successful programs, must not be forced either to abandon their effective approaches or to try to find loopholes to circumvent the approach mandated by current reauthorization proposals.

The legislation that my colleagues and I are introducing today will allow all states with currently operational TANF waivers, and states with waivers expiring after January 1, 2002, the option of renewing their waivers for the next five years, until the next scheduled reauthorization of welfare in 2008. This will ensure that successful programs designed by local people for local people aren't eliminated in favor of a ''one-size-fits-all'' federal program.

By Mr. GREGG (for himself, Mr. KENNEDY, Mr. DEWINE, Mr. HARKIN, Mr. SMITH, Ms. MIKULSKI, Ms. COLLINS, Mr. BINGAMAN, Ms. SNOWE, Mr. SARBANES, Mr. KERRY, Mr. BAYH, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, and Mr. DASCHLE):

S. 606. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today, I am pleased to be joined by Senators KENNEDY, DEWINE, HARKIN, SMITH, MIKULSKI, COLLINS, BINGAMAN, SNOWE, SARBANES, KERRY, BAYH, CORZINE, and DAYTON in introducing the Public Safety Employer-Employee Cooperation Act of 2003. This legislation would extend to firefighters and police officers the right to discuss workplace issues with their employers.

With the enactment of the Congressional Accountability Act, State and local government employees remain the only sizable segment of workers left in America who do not have the basic right to enter into collective bargaining agreements with their employers. While most States do provide some collective bargaining rights for their public employees, others do not.

Studies have shown that communities which promote such cooperation enjoy much more effective and efficient delivery of emergency services.

Such cooperation, however, is not possible in the States that do not provide public safety employees with the fundamental right to bargain with their employers.

The legislation I am introducing today is balanced in its recognition of the unique situation and obligation of public safety officers. To accomplish this the bill: 1. Requires States, within 2 years, to guarantee the right of public safety officers to form and voluntarily join a union to bargain collectively over hours, wages and conditions of employment; 2. Protects the right of public safety officers to form, join, or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal; 3. Prohibits the use of strikes, lockouts, sickouts, work slowdowns or any other action that is designed to compel an employer, officer or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of services; 4. Continues to allow States to enforce right-to-work laws which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees as a condition of employment; 5. Preserves the right of management to not bargain over issues traditionally reserved for management level decisions; 6. Exempts all states with a State bargaining law for public safety officers that are equal to or greater than the rights granted under Federal law; 7. Gives States the option to exempt from coverage subdivisions with populations of less than 5,000 or fewer than 25 full time employees.

Labor-management partnerships, which are built upon bargaining relationships, result in improved public safety. Employer-employee cooperation contains the promise of saving the taxpayer money by enabling workers to give input as to the most efficient way to provide services. In fact, States that currently give firefighters the right to discuss workplace issues actually have lower fire department budgets than States without those laws.

The Public Safety Employer-Employee Cooperation Act of 2003 will put firefighters and law enforcement officers on equal footing with other employees and provide them with the fundamental right to negotiate with employers over such basic issues as hours, wages, and workplace conditions.

I urge its adoption and 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. 606

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 ''Public Safety Employer-Employee Cooperation Act of 2003''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether

State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. KENNEDY. Mr. President, I am honored today to join Senator GREGG in introducing the Public Safety Employer-Employee Cooperation Act of 2003.

This bill is an important bipartisan effort to help protect our Nation's public safety officers on the job. The events of September 11 made clear that our Nation's true heroes are our fire fighters, police officers, and emergency medical technicians. We will never forget the sacrifices they made at the World Trade Center and the Pentagon. The photographs of tired, dust-covered, fire fighters confronting the unimaginable horror of that day are permanently emblazoned in our minds.

Thousands of public safety officers throughout the country serve in some of the country's most dangerous, strenuous and stressful jobs today. Every year, more than 80,000 police officers and 75,000 firefighters are injured on the job. An average of 160 police officers and nearly 100 firefighters die in the line of duty each year. It is a matter of basic fairness to give these courageous men and women the same rights that have long been enjoyed by other workers.

For more than 60 years, collective bargaining has enabled labor and management to work together to improve job conditions and increase productivity. Through collective bargaining, labor and management have led the way together on many important improvements in today's workplace—especially with regard to health and pension benefits, paid holidays and sick leave, and workplace safety.

Collective bargaining in the public sector, once a controversial issue, is now widely accepted. It has been widespread, since at least 1962, when President Kennedy signed an Executive order granting these basic rights to Federal employees. Congressional employees have had these rights since enactment of the Congressional Accountability Act almost a decade ago. It is long past time for State and local government employees to have Federal protection for the basic right to participate in collective bargaining agreements with their employers.

The bill we are introducing today extends this protection to firefighters, police officers, correctional officers,

paramedics and emergency medical technicians. The bill guarantees the fundamental rights necessary for collective bargaining—the right to form and join a union; the right to bargain over hours, wages and working conditions; the right to sign legally enforceable contracts; and the right to a means to resolve impasses in negotiations.

The benefits of this bill are clear and compelling. It will lead to safer working conditions for public safety officers. States that lack these collective bargaining laws have death rates for fire fighters nearly double the rate in States in which such bargaining takes place. In 1993, fire fighters in nine of the 10 States with the highest fire fighter death rates did not have collective bargaining protection. Because public safety employees serve on the front lines in providing firefighting services, law enforcement services, and emergency medical services, they know what it takes to create safer working conditions. They should have a voice in decisions that can literally make a life-or-death difference on the job.

This bill will benefit all of us, not just public safety officers. When workers who actually do the job are able to provide advice on their working conditions, there are fewer injuries, increased morale, better information on new technologies, and more efficient ways to provide the services, all of which improve the safety and security of the communities that our public safety officers serve.

This bill will also save money for States and local communities. Experience has shown that when public safety officers can discuss workplace conditions with management, partnerships and cooperation develop and lead to improved labor-management relations and better, more cost-effective services. A study by the International Association of Fire Fighters shows that States and municipalities that give firefighters the right to discuss workplace issues have lower fire department budgets than States without such laws.

This bill accomplishes its goals in a reasonable way. It requires that public safety officers be given the opportunity to bargain collectively, but it does not require that employers adopt agreements, and it does not regulate the content of any agreements that are reached.

In States with collective bargaining laws that substantially provide the modest minimum standards in the bill—as a majority of States already do—those States will be unaffected by this legislation. Where States do not have such laws, they may choose to enact them, or to allow the Federal Labor Relations Authority to establish procedures for bargaining between public safety officers and their employers. This approach respects existing State laws, and gives each state the authority to choose the way in which it will comply with the requirements of this legislation. States will have full discretion to make decisions on the implementation and enforcement of the basic rights set forth in this proposal.

This amendment will not supersede State laws which already adequately provide for the exercise of—or are more protective of—collective bargaining rights by public safety officers. It is a matter of basic fairness for these courageous men and women to have the same rights that have long been enjoyed by other workers. They put their lives on the line to protect us every day. They deserve to have an effective voice on the job, and I urge the Senate to approve this important bipartisan legislation.

By Mr. REED (for himself and Mr. KENNEDY):

S. 608. A bill to provide for personnel preparation, enhanced support and training for beginning special educators, and professional development of special educators, general educators, and early intervention personnel; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Personnel Excellence for Children with Disabilities Act of 2003 to ensure high quality personnel to serve students with disabilities.

I have long worked to improve the quality of teaching in America's classrooms for the simple reason that well-trained and well-prepared teachers, faculty, principals and administrators are critical to improving the educational performance and achievement of students.

As Congress turns to the reauthorization of the Individuals with Disabilities Education Act, IDEA, the focus shifts to increasing support for both new and veteran special education teachers, school principals, and the higher education faculty who train prospective special education teachers.

There are currently an estimated 6 million children who receive special education services. Yet, there are about 70,000 special education teaching vacancies in schools nationwide. The President's 2002 Commission on Excellence in Special Education report stated that ''the growing shortage of special education teachers alarms this Commission.'' Moreover, an estimated 600,000 IDEA students are taught by unqualified or underqualified teachers nationwide. In some urban and rural areas, close to half of special education teachers are unqualified.

I am joined by Senator KENNEDY, a leader in improving education for all children, in introducing legislation today which would address and improve current conditions by enhancing personnel preparation, recruitment and retention, support and training for beginning special educators, as well as professional development for special educators, general educators, principals, paraprofessionals, and related services personnel.

The Personnel Excellence for Children with Disabilities Act modifies and strengthens the current State Improvement Grant program to focus solely on personnel and professional development, including support to school districts to meet the personnel requirements under IDEA.

Our legislation also establishes two grant programs. One would fund partnerships of school districts, institutions of higher education, and elementary and secondary schools that focus on meeting the needs of beginning special educators, through an additional 5th year clinical learning opportunity or the creation or support of professional development schools. Professional development schools seek to improve the professional status of teaching through a renewal of schools and preservice teacher education, in-service education of veteran teachers, and research to add to the knowledge base. The other grant program seeks to ensure that general educators, including principals and administrators, have the skills, knowledge, and leadership training to improve results for children with disabilities in their schools and classrooms. Currently, approximately half of students with disabilities spend 79 percent or more of their time in regular classes, according to the Department of Education's Annual Report to Congress for 2001. Only 20 percent are served outside of regular classes for 60 percent or more of the time.

Lastly, our legislation enhances the personnel preparation programs under the current IDEA Section 673. These programs provide grants to institutions of higher education to enhance the preparation of special educators.

In sum, the Personnel Excellence for Children with Disabilities Act seeks to enhance: the teaching skills of special educators, general educators, early intervention personnel, paraprofessionals and related services personnel; the leadership skills of principals; collaboration among special educators, general educators, and other personnel; mentoring and other induction support for beginning special educators; and training programs at institutions of higher education. The Act would also boost the ability of educators and personnel to: involve and work with parents, implement positive behavioral interventions; improve early intervention services for infants, toddlers, and preschoolers; and provide transition services and postsecondary opportunities. It would also improve their ability to: use classroom-based techniques to identify student potentially eligible for services; use technology to enhance learning of children with disabilities and communicate with parents; and ensure an effective IEP process.

The time for action is now because 98 percent of school districts report that meeting the growing demand for special education teachers is a top priority. Annual attrition rates for special education teachers are over 13 percent: 6 percent for those who leave the field entirely; and an additional 7.4 percent who transfer to general education.

More than 200,000 new special education teachers will be needed in the next five years, according to U.S. Department of Education estimates. Investing in personnel preparation is critical for addressing these needs which, in turn, will improve outcomes and results for children with disabilities.

I urge my colleagues to join us in this essential endeavor by cosponsoring this legislation and working for its inclusion in the reauthorization of the IDEA.

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

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

S. 608

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 ''Personnel Excellence for Students with Disabilities Act''.

SEC. 2. STATE PERSONNEL AND PROFESSIONAL DEVELOPMENT GRANTS.

Subpart 1 of part D (20 U.S.C. 1451 et seq.) is amended to read as follows:

''Subpart 1—State Personnel and Professional Development Grants

''SEC. 651. FINDINGS; PURPOSE; DEFINITION.

''(a) FINDINGS.—Congress finds the following:

''(1) The right of all children with disabilities to a free and appropriate public education requires States to adopt a comprehensive strategy to address teacher shortages and ensure adequate numbers of teachers to serve children with disabilities.

''(2) In order to ensure that the persons responsible for the education of children with disabilities possess the skills and knowledge necessary to address such children's educational and related needs, States must promote comprehensive programs of professional development.

''(3) The dissemination of research-based knowledge about successful teaching practices and models to teachers and other personnel serving children with disabilities can result in improved outcomes for children with disabilities.

''(b) PURPOSE.—The purpose of this subpart is to assist State educational agencies and local educational agencies, and their partners referred to in section 652, in providing support for, and improving their systems of, personnel preparation and professional development to improve results for children with disabilities.

''(c) DEFINITION OF POSTSECONDARY OPPORTUNITIES.—In this subpart, the term 'postsecondary opportunities' includes the transition from school to postsecondary education, adult services, or work.

''SEC. 652. ELIGIBILITY AND COLLABORATION PROCESS IN GRANTS TO STATES.

''(a) ELIGIBLE APPLICANTS; DURATION OF ASSISTANCE.—A State educational agency may apply for a grant under this subpart for a grant period of 4 years.

''(b) PARTNERSHIPS AND CONSULTATIONS.—In order to be considered for a grant under this subpart, a State educational agency shall—

''(1) establish a formal partnership with local educational agencies, the lead State agency for part C, the State agency responsible for child care, the State vocational rehabilitation agency, the State agency for higher education, representatives of State-approved special education personnel preparation programs in institutions of higher education within the State, parent training and information centers or community parent resource centers, and other State agencies involved in, or concerned with, the education of children with disabilities; and

''(2) consult with other public agencies, persons, and organizations with relevant expertise in, and concerned with, the education of children with disabilities, including—

''(A) parents of children with disabilities and parents of nondisabled children;

''(B) general and special education teachers, paraprofessionals, related services personnel, and early intervention personnel;

''(C) the State advisory panel established under part B;

''(D) the State interagency coordinating council established under part C;

''(E) community-based and other nonprofit organizations representing individuals with disabilities; and

''(F) other providers of professional development and personnel preparation for personnel that work with infants, toddlers, preschoolers, and children with disabilities, and nonprofit organizations whose primary purpose is education research and development, when appropriate.

''SEC. 653. STATE APPLICATIONS.

''(a) IN GENERAL.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

''(b) PARTNERSHIP AGREEMENT.—Each application submitted pursuant to this section shall specify the nature and extent of the partnership among the State educational agency and other partners (as described in section 652(b)), including the respective roles of each member of the partnership, and shall describe how grant funds allocated to the State under section 655 will be used in undertaking the improvement strategies described under subsection (c)(3).

''(c) PERSONNEL AND PROFESSIONAL DEVELOPMENT PLAN.—

''(1) IN GENERAL.—Each application submitted pursuant to this section shall include a personnel and professional development plan that is—

''(A) based on the needs assessment described in paragraph (2);

''(B) developed by the State educational agency in collaboration with the partners described under section 652(b)(1);

''(C) designed to enable the State to meet the standards described in section 612(a)(15) and implement the comprehensive system of personnel development under section 612(a)(14); and

''(D) coordinated with other State professional development plans for educators and personnel working with children in early childhood education programs.

''(2) NEEDS ASSESSMENT.—Each personnel and professional development plan shall include an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel that serve infants, toddlers, preschoolers, and children with disabilities within the State. Such assessment shall be based on an analysis of—

''(A) current and anticipated personnel vacancies and shortages in local educational agencies and local early intervention agencies or providers throughout the State, including the number of individuals currently serving children with disabilities that—

''(i) are not highly qualified, consistent with section 612(a)(15);

''(ii) are individuals with temporary, provisional, or emergency certification; or

''(iii) are individuals teaching with an alternative certification;

''(B) the extent and amount of certification or retraining necessary to eliminate the vacancies and shortages described in subparagraph (A);

''(C) current preservice and inservice training and preparation programs and activities available and accessible in the State to personnel that serve infants, toddlers, preschoolers, and children with disabilities, including—

''(i) the number of degree, certification, and licensure programs that are preparing general and special education teachers and personnel to serve children with high-incidence and low-incidence disabilities;

''(ii) the number of noncertification programs designed to train and prepare personnel to serve infants, toddlers, preschoolers, and children with disabilities, including the number of programs designed to provide training in early intervention and transitional services; and

''(iii) the number of programs or activities designed to provide the knowledge and skills necessary to ensure the successful transition of students with disabilities into postsecondary opportunities; and

''(D) information, reasonably available to the State, on the scope and effectiveness of current training and preparation programs and activities available in the State to personnel that serve children with disabilities, including—

''(i) access of general education teachers to preservice and inservice training in early intervention and special education, including training related to the diverse learning and developmental needs of children with disabilities;

''(ii) rates of attrition of special education teachers and early intervention personnel throughout the State and a description of factors that contribute to such attrition;

''(iii) data and major findings of the Secretary's most recent reviews of State compliance, as such reviews relate to meeting the standards described in section 612(a)(15) and implementing a comprehensive system of personnel development described under sections 612(a)(14) and 635(a)(8); and

''(iv) data regarding disproportionality required under section 618.

''(3) IMPROVEMENT STRATEGIES.—Each personnel and professional development plan shall describe strategies necessary to address the preparation and professional development areas in need of improvement, based on the needs assessment conducted under paragraph (2), that include—

''(A) how the State will respond to the needs for preservice and inservice preparation of personnel who work with infants, toddlers, preschoolers, and children with disabilities, including strategies to—

''(i) prepare all general and special education personnel (including both professional and paraprofessional personnel who provide special education, general education, or related services)—

''(I) with the knowledge and skills needed to meet the needs of, and improve results for, children with disabilities;

''(II) to utilize classroom-based techniques to identify students who may be eligible for special education services or other services prior to making referrals for special education services;

''(III) to help students with disabilities meet State academic standards;

''(IV) to work as part of a collaborative team, especially training related to all aspects of planning, design, and effective implementation of an IEP; and

''(V) to utilize effective parental involvement practices needed to work with and involve parents of children with disabilities in their child's education;

''(ii) prepare professionals, including professionals in preschool settings, and paraprofessionals in the area of early intervention with the knowledge and skills needed to meet the needs of infants, toddlers, and preschoolers with disabilities;

''(iii) develop the knowledge and skills and enhance the ability of teachers and other personnel responsible for providing transition services to improve such services and postsecondary opportunities for children with disabilities;

''(iv) enhance the ability of principals to provide instructional leadership on, and teachers and other school staff to use, strategies, such as positive behavioral interventions, to address the behavior of children with disabilities that impedes the learning of children with disabilities and others; and

''(v) ensure that school personnel who work with students with significant health, mobility, or behavior needs receive training, as appropriate, prior to serving such students;

''(B) how the State will collaborate with institutions of higher education and other entities that (on both a preservice and an inservice basis) prepare personnel who work with children with disabilities to develop such entities' capacity to support quality professional development programs that meet State and local needs;

''(C) how the State will identify model certification programs that may be used to create and improve certification requirements for personnel working with infants, toddlers, preschoolers, and children with disabilities;

''(D) how the State will provide technical assistance to local educational agencies, schools, and early intervention providers to improve the quality of training and professional development available to meet the needs of personnel that serve children with disabilities;

''(E) how the State will work in collaboration with other States, especially neighboring States, when possible, to—

''(i) address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

''(ii) support or develop programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; and

''(iii) develop, as appropriate, common certification criteria;

''(F) how the State will acquire and disseminate, to teachers, administrators, related services personnel, other service providers, and school board members, significant knowledge derived from educational research and other sources, and how the State will adopt promising practices, materials, and technology;

''(G) how the State will recruit and retain qualified personnel in geographic areas of greatest need, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, related services, and early intervention;

''(H) how the State will create collaborative training models and provide for the joint training of parents and special education, related services, and general education personnel in providing quality services and programs, and family involvement and support;

''(I) how the State will address systemic problems associated with meeting the standards described in section 612(a)(15) and implementing the comprehensive system of personnel development under section 612(a)(14), as identified in Federal compliance reviews, including shortages of qualified personnel; and

''(J) how the State will address the findings from the data required to be gathered under section 618 and the steps the State will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, including the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps.

''(4) COORDINATION AND INTEGRATION.—Each application submitted pursuant to this section shall—

''(A) include assurances that—

''(i) the personnel and professional development plan is integrated, to the maximum extent possible, with State plans and activities carried out under other Federal and State laws that address personnel recruitment, retention, and training, including plans carried out under titles I and II of the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, the Higher Education Act of 1965, and the Child Care and Development Block Grant Act of 1990, as appropriate;

''(ii) the personnel and professional development plan is integrated and based, to the maximum extent possible, on research and activities supported by grants under sections 672 and 673 and conducted by institutions of higher education throughout the State; and

''(iii) the improvement strategies described in paragraph (3) will be coordinated with activities undertaken by public and private institutions of higher education, as well as with public and private sector resources, when appropriate; and

''(B) contain a description of the amount and nature of funds from any other sources, including part B funds retained for use at the State level for personnel and professional development purposes under sections 611(f) and 619(d), and part C funds used in accordance with section 638, that will be committed to the systemic-change activities under this section.

''(5) OTHER INFORMATION.—A State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may require, such additional information regarding the preparation and professional development of personnel that serve children with disabilities in the personnel and professional development plan.

''SEC. 654. STATE USE OF FUNDS.

''(a) IN GENERAL.—A State educational agency that receives a grant under this subpart shall—

''(1) expend funds not reserved under paragraph (2) to carry out improvement strategies contained in the personnel and professional development plan under section 653(c)(3); and

''(2) in the case of a State educational agency serving a State that the Secretary determines has not met the standards in section 612(a)(15) or implemented the comprehensive system of personnel development under section 612(a)(14), reserve not less than 35 percent of funds made available through the grant to award subgrants to local educational agencies as described in section 657.

''(b) CONTRACTS AND SUBCONTRACTS.—Consistent with the partnership agreement described under section 652(b), a State educational agency shall award contracts or subgrants to local educational agencies and institutions of higher education with State-approved special education personnel preparation programs, and may award contracts or subgrants to the lead State agency for part C, or other nonprofit entities, as appropriate, to carry out such State educational agency's personnel and professional development plan under this subpart.

''(c) SUPPLEMENT, NOT SUPPLANT.—Funds received by a State educational agency under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

''SEC. 655. STATE ALLOTMENTS.

''(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has approved under section 653. Each grant shall consist of the allotment determined for a State under subsection (b).

''(b) DETERMINATION OF ALLOTMENTS.—

''(1) RESERVATION OF FUNDS.—From the total amount appropriated under section 658 for a fiscal year, the Secretary shall reserve—

''(A) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the freely associated States of the Marshall Islands, and the Federated States of Micronesia, to be distributed among those areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this subpart; and

''(B) one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs.

''(2) STATE ALLOTMENTS.—

''(A) MINIMUM ALLOTMENT.—From the funds appropriated under section 658, and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount for each fiscal year that is not less than $500,000.

''(B) ALLOTMENT OF REMAINING FUNDS.—For any fiscal year for which the funds appropriated under section 658, and not reserved under paragraph (1), exceed the total amount required to make allotments under subparagraph (A), the Secretary shall distribute to each of the States described in subparagraph (A), the remaining excess funds after considering—

''(i) the amount of the excess funds available for distribution;

''(ii) the relative population of the States; and

''(iii) the scope and quality of activities proposed by the States.

''(3) FUNDS TO REMAIN AVAILABLE.—Allotments made to States under this section shall remain available until expended.

''(4) REALLOTMENT.—If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

''SEC. 656. EVALUATIONS.

''(a) IN GENERAL.—Each State educational agency that receives a grant under this subpart shall submit an evaluation to the Secretary at such time as the Secretary may require, but not more frequently than annually.

''(b) EVALUATION COMPONENTS.—Each evaluation submitted to the Secretary shall include—

''(1) the data contained in the needs assessment described in section 653(c)(2);

''(2) a description of the progress made by the State in implementing each of the strategies described in section 653(c)(3);

''(3) an assessment, conducted on a regular basis, of the extent to which the personnel and professional development plan has been effective in enabling States to meet the standards described in section 612(a)(15) and

implement the comprehensive system of personnel development under section 612(a)(14); and

''(4) such other information as the Secretary may require.

''(c) REPORT.—The Secretary shall submit to Congress a report on the evaluations received under this section.

''SEC. 657. SUBGRANT AWARDS TO LOCAL EDUCATIONAL AGENCIES.

''(a) IN GENERAL.—From funds made available under section 654(a)(2), a State educational agency shall award a subgrant to eligible local educational agencies to enable the eligible local educational agencies to recruit and retain special education teachers, paraprofessionals, and related services providers, to ensure that such agency meets the requirements in the policy adopted by the State in section 612(a)(15).

''(b) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—

''(1) IN GENERAL.—A local educational agency shall be eligible to receive a subgrant under this section if the local educational agency—

''(A)(i) has failed to meet, or is in danger of failing to meet, the standards described in section 612(a)(15);

''(ii) serves a high number or percentage of low-income students; and

''(iii) has a demonstrated need to prepare and train new or existing personnel to meet the needs of children with disabilities; and

''(B) collects and uses data to determine local needs for professional development, hiring, and retention of personnel, as identified by the local educational agency and school staff—

''(i) with the involvement of teachers, other personnel, and parents; and

''(ii) after taking into account the activities that need to be conducted—

''(I) to give general and special education teachers, paraprofessionals, and related services personnel the means, including subject matter knowledge and teaching skills, to improve results and outcomes for students with disabilities; and

''(II) to give principals the instructional leadership skills to help teachers and related services personnel provide students with the opportunity described in subclause (I).

''(2) CONSORTIUM.—The term 'eligible local educational agency' may include a consortium of such agencies.

''(c) APPLICATION.—

''(1) IN GENERAL.—An eligible local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(2) CONTENTS.—Each application submitted under this subsection shall include—

''(A) a description of the activities to be carried out by the local educational agency and how such activities will support the local educational agency's efforts to provide professional development and to recruit and retain highly qualified teachers; and

''(B) a description of the needs described in subsection (b)(1)(B).

''(d) GRANTS AWARDED.—State educational agencies shall award grants under this section on the basis of the quality of the applications submitted, except that State educational agencies shall give priority to eligible local educational agencies with the greatest need.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible local educational agency that receives a subgrant under this section shall use the funds made available through the subgrant to carry out 1 or more of the following activities:

''(A) Providing high quality professional development for special education teachers.

''(B) Providing high quality professional development to personnel who serve infants, toddlers, and preschoolers with disabilities.

''(C) Providing high quality professional development for principals, including training in areas such as behavioral supports in the school and classroom, paperwork reduction, and promoting improved collaboration between special education and general education teachers.

''(D) Mentoring programs.

''(E) Team teaching.

''(F) Case load reduction.

''(G) Paperwork reduction.

''(H) Financial incentives, as long as those incentives are linked to participation in activities that have proven effective in recruiting and retaining teachers and are developed in consultation with the personnel of the eligible local educational agency.

''(I) Hiring and training high quality paraprofessionals and providing other high quality instructional support.

''(J) Partnering with institutions of higher education for the training and retraining of teachers and to carry out any other activities under this paragraph.

''(2) EFFECTIVE PROGRAMS.—Funds under this section shall be used only for those activities that are linked to participation in activities that have proven effective in retaining teachers.

''(f) MATCHING REQUIREMENT.—Each eligible local educational agency awarded a subgrant under this section shall contribute matching funds, in an amount equal to not less than 25 percent of the subgrant award, toward carrying out the activities assisted under this section.

''SEC. 658. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $250,000,000 for fiscal year 2004 and such sums as may be necessary for each succeeding fiscal year.''.

SEC. 3. ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS AND GENERAL EDUCATORS.

Chapter 1 of subpart 2 of part D of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.) is amended by inserting after section 674 the following:

''SEC. 675. ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership between 1 or more institutions of higher education with a State-approved special education personnel program, and 1 or more local educational agencies.

''(2) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—

''(A) IN GENERAL.—The term 'professional development partnership' means a partnership between an eligible entity and an elementary school or secondary school that is based on a mutual commitment to improve teaching and learning.

''(B) ADDITIONAL ENTITIES.—A professional development partnership may include—

''(i) a State educational agency;

''(ii) a teaching organization;

''(iii) a professional association of principals; or

''(iv) a nonprofit organization whose primary purpose is—

''(I) education research and development; or

''(II) training special education and early intervention personnel.

''(b) AUTHORIZATION OF PROGRAM.—

''(1) IN GENERAL.—From amounts appropriated under subsection (g) for a fiscal year, the Secretary shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable such entities to establish professional development partnerships to improve the education of children with disabilities by—

''(A) ensuring a strong and steady supply of new highly qualified teachers of children with disabilities;

''(B) helping address challenges in the local educational agency to recruiting highly qualified teachers and retaining such teachers; and

''(C) providing for an exchange of knowledge and skills among special education teachers, including furthering the development and professional growth of veteran special education teachers.

''(2) COMPETITIVE BASIS.—Each grant, contract, or cooperative agreement under this section shall be awarded or entered into on a competitive basis.

''(3) DURATION.—Each grant, contract, or cooperative agreement under this section shall be awarded or entered into for a period of not less than 3 and not more than 5 years.

''(4) PRIORITY.—In awarding grants or entering into contracts or cooperative agreements under this section, the Secretary shall give priority to eligible entities that—

''(A) serve high numbers or percentages of low-income students; and

''(B) serve schools that have failed to make adequate yearly progress toward enabling children with disabilities to meet academic achievement standards.

''(c) APPLICATIONS.—An eligible entity desiring a grant, contract, or cooperative agreement under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) describe—

''(A) the proposed activities of the professional development partnership and how the activities will be developed in consultation with teachers;

''(B) how the proposed activities will prepare teachers to implement research-based, demonstrably successful, and replicable instructional practices that improve outcomes for children with disabilities;

''(C) how the eligible entity will ensure the participation of elementary schools or secondary schools as partners in the professional development partnership, and how the research and knowledge generated by the professional development partnership will be disseminated and implemented in the elementary schools or secondary schools that are served by the local educational agency and are not partners in the professional development partnership;

''(D) how the process for developing a new preservice education program or restructuring an existing program will improve teacher preparation at the institution of higher education;

''(E) how the proposed activities will include the participation of schools, colleges, or other departments within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

''(F) how the proposed activities will increase the numbers of qualified personnel, including paraprofessionals, administrators, and related services personnel, that receive certification and serve children with disabilities in elementary schools or secondary schools;

''(G) how the proposed activities will recruit diverse prospective special education teachers;

''(H) how the eligible entity will collaborate with the State educational agency to ensure that proposed activities will be coordinated with activities established by the

State to improve systems for personnel preparation and professional development pursuant to subpart 1;

''(I) how the grant funds will be divided among the members of the professional development partnership and the responsibilities each partner has agreed to undertake in the use of the grant funds and other related funds; and

''(J) how the eligible entity will gather information in order to assess the impact of the activities assisted under this section on teachers and the students served under this section; and

''(2) identify the lead fiscal agent of the professional development partnership responsible for the receipt and disbursement of funds under this section.

''(d) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant or entering into a contract or cooperative agreement under this section shall use the grant funds to establish a professional development partnership that—

''(1) develops a preservice teacher education program, or enhances and restructures an existing program, to prepare special education teachers, at colleges or departments of education within the institution of higher education, by incorporating an additional 5th year clinical learning opportunity, field experience, or supervised practicum into a program of preparation and coursework for special education teachers, that includes—

''(A) developing new curricula and coursework for the preparation of prospective special education teachers, including preparation to teach in core academic subjects;

''(B) support for new faculty positions to provide, coordinate, and oversee instruction of the clinical learning opportunity, field experience, or supervised practicum;

''(C) new, ongoing performance-based review procedures to assist and support the learning of prospective special education teachers;

''(D) providing assistance to students for stipends and costs associated with tuition and fees for continued or enhanced enrollment in a preparation program for special education teachers; and

''(E) supporting activities that increase the placement of highly qualified teachers in elementary schools and secondary schools; or

''(2) creates or supports professional development schools that—

''(A) provide high quality induction opportunities with ongoing support for beginning special education teachers;

''(B) provide mentoring, of prospective and beginning special education teachers by veteran special education teachers, in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

''(C) provide high quality inservice professional development to veteran special education teachers through the ongoing exchange of information and instructional strategies among prospective special education teachers and faculty of the institution of higher education;

''(D) prepare special education teachers to—

''(i) work collaboratively with general education teachers and related services personnel; and

''(ii) involve parents in the education of such parents' children; and

''(E) provide preparation time for faculty in the professional development school, and other faculty of the institution of higher education, to design and implement curriculum, classroom experiences, and ongoing professional development opportunities for prospective and beginning special education teachers.

''(e) SUPPLEMENT, NOT SUPPLANT.—Funds appropriated under this section shall be used to supplement and not supplant other Federal, State, and local public funds available for the professional development or preservice preparation of special education teachers.

''(f) EVALUATION.—

''(1) IN GENERAL.—The Secretary shall conduct biennial, independent, national evaluations of the activities assisted under this part not later than 3 years after the date of enactment of the Personnel Excellence for Students with Disabilities Act. The evaluation shall include information on the impact of the activities assisted under this section on outcomes for children with disabilities.

''(2) REPORT.—The Secretary shall report to Congress on the results of the evaluation.

''(3) DISSEMINATION.—The Secretary shall widely disseminate effective practices identified through the evaluation.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year.

''SEC. 676. TRAINING TO SUPPORT GENERAL EDUCATORS.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITIES.—The term 'eligible entity' means a partnership that—

''(A) shall include—

''(i) 1 or more local educational agencies; and

''(ii) 1 or more State-approved special education personnel preparation programs; and

''(B) may include a State educational agency, a teaching organization, a professional association of principals, an educational nonprofit organization, or another group or institution that has expertise in special education and is responsive to the needs of teachers.

''(2) GENERAL EDUCATOR.—The term 'general educator' includes a teacher, a principal, a school superintendent, or school faculty, such as a school counselor.

''(3) POSTSECONDARY OPPORTUNITIES.—The term 'postsecondary opportunities' includes the transition from school to postsecondary education, adult services, or work.

''(b) AUTHORIZATION OF PROGRAM.—

''(1) ASSISTANCE AUTHORIZED.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable the eligible entities to provide professional development, leadership training, and collaborative opportunities to general educators to ensure that general educators have the skills and knowledge to meet the needs of, and improve results for, children with disabilities.

''(2) COMPETITIVE AWARDS.—The Secretary shall award grants, contracts, and cooperative agreements under this section on a competitive basis.

''(c) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this section for a period of not less than 3 and not more than 5 years.

''(d) APPLICATION.—An eligible entity desiring a grant, contract, or cooperative agreement under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) describe—

''(A) the proposed activities to be assisted by the eligible entity;

''(B) how the eligible entity will implement research-based, demonstrably successful, and replicable instructional practices that improve outcomes for children with disabilities;

''(C) how the eligible entity will implement training and collaborative opportunities on a schoolwide basis in schools within the local educational agency;

''(D) the eligible entity's strategy to provide general educators with—

''(i) professional development focused on addressing the needs of children with disabilities in their classrooms; and

''(ii) training and opportunities to collaborate with special education teachers and related services personnel to better serve students' needs;

''(E) the eligible entity's strategy to provide principals, superintendents, and other administrators with instructional leadership skills;

''(F) how the eligible entity will provide training to general educators to enable the general educators to work with parents and involve parents in their child's education;

''(G) how the eligible entity will collaborate with the State educational agency to ensure that proposed activities will be coordinated with activities established by the State to improve systems for personnel preparation and professional development pursuant to subpart 1;

''(H) how the grant funds will be effectively coordinated with all Federal, State, and local personnel preparation and professional development funds and activities;

''(I) how the eligible entity will assess the impact of the activities conducted and how the knowledge and effective practices generated by the eligible entity will be widely disseminated;

''(J) how the grant funds will be divided among the members of the partnership and the responsibilities each partner has agreed to undertake in the use of the grant funds and other related funds; and

''(2) identify the lead fiscal agent for the eligible entity.

''(e) AUTHORIZED ACTIVITIES.—Funds provided under this section may be used for the following activities:

''(1) To provide high quality professional development to general educators that develops the knowledge and skills, and enhances the ability, of general educators to—

''(A) utilize classroom-based techniques to identify students who may be eligible for special education services, and deliver instruction in a way that meets the individualized needs of children with disabilities through appropriate supports, accommodations, and curriculum modifications;

''(B) work collaboratively with special education teachers and related services personnel;

''(C) implement strategies, such as positive behavioral interventions, to address the behavior of children with disabilities that impedes the learning of such children and others;

''(D) prepare children with disabilities to participate in statewide assessments (with and without accommodations) and alternative assessment, as appropriate, and achieve high marks;

''(E) develop effective practices for ensuring that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965;

''(F) provide transition services to improve such services and postsecondary opportunities for children with disabilities;

''(G) work with and involve parents of children with disabilities in their child's education;

''(H) understand how to effectively construct IEPs, participate in IEP meetings and implement IEPs;

''(I) use universally designed technology and assistive technology devices and services

to enhance learning by children with disabilities and to communicate with parents; and

''(J) in the case of principals and superintendents, be instructional leaders and promote improved collaboration between general educators, special education teachers, and related services personnel.

''(2) Provide release and planning time for the activities described in this section.

''(f) SUPPLEMENT, NOT SUPPLANT.—Funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available for training to support general educators.

''(g) EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall conduct biennial, independent, national evaluations of the activities assisted under this section not later than 3 years after the date of enactment of the Personnel Excellence for Students with Disabilities Act. The evaluations shall include information on the impact of the activities assisted under this section on outcomes for children with disabilities.

''(2) REPORT.—The Secretary shall prepare and submit to Congress a report on the evaluations.

''(3) DISSEMINATION.—The Secretary shall provide for the wide dissemination of effective models and practices identified in the evaluations.

''(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2004 and such sums as may be necessary for each succeeding fiscal year.''.

SEC. 4. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

Section 673 of the Individuals with Disabilities Education Act (20 U.S.C. 1473) is amended—

(1) in subsection (a)(1), by inserting before the semicolon '', consistent with subpart 1'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by amending subparagraph (C) to read as follows:

''(C) Preparing personnel in the innovative uses and application of technology, including implementation of universally designed technologies and assistive technology devices and assistive technology services, to enhance learning by children with disabilities through early intervention, educational, and transitional services, and to communicate with parents to improve home and school communication.'';

(ii) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(iii) by inserting after subparagraph (D) the following:

''(E) Preparing personnel to work in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.''; and

(iv) by adding at the end the following:

''(H) Providing continuous personnel preparation, training, and professional development for beginning special education teachers that is designed to provide support and ensure retention of such teachers.

''(I) Preparing personnel on effective parental involvement practices to enable the personnel to work with parents and involve parents in the education of such parents' children.''; and

(B) by amending paragraph (4) to read as follows:

''(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that include 1 or more of the following:

''(A) A proposal to prepare personnel in more than 1 low-incidence disability, such as deafness and blindness.

''(B) A demonstration of effective partnering with local educational agencies that ensures recruitment and subsequent retention of highly qualified personnel to serve children with disabilities.

''(C) A proposal to address the personnel and professional development needs in the State, as identified in subpart 1.'';

(3) in subsection (d)(2)—

(A) in subparagraph (C)—

(i) in clause (i), by striking ''and'' after the semicolon;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) to implement strategies to reduce significant disproportionality described in section 618.'';

(B) in subparagraph (E), by inserting before the period '', including model teaching practices to assist such persons to work effectively with parents and involve parents in the education of such parents' children''; and

(C) by adding at the end the following:

''(L) Developing strategies to improve personnel training, recruitment, and retention of special education teachers in special education in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers of limited English proficient children.'';

(4) in subsection (e)(1), by inserting ''emotional or behavioral disorders,'' after ''impairment,'';

(5) in subsection (h)—

(A) in paragraph (1)—

(i) by striking ''2 years'' and inserting ''1 year''; and

(ii) by striking ''OBLIGATION.—'' and all that follows through ''Each application'' and inserting ''OBLIGATION.—Each application''; and

(B) by striking paragraph (2);

(6) by striking subsection (i) and inserting the following:

''(i) SCHOLARSHIPS.—

''(1) IN GENERAL.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).

''(2) DETERMINATION OF AMOUNTS.—The Secretary may permit a grant recipient to determine the amount of funds available for scholarships, necessary stipends, and allowances, that is consistent with such recipient's grant award and the purposes of such grant.'';

(7) by redesignating subsection (j) as subsection (k);

(8) by inserting after subsection (i) the following:

''(j) DEVELOPMENT OF NEW PROGRAMS OR RESTRUCTURING OF EXISTING PROGRAMS.—In making awards under subsections (b), (c), (d), and (e), the Secretary may support programs that use award funds to develop new, or enhance and restructure existing, personnel preparation programs.''; and

(9) in subsection (k) (as redesignated by paragraph (7))—

(A) by inserting ''$250,000,000 for fiscal year 2004 and'' after ''this section''; and

(B) by striking ''of the fiscal years 1998 through 2002'' and inserting ''succeeding fiscal year''.

By Mr. LEAHY (for himself, Mr. LEVIN, Mr. LIEBERMAN, Mr. JEFFORDS, and Mr. BYRD):

S. 609. A bill to amend the Homeland Security Act of 2002 (Public Law 107–296) to provide for the protection of voluntarily furnished confidential information, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, last year when I voted to support passage of the Homeland Security Act, HSA, I voiced concerns about several flaws in the legislation. I called for the Administration and my colleagues on both sides of the aisle to monitor implementation of the new law and to craft corrective legislation in the 108th Congress. One of my chief concerns with the HSA was a subtitle of the act that granted an extraordinarily broad exemption to the Freedom of Information Act, FOIA, in exchange for the cooperation of private companies in sharing information with the government regarding vulnerabilities in the nation's critical infrastructure.

Unfortunately, the law that was enacted undermines Federal and State sunshine laws permitting the American people to know what their government is doing. Rather than increasing security by encouraging private sector disclosure to the government, it guts FOIA at the expense of our national security and public health and safety.

On March 16, we mark Freedom of Information Day, which falls on the anniversary of James Madison's birthday. Madison said, ''A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy or perhaps both.'' As a long-time supporter of open government, I believe we must heed Madison's warning and revisit the potentially damaging limitations placed on access to information by the HSA.

I rise today to introduce legislation with my distinguished colleagues Senator LEVIN, Senator JEFFORDS, Senator LIEBERMAN, and Senator BYRD to restore the integrity of FOIA. I want to thank my colleagues for working with me on this important issue of public oversight. This bill protects Americans' ''right to know'' while simultaneously providing security to those in the private sector who voluntarily submit critical infrastructure records to the newly created Department of Homeland Security, DHS.

Encouraging cooperation between the private sector and the government to keep our critical infrastructure systems safe from terrorist attacks is a goal we all support. But the appropriate way to meet this goal is a source of great debate—a debate that has been all but ignored since the enactment of the HSA last year.

The HSA created a new FOIA exemption for ''critical infrastructure information.'' That broadly defined term applies to information regarding a variety of facilities—such as privately operated power plants, bridges, dams, ports, or chemical plants—that might be targeted for a terrorist attack. In HSA negotiations last fall, House Republicans and the administration promoted language that they described as

necessary to encourage owners of such facilities to identify vulnerabilities in their operations and share that information with the Department of Homeland Security, DHS. The stated goal was to ensure that steps could be taken to ensure the facilities' protection and proper functioning.

In fact, such descriptions of the legislation were disingenuous. These provisions, which were eventually enacted in the HSA, shield from FOIA almost any voluntarily submitted document stamped by the facility owner as ''critical infrastructure.'' This is true no matter how tangential the content of that document may be to the actual security of a facility. The law effectively allows companies to hide information about public health and safety from American citizens simply by submitting it to DHS. The enacted provisions were called ''deeply flawed'' by Mark Tapscott of the Heritage Foundation in a November 20, 2002 Washington Post op-ed. ''Too Many Secrets,'' Washington Post, November 20, 2002, at A25. He argued that the ''loophole'' created by the law ''could be manipulated by clever corporate and government operators to hide endless varieties of potentially embarrassing and/or criminal information from public view.''

In addition, under the HSA, disclosure by private facilities to DHS neither obligates the private company to address the vulnerability, nor requires DHS to fix the problem. For example, in the case of a chemical spill, the law bars the government from disclosing information without the written consent of the company that caused the pollution. As the Washington Post editorialized on February 10, 2003, ''A company might preempt environmental regulators by 'voluntarily' divulging incriminating material, thereby making it unavailable to anyone else.'' ''Fix This Loophole,'' Washington Post, February 10, 2003, at A20.

The new law also 1. shields the companies from lawsuits to compel disclosure, 2. criminalizes otherwise legitimate whistleblower activity by DHS employees, and 3. preempts any state or local disclosure laws.

The Restore FOIA bill I introduce today with Senators LEVIN, JEFFORDS, LIEBERMAN, and BYRD is identical to language I negotiated with Senators LEVIN and BENNETT last summer when the HSA was debated by the Governmental Affairs Committee. Senator BENNETT stated in the Committee's July 25, 2003 mark up that the administration had endorsed the compromise. He also said that industry groups had reported to him that the compromise language would make it possible for them to share information with the government without fear of the information being released to competitors or to other agencies that might accidentally reveal it. The Governmental Affairs Committee reported out the compromise language that day. Unfortunately, much more restrictive House language was eventually signed into law.

The February 10 Post editorial called the Leahy-Levin-Bennett language ''a compromise that would accomplish the reasonable purpose'' of ''encouraging companies to share information with the government about infrastructure that might be vulnerable to terrorist attack without such broad harmful effects.'' Id. The Post editorial was titled, ''Fix This Loophole,'' which is exactly what my colleagues and I hope to accomplish with the introduction of this bill. Id.

The Restore FOIA bill would correct the problems in the HSA in several ways. First, it limits the FOIA exemption to relevant ''records'' submitted by the private sector, such that only those that actually pertain to critical infrastructure safety are protected. ''Records'' is the standard category referred to in FOIA. This corrects the effective free pass given to industry by the HSA for any information it labels ''critical infrastructure.''

Second, unlike the HSA, the Restore FOIA bill allows for government oversight, including the ability to use and share the records within and between agencies. It does not limit the use of such information by the government, except to prohibit public disclosure where such information is appropriately exempted under FOIA.

Third, it protects the actions of legitimate whistleblowers, rather than criminalizing their acts.

Fourth, it does not provide civil immunity to companies that voluntarily submit information. This corrects a flaw in the current law, which would prohibit such information from being used directly in civil suits by government or private parties.

Fifth, unlike the HSA, the Restore FOIA bill allows local authorities to apply their own sunshine laws. The Restore FOIA bill does not preempt any state or local disclosure laws for information obtained outside the Department of Homeland Security. Likewise, it does not restrict the use of such information by state agencies.

Finally, the Restore FOIA bill does not restrict congressional use or disclosure of voluntarily submitted critical infrastructure information. The HSA language was unclear on this point, and even the Congressional Research Service could not say for certain that members of Congress or their staff would not be criminally liable. Homeland Security Act of 2002: Critical Infrastructure Information Act, February 29, 2003, CRS Report for Congress, Order Code RL31762, at 14–15.

These changes to the HSA would accomplish the stated goals of the critical infrastructure provisions in the HSA without tying the hands of the government in its efforts to protect Americans and without cutting the public out of the loop.

The Administration has flip-flopped on how to best approach the issue of critical infrastructure information. The Administration's original June 18, 2002, legislative proposal establishing a new department carved out an FOIA exemption, in section 204, and required non-disclosure of any ''information'' ''voluntarily'' provided to the new Department of Homeland Security by ''non-Federal entities or individuals'' pertaining to ''infrastructure vulnerabilities or other vulnerabilities to terrorism'' in the possession of, or that passed through, the new department. Critical terms, such as ''voluntarily provided,'' were undefined.

The Judiciary Committee had an opportunity to query Governor Ridge about the Administration's proposal on June 26, 2002, when the Administration reversed its long-standing position and allowed him to testify in his capacity as the Director of the Transition Planning Office.

Governor Ridge's testimony at that hearing is instructive. He seemed to appreciate the concerns expressed by Members about the President's June 18 proposal and to be willing to work with us in the legislative process to find common ground. On the FOIA issue, he described the Administration's goal to craft ''a limited statutory exemption to the Freedom of Information Act'' to help ''the Department's most important missions [which] will be to protect our Nation's critical infrastructure.'' (June 26, 2002 Hearing, Tr., p. 24). Governor Ridge explained that to accomplish this, the Department must be able to ''collect information, identifying key assets and components of that infrastructure, evaluate vulnerabilities, and match threat assessments against those vulnerabilities.'' (Id., at p. 23).

I do not understand why some have insisted that FOIA and our national security are inconsistent. Before the HSA was enacted, the FOIA already exempted from disclosure matters that are classified; trade secret, commercial and financial information, which is privileged and confidential; various law enforcement records and information, including confidential source and informant information; and FBI records pertaining to foreign intelligence or counterintelligence, or international terrorism. These already broad exemptions in the FOIA were designed to protect national security and public safety and to ensure that the private sector can provide needed information to the government.

Prior to enactment of the HSA, the FOIA exempted from disclosure any financial or commercial information provided voluntarily to the government, if it was of a kind that the provider would not customarily make available to the public. Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992) (en banc). Such information enjoyed even stronger nondisclosure protections than did material that the government requested. Applying this exception, Federal regulatory agencies safeguarded the confidentiality of all kinds of critical infrastructure information, like nuclear power plant safety reports (Critical

Mass, 975 F.2d at 874), information about product manufacturing processes and internal security measures (Bowen v. Food & Drug Admin., 925 F.2d 1225 (9th Cir. 1991), design drawings of airplane parts (United Technologies Corp. by Pratt & Whitney v. F.A.A., 102 F.3d 688 (2d Cir. 1996)), and technical data for video conferencing software (Gilmore v. Dept. of Energy, 4 F. Supp.2d 912 (N.D. Cal. 1998)).

The head of the FBI National Infrastructure Protection Center, NIPC, testified more than five years ago, in September, 1998, that the ''FOIA excuse'' used by some in the private sector for failing to share information with the government was, in essence, baseless. He explained the broad application of FOIA exemptions to protect from disclosure information received in the context of a criminal investigation or a ''national security intelligence'' investigation, including information submitted confidentially or even anonymously. [Sen. Judiciary Subcommittee on Technology, Terrorism, and Government Information, Hearing on Critical Infrastructure Protection: Toward a New Policy Directive, S. HRG. 105–763, March 17 and June 10, 1998, at p. 107]

The FBI also used the confidential business record exemption under (b)(4) ''to protect sensitive corporate information, and has, on specific occasions, entered into agreements indicating that it would do so prospectively with reference to information yet to be received.'' NIPC was developing policies ''to grant owners of information certain opportunities to assist in the protection of the information (e.g., by 'sanitizing the information themselves') and to be involved in decisions regarding further dissemination by the NIPC.'' Id. In short, the former Administration witness stated:

> Sharing between the private sector and the government occasionally is hampered by a perception in the private sector that the government cannot adequately protect private sector information from disclosure under the Freedom of Information Act, FOIA. The NIPC believes that this perception is flawed in that both investigative and infrastructure protection information submitted to NIPC are protected from FOIA disclosure under current law. (Id.)

Nevertheless, for more than five years, businesses continued to seek a broad FOIA exemption that also came with special legal protections to limit their civil and criminal liability. That business wish list was largely granted in the Homeland Security Act.

At the Senate Judiciary Committee hearing with Governor Ridge, I expressed my concern that an overly broad FOIA exemption would encourage government complicity with private firms to keep secret information about critical infrastructure vulnerabilities, reduce the incentive to fix the problems and end up hurting rather than helping our national security. In the end, more secrecy may undermine rather than foster security.

Governor Ridge seemed to appreciate these risks, and said he was ''anxious to work with the Chairman and other members of the committee to assure that the concerns that [had been] raised are properly addressed.'' Id. at p. 24. He assured us that ''[t]his Administration is ready to work together with you in partnership to get the job done. This is our priority, and I believe it is yours as well.'' Id. at p. 25. This turned out to be an empty promise.

Almost before the ink was dry on the Administration's earlier June proposal, on July 10, 2002, the Administration proposed to substitute a much broader FOIA exemption that would (1) exempt from disclosure under the FOIA critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter unless the submitter gave prior written consent, (2) provide limited civil immunity for use of the information in civil actions against the company, with the likely result that regulatory actions would be preceded by litigation by companies that submitted designated information to the department over whether the regulatory action was prompted by a confidential disclosure, (3) preempt state sunshine laws if the designated information is shared with state or local government agencies, (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information, and (5) antitrust immunity for companies that joined together with agency components designated by the President to promote critical infrastructure security.

Despite the Administration's promulgation of two separate proposals for a new FOIA exemption in as many weeks, in July, Director Ridge's Office of Homeland Security released The National Strategy for Homeland Security, which appeared to call for more study of the issue before legislating. Specifically, this report called upon the Attorney General to ''convene a panel to propose any legal changes necessary to enable sharing of essential homeland security information between the government and the private sector.'' (P. 33)

The need for more study of the Administration's proposed new FOIA exemption was made amply clear by its possible adverse environmental, public health and safety affects. Keeping secret problems in a variety of critical infrastructures would simply remove public pressure to fix the problems. Moreover, several environmental groups pointed out that, under the Administration's proposal, companies could avoid enforcement action by ''voluntarily'' providing information about environmental violations to the EPA, which would then be unable to use the information to hold the company accountable and also would be required to keep the information confidential. It would bar the government from disclosing information about spills or other violations without the written consent of the company that caused the pollution.

I worked on a bipartisan basis with many interested stakeholders from environmental, civil liberties, human rights, business and government watchdog groups to craft a compromise FOIA exemption that did not grant the business sector's wish-list but did provide additional nondisclosure protections for certain records without jeopardizing the public health and safety. At the request of Chairman LIEBERMAN for the Judiciary Committee's views on the new department, I shared my concerns about the Administration's proposed FOIA exemption and then worked with Members of the Governmental Affairs Committee, in particular Senator LEVIN and Senator BENNETT, to craft a more narrow and responsible exemption that accomplishes the Administration's goal of encouraging private companies to share records of critical infrastructure vulnerabilities with the new Department of Homeland Security without providing incentives to ''game'' the system of enforcement of environmental and other laws designed to protect our nation's public health and safety. We refined the FOIA exemption in a manner that satisfied the Administration's stated goal, while limiting the risks of abuse by private companies or government agencies.

This compromise solution was supported by the Administration and other Members of the Committee on Governmental Affairs and was unanimously adopted by that Committee at the markup of the Homeland Security Department bill on July 25, 2002. The compromise which I now introduce as a free standing bill would exempt from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are furnished voluntarily to the new Department and designated by the provider as confidential and not customarily made available to the public. Notably, the compromise FOIA exemption made clear that the exemption only covered ''records'' from the private sector, not all ''information'' provided by the private sector and thereby avoided the adverse result of government agency-created and generated documents and databases being put off-limits to the FOIA simply if private sector ''information'' is incorporated. Moreover, the compromise FOIA exemption clearly defined what records may be considered ''furnished voluntarily,'' which did not cover records used ''to satisfy any legal requirement or obligation to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.'' The FOIA compromise exemption further ensured that portions of records that are not covered by the exemption would be released pursuant to FOIA requests. This compromise did not provide any civil liability or antitrust immunity that could be used to immunize bad actors or frustrate regulatory enforcement action, nor did

the compromise preempt state or local sunshine laws.

Unfortunately, the version of the HSA that we enacted last November jettisoned the bipartisan compromise on the FOIA exemption, worked out in the Senate with the Administration's support, and replaced it with a big-business wish-list gussied up in security garb. The HSA's FOIA exemption makes off-limits to the FOIA much broader categories of ''information'' and grants businesses the legal immunities and liability protections they have sought so vigorously for over five years. This law goes far beyond what is needed to achieve the laudable goal of encouraging private sector companies to help protect our critical infrastructure. Instead, it ties the hands of the federal regulators and law enforcement agencies working to protect the public from imminent threats. It gives a windfall to companies who fail to follow federal health and safety standards. Most disappointingly, it undermines the goals of openness in government that the FOIA was designed to achieve. In short, the FOIA exemption in the HSA represents the most severe weakening of the Freedom of Information Act in its 36-year history.

In the end, the broad secrecy protections provided to critical infrastructure information in this bill will promote more secrecy, which may undermine rather than foster national security. In addition, the immunity provisions in the bill will frustrate enforcement of the laws that protect the public's health and safety.

Let me explain in greater detail. The FOIA exemption enacted in the HSA allows companies to stamp or designate certain information as critical infrastructure information, or ''CII,'' and then submit this information about their operations to the government either in writing or orally, and thereby obtain a blanket shield from FOIA's disclosure mandates as well as other protections. A Federal agency may not disclose or use voluntarily-submitted and CII-marked information, except for a limited ''informational purpose,'' such as ''analysis, warning, interdependency study, recovery, reconstitution,'' without the company's consent. Even when using the information to warn the public about potential threats to critical infrastructure, the bill requires agencies to take steps to protect from disclosure the source of the CII information and other ''business sensitive'' information.

The law also contains an unprecedented provision that threatens jail time and job loss to any government employee who happens to disclose any critical infrastructure information that a company has submitted and wants to keep secret. These penalties for using the CII information in an unauthorized fashion or for failing to take steps to protect disclosure of the source of the information are severe and will chill any release of CII information—not just when a FOIA request comes in, but in all situations, no matter the circumstance. Criminalizing disclosures not of classified information or national security related information, but of information that a company decides it does not want public—is an effective way to quash discussion and debate over many aspects of the government's work. In fact, under the HSA, CII information is granted more comprehensive protection under Federal criminal laws than classified information.

This provision of the law has potentially disastrous consequences. If an agency is given information from an internet service provider, ISP, about cyberattack vulnerabilities, agency employees will have to think twice about sharing that information with other ISPs for fear that, without the consent of the ISP to use the information, even a warning might cost their jobs or risk criminal prosecution.

This provision means that if a Federal regulatory agency needs to issue a regulation to protect the public from threats of harm, it cannot rely on any voluntarily submitted information—bringing the normal regulatory process to a grinding halt. Public health and law enforcement officials need the flexibility to decide how and when to warn or prepare the public in the safest, most effective manner. They should not have to get ''sign off'' from a Fortune 500 company to do so.

While the HSA risks making it harder for the government to protect American families, it makes it much easier for companies to escape responsibility when they violate the law by giving them unprecedented immunity from civil and regulatory enforcement actions. Once a business declares that information about its practices relates to critical infrastructure and is ''voluntarily'' provided, it can then prevent the Federal Government from disclosing it not just to the public, but also to a court in a civil action. This means that an agency receiving CII-marked submissions showing invasions of employee or customer privacy, environmental pollution, or government contracting fraud will be unable to use that information in a civil action to hold that company accountable. Even if the regulatory agency obtains the information necessary to bring an enforcement action from an alternative source, the company will be able to tie the government up in protracted litigation over the source of the information.

For example, if a company submits information that its factory is leaching arsenic in ground water, that information may not be turned over to local health authorities to use in any enforcement proceeding nor turned over to neighbors who were harmed by drinking the water for use in a civil tort action. Moreover, even if EPA tries to bring an action to stop the company's wrongdoing, the ''use immunity'' provided in the HSA will tie the agency up in litigation making it prove where it got the information and whether it is tainted as ''fruit of the poisonous tree''—i.e., obtained from the company under the ''critical infrastructure program.''

Similarly, if the new Department of Homeland Security receives information from a bio-medical laboratory about its security vulnerabilities, and anthrax is released from the lab three weeks later, the Department will not be able to warn the public promptly about how to protect itself without consulting with and trying to get the consent of the laboratory in order to avoid the risk of job loss or criminal prosecution for a non-consensual disclosure. Moreover, if the laboratory is violating any state, local or federal regulation in its handling of the anthrax, the Department will not be able to turn over to another Federal agency, such as the EPA or the Department of Health and Human Services, or to any State or local health officials, information or documents relating to the laboratory's mishandling of the anthrax for use in any enforcement proceedings against the laboratory, or in any wrongful death action, should the laboratory's mishandling of the anthrax result in the death of any person. The law specifically states that such CII-marked information ''shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith.'' [H.R. 5710, section 214(a)(1)(C)]

Most businesses are good citizens and take seriously their obligations to the government and the public, but this ''disclose-and-immunize'' provision is subject to abuse by those businesses that want to exploit legal technicalities to avoid regulatory guidelines. The HSA lays out the perfect blueprint to avoid legal liability: funnel damaging information into this voluntary disclosure system and pre-empt the government or others harmed by the company's actions from being able to use it against the company. This is not the kind of two-way public-private cooperation that our country needs.

The scope of the information that is covered by the new HSA FOIA exemption is overly broad and undermines the openness in government that FOIA was intended to guarantee. Under this law, information about virtually every important sector of our economy that today the public has a right to see can be shut off from public view simply by labeling it ''critical infrastructure information.'' Prior to enactment of the HSA, under FOIA standards, courts had required federal agencies to disclose 1. pricing information in contract bids so citizens can make sure the government is wisely spending their taxpayer dollars; 2. compliance reports that allow constituents to insist that government contractors comply with federal equal

opportunity mandates; and 3. banks' financial data so the public can ensure that federal agencies properly approve bank mergers. Without access to this kind of information, it will be harder for the public to hold its government accountable. Under the HSA, all of this information may be marked CII information and kept out of public view.

The HSA FOIA exemption goes so far in exempting such a large amount of material from FOIA's disclosure requirements that it undermines government openness without making any real gains in safety for families in Vermont and across America. We do not keep America safer by chilling Federal officials from warning the public about threats to their health and safety. We do not ensure our nation's security by refusing to tell the American people whether or not their federal agencies are doing their jobs or their government is spending their hard earned tax dollars wisely. We do not encourage real two-way cooperation by giving companies protection from civil liability when they break the law. We do not respect the spirit of our democracy when we cloak in secrecy the workings of our government from the public we are elected to serve.

The argument over the scope of the FOIA and unilateral executive power to shield matters from public scrutiny goes to the heart of our fundamental right to be an educated electorate aware of what our government is doing. The Rutland Herald got it right in a November 26, 2002 editorial that explained: ''The battle was not over the right of the government to hold sensitive, classified information secret. The government has that right. Rather, the battle was over whether the government would be required to release anything it sought to withhold.''

We need to fix this troubling restriction on public accountability. Exempting the new Department from laws that ensure responsibility to the Congress and to the American people makes for a tenuous start not the sure footing we all want for the success and endurance of this new Department. I urge my colleagues to support the Restoration of Freedom of Information Act of 2003.

I ask unanimous consent to print the editorials I mentioned and several letters of support of the Restore FOIA bill in the RECORD.

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

RESTORATION OF FREEDOM OF INFORMATION ACT (''RESTORE FOIA'') SECTIONAL ANALYSIS

Sec. 1. Short title. This section gives the bill the short title, the ''Restoration of Freedom of Information Act''.

Sec. 2. Protection of Voluntarily Furnished Confidential Information. This section strikes subtitle B (secs. 211–215) of the Homeland Security Act (''HSA'') (P.L. 107–296) and inserts a new section 211.

Sections to be repealed from the HSA: These sections contain an exemption to the Freedom of Information Act (FOIA) that (1) exempt from disclosure critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter unless the submitter gave prior written consent; (2) provide civil immunity for use of such information in civil actions against the company; (3) preempt state sunshine laws if the designated information is shared with state or local government agencies; and (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information.

Provisions that would replace the repealed sections of the HAS: The Restore FOIA bill inserts a new section 211 to the HSA that would exempt from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are furnished voluntarily to the new Department and designated by the provider as confidential and not customarily made available to the public. Notably, the Restore FOIA bill makes clear that the exemption covers ''records'' from the private sector, not all ''information'' provided by the private sector, as in the enacted version of the HSA. The Restore FOIA bill ensures that portions of records that are not covered by the exemption would be released pursuant to FOIA requests. It does not provide any civil liability immunity or preempt state or local sunshine laws, and it does not criminalize whistleblower activity.

Specifically, this section of the Restore FOIA bill includes the following:

A definition of ''critical infrastructure'': This term is given the meaning adopted in section 1016(e) the USA Patriot Act (42 U.S.C. 5195c(e)) which reads, ''critical infrastructure means systems and assets, whether physical or virtual, so vital to United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.'' This definition is commonly understood to mean facilities such as bridges, dams, ports, nuclear power plants, or chemical plants.

A definition of the term ''furnished voluntarily'': This term signifies documents provided to the Department of Homeland Security (DHS) that are not formally required by the department and that are provided to it to satisfy any legal requirement. The definition excludes any document that is provided to DHS with a permit or grant application or to obtain any other benefit from DHS, such as a loan, agency forbearance, or modification of a penalty.

An exemption from FOIA of records that pertain to vulnerabilities of and threats to critical infrastructure that are furnished voluntarily to DHS. This exemption is made available where the provider of the record certifies that the information is confidential and would not customarily be released to the public.

A requirement that other government agencies that have obtained such records from DHS withhold disclosure of the records and refer any FOIA requests to DHS for processing.

A requirement that reasonably segregable portions of requested documents be disclosed, as is well-established under FOIA.

An allowance to agencies that obtain critical infrastructure records from a source other than DHS to release requested records consistent with FOIA, regardless of whether DHS has an identical record in its possession.

An allowance to providers of critical infrastructure records to withdraw the confidentiality designation of records voluntarily submitted to DHS, thereby making the records subject to disclosure under FOIA.

A direction to the Secretary of Homeland Security to establish procedures to receive, designate, store, and protect the confidentiality of records voluntarily submitted and certified as critical infrastructure records.

A clarification that the bill would not preempt state or local information disclosure laws.

A requirement for the Comptroller General to report to the House and Senate Judiciary Committees, the House Governmental Reform Committee and the Senate Governmental Affairs Committee the number of private entities and government agencies that submit records to DHS under the terms of the bill. The report would also include the number of requests for access to records that were granted or denied. Finally, the Comptroller General would make recommendations to the committees for modifications or improvements to the collection and analysis of critical infrastructure information.

Sec. 3. Technical and conforming amendment. This section amends the table of contents of the Homeland Security Act.

[From the Washington Post, Feb. 10, 2003]

FIX THIS LOOPHOLE

The Homeland Security law enacted last year contains a miserable provision that weakens important federal regulation and public access to information. Congress should act soon to repair the damage.

The goal of the provision was reasonable enough: encouraging companies to share information with the government about infrastructure that might be vulnerable to terrorist attack. Fearing public disclosure, companies have been reluctant to share information on vulnerabilities at, say, power plants or chemical factories. So under the law, any such ''critical infrastructure'' information that companies voluntarily provide to the government is exempted from disclosure to the public, litigants and enforcement agencies.

But the law defines ''information'' so broadly that it will cover, and thus keep secret, virtually anything a company decides to fork over. A company might preempt environmental regulators by ''voluntarily'' divulging incriminating material, thereby making it unavailable to anyone else. Unless regulators could show they had obtained the material independently, it would be off limits to them. And the law prescribes criminal penalties for whistle-blowers who make such information public. The collective impact will be to put in the hands of a regulated party the power, simply by turning over information, to shield that information from legitimate law enforcement purposes and from public disclosure.

Sens. Patrick J. Leahy (D–Vt.) and Robert F. Bennett (R–Utah) had negotiated a compromise that would accomplish the reasonable purpose without such broad harmful effects. It should be restored before the government finds its hands tied—and the public finds itself out of the loop—on important regulatory matters.

[From the Washington Post, Nov. 20, 2002]

TOO MANY SECRETS

(By Mark Tapscott)

Why does the White House sometimes seem so determined to close the door on the people's right to know what their government is doing? Even some of us who admire the leadership of President Bush in the war on terrorism would like to know.

Admittedly, insisting that the public's business be done in public isn't a popular cause these days. Recent surveys show that many Americans are willing to trade significant chunks of their First Amendment rights for the promise of greater security in the war on terrorism. Such surveys must gladden the hearts of Bush administration

officials who—presumably unintentionally—undermine measures such as the Freedom of Information Act (FOIA).

Consider just three examples from the past year: Section 204 of the White House's original proposal to establish a Department of Homeland Security, White House Chief of Staff Andrew Card's March 2002 directive that agencies restrict access to ''sensitive but unclassified'' information, and the administration's claim of executive privilege to keep secret information regarding President Clinton's infamous midnight pardons.

The administration's Section 204 proposal exempted from FOIA disclosure any information ''provided voluntarily by non-federal entities or individuals that relates to infrastructure vulnerabilities or other vulnerabilities to terrorism.'' One need not be a Harvard law graduate to see that, without clarification of what constitutes such vulnerabilities, this loophole could be manipulated by clever corporate and government operators to hide endless varieties of potentially embarrassing and/or criminal information from public view.

Subsequent negotiations in the Senate with the White House resulted in compromise language that takes care of some of the major problems, but in the rush to final passage, the Senate has accepted the House version of the legislation, which, being virtually identical to the administration's original version, remains deeply flawed in this regard.

The Card memo was issued when public anger over the Sept. 11, 2001, massacre was still intense. Despite the fact that the memo failed to define what constitutes ''sensitive but unclassified'' information, agencies responded by removing thousands of previously public documents from FOIA disclosure. The Pentagon, for example, estimated recently that approximately 6,000 Defense Department documents were removed from public view. Who now outside of government can verify that any of those documents contained information that could help terrorists?

Few would argue that the Section 204 proposal and the Card memo do not address legitimate national security needs in the war against terrorism. But to date, nobody has produced a single example of vital information that could not have been properly exempted from disclosure under the current FOIA, which is backed by 25 years of detailed case law. Instead, the administration offers vague language that invites abuse.

Finally, there are those pardons, which provoked a national outcry when first reported. President Clinton had pardoned 140 people, including his Whitewater partner Susan McDougal, his brother Roger (convicted on cocaine-related charges) and international fugitive Marc Rich, wanted by the Justice Department for allegedly conspiring with the Iranian government in 1980 to buy 6 million barrels of oil, contrary to a U.S. trade embargo.

It is doubtful that the full facts behind the pardons will ever be known as long as the administration refuses to disclose nearly 4,000 pages related to the former president's actions. The Bush administration has taken a similar position on documents related to former attorney general Janet Reno's controversial decision not to appoint a special counsel to investigate possible Clinton administration campaign finance illegalities.

There was a time when at least one senior Bush administration official thought the FOIA essential because ''no matter what party has held the political power of government, there have been attempts to cover up mistakes and errors.'' That same official added that ''disclosure of government information is particularly important today because government is becoming involved in more and more aspects of every citizen's personal and business life, and so access to information about how government is exercising its trust becomes increasingly important.''

So spoke a young Illinois Republican congressman named Donald Rumsfeld, in a floor speech on June 20, 1966, advocating passage of the FOIA, of which he was a co-sponsor.

The writer is director of the Heritage Foundation's Center for Media and Public Policy.

FIX THE CRITICAL INFRASTRUCTURE INFORMATION SUBTITLE IN THE HOMELAND SECURITY ACT OF 2002

The undersigned organizations are concerned about the current language for Critical Infrastructure Information in the Homeland Security Act of 2002, which contains ambiguous definitions that could unintentionally allow companies to keep broad categories of information secret and provisions that restrict the government's ability to use the information. In order to better serve the goal of improving public safety and security, we support efforts to fix the Homeland Security Act by clarifying the scope of the information protected and removing provisions that overly restrict the government's ability to use the information.

Senators Leahy (D–VT), Levin (D–MI), Jeffords (I–VT), Lieberman (D–CT), and Byrd (D–WV) will soon introduce legislation entitled the Restoration of Freedom of Information Act of 2003 (''Restore FOIA'') addressing these concerns, using bipartisan language developed last year by the Senate Governmental Affairs Committee. The Restore FOIA solution would:

Clarify the FOIA exemption to be more consistent with established law.

Remove the restrictions on the government's ability to act as it sees fit in response to the information it receives.

Preserve whistleblower protections by removing unnecessary criminal penalties.

The information provisions currently within the Homeland Security Act of 2002 do not accomplish the goal of the law—empowering the government to protect citizens using private-sector information which is ''voluntarily'' shared and identifies potential vulnerabilities to terrorist attacks. The current language could have devastating effects on the work of the government to protect public health, safety and security, as well as government accountability. It is essential that these problems in the Homeland Security Act be fixed immediately before they become too firmly entrenched in the law.

Jean AbiNader, Managing Director, Arab American Institute.

Prudence S. Adler, Associate Executive Director, Association of Research Libraries.

Steven Aftergood, Project Director, Federation of American Scientists.

Gary Bass, Executive Director, OMB Watch.

Jeremiah Baumann, Director, Toxics Right to Know Campaign, U.S. Public Interest Research Group.

Ruth Berlin, Executive Director, MD Pesticide Network.

Lynne Bradley, Director, Government Relations, American Library Association.

Danielle Brian, Executive Director, Project on Government Oversight.

Sandy Buchanan, Executive Director, Ohio Citizen Action.

Jeanne Butterfield, Executive Director, American Immigration Lawyers Association.

Alyssondra Campaigne, Legislative Director, Natural Resources Defense Council.

Kevin S. Curtis, Vice President, Government Affairs, National Environmental Trust.

Lucy Dalglish, Executive Director, Reporters Committee for Freedom of the Press.

Charles N. Davis, Executive Director, Freedom of Information Center, University of Missouri School of Journalism.

Tom Devine, Legal Director, Government Accountability Project.

Rick Engler, Director, New Jersey Work Environment Council.

Jason Erb, Director, Governmental Relations, Council on American-Islamic Relations.

Darryl Fagin, Legislative Director, Americans for Democratic Action.

Margaret Fung, Executive Director, Asian American Legal Defense and Education Fund.

Vickie Goodwin, Organizer, Powder River Basin Resource Council.

Evan Hendricks, Editor/Publisher, Privacy Times.

Rick Hind, Legislative Director, Greenpeace.

Khalil Jahshan, Director of Government Affairs, American-Arab Anti-Discrimination Committee.

Susan E. Kegley, Staff Scientist/Program Coordinator, Pesticide Action Network, North America.

Robert Leger, President, Society of Professional Journalists.

Dave LeGrande, Director, Occupational Safety & Health, CWA/AFL–CIO.

Sanford Lewis, Director, Strategic Counsel on Corporate Accountability.

Conrad Martin, Executive Director, Fund for Constitutional Government.

Alexandra McPherson, Director, Clean Production Action.

Dena Mottola, Acting Director, New Jersey Public Interest Research Group.

Laura W. Murphy, Director, Washington National Office, American Civil Liberties Union.

Ralph G. Neas, President, People for the American Way.

Robert Oakley, Washington Affairs Representative, American Association of Law Libraries.

Paul Orum, Director, Working Group on Community Right-to-Know.

Deborah Pierce, Executive Director, Privacy Activism.

Chellie Pingree, President and CEO, Common Cause.

Ari Schwartz, Associate Director, Center for Democracy and Technology.

Debbie Sease, Legislative Director, Sierra Club.

Bob Shavelson, Executive Director, Cook Inlet Keeper.

Peggy M. Shepard, Executive Director, West Harlem Environmental Action.

Ted Smith, Executive Director, Silicon Valley Toxics Coalition.

David Sobel, General Counsel, Electronic Privacy Information Center.

Ed Spar, Executive Director, Council on Professional Association of Federal Statistics.

Vivian Stockman, Communications Coordinator, Ohio Valley Environmental Coalition.

Daniel Swartz, Executive Director, Children's Environmental Health Network.

Lee Tien, Senior Staff Attorney, Electronic Frontier Foundation.

Elizabeth Thompson, Legislative Director, Environmental Defense.

Sara Zdeb, Legislative Director, Friends of the Earth.

MARCH 12, 2003.

Hon. SUSAN COLLINS,
Chair, Senate Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.
Hon. ORRIN HATCH,
Chair, Senate Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.
Hon. JOSEPH LIEBERMAN,
Ranking Member, Senate Committee on Governmental Affairs, U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. PATRICK LEAHY,
Ranking Member, Senate Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS COLLINS, HATCH, LIEBERMAN, AND LEAHY: The Homeland Security Act of 2002 was a very important legislative accomplishment that responded to new challenges facing our country.

On the path to passage of the Act, however, certain sections, particularly Section 214, dealing with Critical Infrastructure Information, left a number of journalistic organizations concerned that broad categories of information—particularly information that relates to the public's health and safety—would unnecessarily be shielded from public view.

Thus, we support efforts to clarify the language in favor of essential openness, which, in fact, will also resolve potential barriers that restrict the government's own use of information provided by companies. The ''Restoration of Freedom of Information Act of 2003'' would substitute bipartisan language developed last year by the Senate Government Affair Committee for that which was enacted into law. This bill would:

Clarify the FOIA exemption to be more consistent with established law, while still protecting records on critical infrastructure vulnerabilities submitted to the Department of Homeland Security by private firms.

Remove the restrictions on the government's ability to act as it sees fit in response to the information it receives.

Preserve whistleblower protections by removing unnecessary criminal penalties.

It is important for both citizens and the government process that these changes in law are made quickly.

Thank you for your consideration.

Sincerely,

American Society of Magazine Editors; American Society of Newspaper Editors; Associated Press Managing Editors; Freedom of Information Center, University of Missouri School of Journalism; Magazine Publishers of America; National Federation of Press Women; National Newspaper Association; National Press Club; Newsletter & Electronic Publishers Association; Newspaper Association of America; Radio-Television News Directors Association; Reporters Committee for Freedom of the Press; Society of Professional Journalists.

LET FREEDOM RING

(By Maurice J. Freedman)

What if you want to find out if toxic chemicals are buried under your child's schoolyard? How could you tell if your veterans' benefits hinged on proving you were exposed to biohazards during a top-secret mission? Or perhaps a candidate for your city council wants to better understand formerly classified plans for emergency evacuation.

These days, it's possible, with considerable patience, determination, and a few clicks of a mouse, to file a request for answers to questions like these and a broad range of government information that are critical to our lives, work, health and well being.

But like registering to vote, in some places and for some people, this precious freedom hasn't always been so easy to exercise.

The main tool for such fact-finding, the Freedom of Information Act, known as FOIA, which we honor each year on the anniversary of James Madison's birthday, was first enacted on July 4, 1966. Before that, any-one who wanted to get records from the federal government had to establish his or her legal right to examine those records. That was expensive, time-consuming and a barrier for countless legitimate requests for information on issues from whether the nuclear reactor downwind had a record of safety violations to how the Nixon administration tried to deport John Lennon as detailed in his FBI files.

With FOIA, the burden shifted to government agencies, requiring them to meet these requests unless they fell within a handful of specific national security exemptions. Indeed, since then, any decision by an agency to withhold a document could be challenged in federal court.

From John Lennon's or Rev. Dr. Martin Luther King Jr.'s FBI files to record of debates on whether to use nuclear weapons in Vietnam, FOIA requests now run the gamut of what we need to know about what our government is doing with our tax dollars in our name. Whether it's internal NASA memos about space shuttle safety or exchanges among federal officials about Japanese internment camps during World War II, our right to know about the deliberations and actions of our federal government is a cornerstone of American democracy.

In 1974, in reaction to Watergate, Congress moved to strengthen FOIA. Unwilling to let our country be run more like a closed corporation than an open, democratic society, this change allowed courts to order the release of documents, even when the President said they couldn't be made public.

Our system of representative democracy depends on the free flow of information produced, collected and published by our government and available to the public so we can participate as an informed electorate.

Since the early 19th century, libraries have served as depositories for the written record of our nation's development and gateways to the decisions of its leaders, thus assuring public access to government information. Today, 21st-century librarians are committed to ensuring the public's right to know is protected in the electronic age. As organizers, navigators and providers of government information that serves the public, we help file FOIA requests and otherwise support freedom of information @ your library.

Many Americans depend on access to information collected, organized and disseminated by the federal government—from farmers and health care professionals, to journalists and veterans, community interest groups to local and state government officials, and indeed, all voters.

Americans come to libraries to find Census and other statistics; to help plan new business and marketing strategies; to research environmental issues and hazards, laws and regulations; and to learn about job opportunities from government and other employment lists.

The ongoing transition to predominantly electronic transmission of federal information offers both promise and problems for the public in this realm. Information that is only in electronic form quickly appears on—and as quickly disappears from—Web sites. There is often no one charged with capturing, preserving or making electronic data available to future generations, as well as those, who for a variety of reasons, cannot access or work with electronic information.

True national security is built on a vibrant democracy and a well-informed citizenry, not a culture of secrecy. Said James Madison, on whose birthday we make Freedom of Information Day, ''Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives.'' Although he wrote in response to abuses by Britain's King George III, his warnings ring equally true today.

Every country has hospitals, police and schools. But only free countries allow the free flow of ideas. Free libraries are the hub of public access to government information. Challenges to an informed citizenry range from the complexity and inequality in information technology to illiteracy, limited information literacy skills and unequal access to education and information resources.

Thankful for our freedoms, we must do our best as we prepare to fight halfway around the world to ensure that we continue to guard with unrelating vigilance the right to know here at home.

Mr. LEVIN. Mr. President, today I join with Senators LEAHY, BYRD, JEFFORDS, and LIEBERMAN to introduce the Restore Freedom of Information Act, Restore FOIA, that will provide the public with access to information, while at the same time ensuring that information voluntarily submitted to the government by companies is not improperly disclosed. In order to ensure public access and limit improper disclosure, we need to reexamine some aspects of the Homeland Security Act, HSA, which was rushed through Congress last year, dropping several carefully-crafted, bipartisan measures which had been adopted by the Senate Governmental Affairs Committee, along the way. Dropping those measures left ambiguities in the law that need to be clarified, and today's bill is an attempt to make those clarifications and address certain problems that could otherwise result.

The issue this bill addresses is public access to information in the possession of the Homeland Security Department. Although some seem to want to shroud all homeland security efforts in secrecy, as Judge Damon Keith, writing for the U.S. Sixth Circuit of Appeals, recently warned ''Democracies die behind closed doors.'' The principles of open government and the public's right to know are cornerstones of our democracy. We cannot sacrifice those principles in the name of protecting them.

One of the reasons that I voted against the Homeland Security Act last year was because the final bill dropped a bipartisan provision, passed by the Senate Governmental Affairs Committee, clarifying how the new Department of Homeland Security, DHS, should comply with the Freedom of Information Act, FOIA. The final bill substituted a poorly drafted provision that could inappropriately close the door on persons seeking unclassified information from the Department related to critical infrastructure.

What is critical infrastructure? Critical infrastructure is the backbone that holds our country together and

makes it work—our roads, computer grids, telephones, pipelines, water treatment plants, utilities, and other facilities essential to a fully functioning Nation. It so happens that, in the United States, much of our critical infrastructure is controlled by private entities, often privately owned or publicly traded corporations. To strengthen existing protections for these facilities, the Federal Government asked the companies that own them to submit unclassified information about their facilities to assist the government in evaluating them, identifying possible problems, and designing stronger protections from terrorist attack, natural disasters, or other threats to homeland security.

Some companies asked to voluntarily submit this information feared that it might be improperly disclosed, and sought a new exemption from the Federal Freedom of Information Act, FOIA, to prohibit disclosure of so-called ''critical infrastructure information.'' Reporters, public interest groups, and others feared that, if this FOIA exemption were granted, companies could send important environmental and safety information to DHS under the general heading of ''critical infrastructure information'' and thereby put this information out of the public's reach. To bring these sides together, last July, Senators BENNETT, LEAHY and I worked out a bipartisan FOIA compromise that codified existing case law with regard to companies voluntarily submitting information. At the Senate Governmental Affairs Committee mark-up of the homeland security legislation, Senator Bennett said that the Administration supported our compromise, but the language was ultimately dropped from the final Homeland Security Act. As a result, the media, public interest groups, and others continue to fear that companies may be hiding important health and safety information that has long been public and should be public behind the mask of ''critical infrastructure.''

To rectify this situation, today we are introducing a bill that would change the existing HSA language in several important ways. First, our bill defines the key term, ''critical infrastructure,'' in a more focused way than the overly broad language in the HSA. To do that, our bill draws from language in existing case law, that has already been tested by the courts. The existing HSA language, it interpreted broadly, could expand the prohibition on disclosing critical infrastructure information to include virtually every aspect of a company's operations, denying public access to a great deal of health and safety information that the public has a right to know. If this expansive interpretation was not the intent of the bill's drafters, then they should be willing to accept our court-tested language.

A second important change that our bill would make in the existing HSA involves the issue of civil immunity for companies that violate the law. As currently worded, the HSA seems to suggest that companies which voluntarily submit to DHS critical infrastructure information indicating that the company is in violation of public health or safety regulations may gain protection from legal action in court to halt or penalize this wrongdoing, even if the information shows that the company is acting negligently. For example, the current HSA provisions could lead to the disturbing situation where DHS learns, through a critical infrastructure submission, that a company is leaking polluted sludge into a nearby waterway in violation of environmental restrictions, but is barred from going to court to stop the pollution because the law appears to prohibit the agency's use of the critical infrastructure information in a civil action. Our bill would eliminate the possibility that the HSA would provide companies with civil immunity under these circumstances.

A third key problem with the existing HSA language is that it includes a provision that could send a Federal whistleblower who discloses critical infrastructure information, even to an appropriate authority, to prison. The language is clear that if a DHS employee discloses unclassified critical infrastructure information, even when acting as a whistleblower who reveals the information to Congress in an act of conscience or patriotism, that whistleblower could wind up in jail. My colleague, Senator LEAHY, describes a whistleblower who works at the FAA who blew the whistle on government collusion to coverup failures by airlines to meet tests on airline preparedness. That whistleblower could have ended up in jail had he blown the whistle under today's law. A year in jail is quite a deterrent for a Federal employee who is thinking about blowing the whistle, and we have never before threatened Federal whistleblowers with jail terms. It is a bad idea, and it is counterproductive to homeland safety.

There are other troubling provisions in the current HSA law as well, equally detrimental to the public's right to know. For example, the HSA exempts all communication of critical infrastructure information from the open meeting and other sunshine requirements of the Federal Advisory Committee Act, and places critical infrastructure information outside restrictions on ex parte contacts. The HSA also pre-empts state and local sunshine laws, an undue intrusion on the power of the States. The bill we are introducing today would strike all of these unnecessary provisions, and create in their stead a narrow FOIA exemption that balances the prohibition against improper disclosures of critical infrastructure information with the public's right to know.

Finally, I would like to include in the RECORD two examples of situations that could occur under the language in the HSA but would not occur under our bill. These disturbing examples were provided by Dr. Rena Steinzor, Professor at the University of Maryland School of Law, on behalf of the center for Progressive Regulation.

Case Study Number 1 is the following:

A large Midwest utility decides to replace an old coal burning electric generation unit with a new one. The new unit, much larger than the first, will produce significantly greater air pollution emissions. The company could mitigate these increases by installing additional pollution control equipment, but decides it does not wish to incur the expense. It begins construction and simultaneously reports its plans to the DHS as ''critical infrastructure information,'' so Federal security experts will know about its increased capacity to generate electricity.

A Department of Homeland Security employee, visiting the plant to consult on government purchases of power during emergency situations, notices readings on internal gauges reflecting the dramatically increased emissions. She telephones EPA to report the situation. EPA issues a Notice of Violation to the company, and threatens to bring an action for civil penalties, but is instructed to desist by DHS officials who inform EPA that the HSA prohibits disclosing the information provided to the agency in court and that DHS wants to list the company as an emergency supplier capable of providing expanded electricity production in an upcoming report to Congress. EPA drops its enforcement action, and the DHS employee not only loses her job but also is prosecuted criminally.

Case Study Number 2 is the following:

Lobbyists representing companies that provide goods and services to the Department of Homeland Security routinely submit materials describing their companies' products in glowing terms. They arrange repeated trips for government purchasing agents to exotic locations under the guise of briefing them regarding the technical aspects of the products. All of this information is designated as critical infrastructure by the companies, and is therefore protected from disclosure and oversight by the media or possibly even individual members of Congress who could see the information but not reveal it.

The Homeland Security Act was never intended to protect polluters or special interests from public scrutiny. But as these examples demonstrate, that is exactly what could happen if the current, vague language in the law is not corrected. The bill we are introducing today would make the needed corrections.

On January 17, 2003 at his confirmation hearing before the Governmental Affairs Committee, I questioned Governor Ridge about these problems with the current wording of the Homeland

Security Act. I asked him whether the HSA could have the unintended consequences of providing protections for wrongdoing while impeding access to necessary information to protect public health and safety. Governor Ridge replied: ''[T]hat certainly wasn't the intent, I am sure, of those who advocated the Freedom of Information Act exemption, to give wrongdoers protection or to protect illegal activity, and I will certainly work with you to clarify that language.'' If that was not the intent, then let us fix the vague, and potentially dangerous provisions that are in this bill.

I would also note, for the record, that many organizations have endorsed our bill including the following:

American Association of Law Libraries, American Civil Liberties Union, American Immigration Lawyers Association, American Library Association, American-Arab Anti-Discrimination Committee, Americans for Democratic Action, American Society of Magazine Editors, American Society of Newspaper Editors, Arab American Institute, Asian American Legal Defense and Education Fund, Associated Press Managing Editors, Association of Research Libraries, Center for Democracy and Technology, Children's Environmental Health Network, Clean Production Network, Common Cause, Communications Workers of America, Cook Inlet Keeper, Council on American-Islamic Relations, Council on Professional Association of Federal Statistics, Electronic Frontier Foundation, Electronic Privacy Information Center, Environmental Defense, Federation of American Scientists, Freedom of Information Center, Friends of the Earth, Fund for Constitutional Government, Government Accountability Project, Greenpeace, Magazine Publishers of America, Maryland Pesticide Network, National Federation of Press Women, National Newspaper Association, National Press Club, Natural Resources Defense Council, New Jersey Work Environment Council, Newsletter & Electronic Publishers Association, Newspaper Association of America, Ohio Valley Environmental Coalition, OMB Watch, Pesticide Action Network, North America Powder River Basin Resource Council, Privacy Activism, Privacy Times, Project on Government Oversight, Radio-Television News Directors Association, Reporters Committee for Freedom of the Press, Sierra Club, Silicon Valley Toxics Coalition, Society of Professional Journalists, Strategic Counsel on Corporate Accountability, U.S. Public Interest Research Group, University of Missouri School of Journalism, West Harlem Environmental Action Working Group on Community Right-to-Know.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 81—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE CONTINUOUS REPRESSION OF FREEDOMS WITHIN IRAN AND OF INDIVIDUAL HUMAN RIGHTS ABUSES, PARTICULARLY WITH REGARD TO WOMEN

Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, and Mr. CORNYN, and Mr. CAMPBELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 81

Whereas the people of the United States respect the Iranian people and value the contributions that Iran's culture has made to world civilization for over 3 millennia;

Whereas the Iranian people aspire to democracy, civil, political, and religious rights, and the rule of law, as evidenced by increasingly frequent antigoverment and anti-Khatami demonstrations within Iran and by statements of numerous Iranian expatriates and dissidents;

Whereas Iran is an ideological dictatorship presided over by an unelected Supreme Leader with limitless veto power, an unelected Expediency Council and Council of Guardians capable of eviscerating any reforms, and a President elected only after the aforementioned disqualified 234 other candidates for being too liberal, reformist, or secular.

Whereas the Iranian government has been developing a uranium enrichment program that by 2005 is expected to be capable of producing several nuclear weapons each year, which would further threaten nations in the region and around the world.

Whereas the United States recognizes the Iranian peoples' concerns that President Muhammad Khatami's rhetoric has not been matched by his actions;

Whereas President Khatami clearly lacks the ability and inclination to change the behavior of the State of Iran either toward the vast majority of Iranians who seek freedom or toward the international community;

Whereas political repression, newspaper censorship, corruption, vigilante intimidation, arbitrary imprisonment of students, and public executions have increased since President Khatami's inauguration in 1997;

Whereas men and women are not equal under the laws of Iran and women are legally deprived of their basic rights;

Whereas the Iranian government shipped 50-tons of sophisticated weaponry to the Palestinian Authority despite Chairman Arafat's cease-fire agreement, consistently seeks to undermine the Middle East peace process, provides safe-haven to al-Qa'ida and Taliban terrorists, allows transit of arms for guerrillas seeking to undermine our ally Turkey, provides transit of terrorists seeking to destabilize the United States-protected safe-have in Iraq, and develops weapons of mass destruction;

Whereas since the terrorist attacks of September 11, 2001, and despite rhetorical protestations to the contrary, the Government of Iran has actively and repeatedly sought to undermine the United States war on terror;

Whereas there is a broad-based movement for change in Iran that represents all sectors of Iranian society, including youth, women, student bodies, military personnel, and even religious figures, that is pro-democratic, believes in secular government, and is yearning to live in freedom;

Whereas following the tragedies of September 11, 2001, tens of thousands of Iranians filled the streets spontaneously and in solidarity with the United states and the victims of the terrorist attacks; and

Whereas the people of Iran deserve the support of the American people; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) legitimizing the regime in Iran stifles the growth of the genuine democratic forces in Iran and does not serve the national security interest of the United States;

(2) positive gestures of the United States toward Iran should be directed toward the people of Iran, and not political figures whose survival depends upon preservation of the current regime; and

(3) it should be the policy of the United States to seek a genuine democratic government in Iran that will restore freedom to the Iranian people, abandon terrorism, and live in peace and security with the international community.

SENATE RESOLUTION 82—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE CONTINUOUS REPRESSION OF FREEDOMS WITHIN IRAN AND OF INDIVIDUAL HUMAN RIGHTS ABUSES, PARTICULARLY WITH REGARD TO WOMEN

Mr. BROWNBACK (for himself, Mr. WYDEN, Mr. COLEMAN, Mr. CORNYN, Mr. CAMPBELL, and Mr. KYL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 82

Whereas the people of the United States respect the Iranian people and value the contributions that Iran's culture has made to world civilization for over 3 millennia;

Whereas the Iranian people aspire to democracy, civil, political, and religious rights, and the rule of law, as evidence by increasingly frequent antigovernment and anti-Khatami demonstrations within Iran and by statements of numerous Iranian expatriates and dissidents;

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Whereas political repression, newspaper censorship, corruption, vigilante intimidation, arbitrary imprisonment of students, and public executions have increased since President Khatami's inauguration in 1997;

Whereas men and women are not equal under the laws of Iran and women are legally deprived of their basic rights;