

based on facts or circumstances from which such violation is apparent, regardless of whether a violation of section 1302 is ultimately determined to have occurred.

“(6) MISREPRESENTATIONS.—Any person who knowingly misrepresents that material or activities violate section 1302 shall be liable for any damages, including costs and attorneys’ fees, incurred by the alleged violator or by the service provider who is injured by such misrepresentation.

“§ 1311. Deposit of databases

“(a) IN GENERAL.—Within one year from the date on which a database is first offered for sale or otherwise in commerce after the investment that qualified that database for protection under this chapter, a person claiming protection under section 1302 for a database may deposit the database by delivering to the Copyright Office a deposit copy, Statement of Deposit, and fee, as specified by this section.

“(b) COPYRIGHT OFFICE REGULATIONS.—The Register of Copyrights shall establish by regulation procedures for the deposit of databases, including permissible formats for deposit copies.

“(c) DEPOSIT FOR DATABASES.—The deposit for a database shall consist of one complete copy of the database and a Statement of Deposit.

“(1) STATEMENT OF DEPOSIT.—The Statement of Deposit shall be made on a form prescribed by the Register of Copyrights and shall include—

“(A) the name and address of the person claiming protection under section 1302;

“(B) a title or other information identifying the database;

“(C) a general statement of the nature of the investment qualifying the database for protection;

“(D) the year in which the database was first offered for sale or otherwise in commerce;

“(E) in the case of a new version or update of a database, an identification of any pre-existing database that it is based on or incorporates, and a general statement of any additional investment covered by the new deposit; and

“(G) any other information regarded by the Register of Copyrights as bearing on the identification of the database or the application of section 1310(c).

“(2) SUPPLEMENTARY STATEMENT OF DEPOSIT.—A depositor or its successor in interest may file a supplementary Statement of Deposit, to correct errors or omissions in a prior Statement of Deposit for the same database, or to reflect changed circumstances.

“(d) FEES.—The Register of Copyrights is authorized to set and adjust fees to cover the reasonable costs of the deposit system for databases established by this section.

“(e) EFFECT OF MATERIAL FALSE STATEMENTS.—Any material false statement knowingly made in a Statement of Deposit shall void the deposit of the database.

“(f) ISSUANCE OF CERTIFICATE AND DATE OF DEPOSIT.—

“(1) The Register of Copyrights shall, upon receipt of the deposit copy, Statement of Deposit, and fee specified by this section, issue to the person claiming protection under section 1302 a certificate of deposit.

“(2) The effective date of deposit for a database is the day on which the deposit copy, Statement of Deposit, and fee have all been received in the Copyright Office.

“(g) INSPECTION AND COPYING OF RECORDS.—

“(1) STATEMENTS OF DEPOSIT.—A record of all Statements of Deposit for database depos-

ited with the Copyright Office shall be maintained in the Copyright Office and shall be available to the public for inspection and copying.

“(2) DEPOSIT COPIES.—

“(A) During the fifteen years following the end of the calendar year of the date specified in the deposit statement as the date of the first offering in commerce after the qualifying investment, the Copyright Office shall permit access to the deposit copy of the database only upon authorization of the depositor or its successor in interest, or the purposes of litigation under this chapter in accordance with regulations issued by the Register.

“(B) Fifteen years from the end of the calendar year of the date specified in the deposit statement as the date of the first offering in commerce after the qualifying investment, the Copyright Office shall make the deposit copy of the database available to the public for inspection and copying subject to the conditions established by the Register under subsection (C).

“(C) The Register shall by regulation specify conditions for access under subsections (A) and (B) to the copies of databases deposited with the Copyright Office, including measures to safeguard any copyrights, trade secrets, or other legal rights of the depositor or its successor in interest.

“(3) EXCLUSION.—Deposit copies deposited with the Copyright Office pursuant to this section are not subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552.

“(h) EFFECTIVE DATE.—This section and section 1310(d) shall take effect one year from the date of the enactment of this Act.”

SEC. 4. STUDY REGARDING THE EFFECT OF THE ACT.

(A) IN GENERAL.—Not later than 5 years after the effective date of this Act, and every 10 years thereafter, the General Accounting Office, in consultation with the Register of Copyrights and the Department of Justice, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives, a report evaluating the effect of this Act.

(b) ELEMENTS FOR CONSIDERATION.—The study conducted under subsection (a) shall consider—

(1) The extent to which the ability of persons to engage in the permitted acts under this Act has been frustrated by contractual arrangements or technological measures,

(2) the extent to which information contained in databases that are the sole source of the information contained therein is made available through licensing or sale on reasonable terms and conditions;

(3) the extent to which the license or sale of information contained in databases protected under this Act has been conditioned on the acquisition or license of any other product or service, or on the performance of any action, not directly related to the license or sale;

(4) the extent to which the judicially-developed doctrines of misuse in other areas of the law have been extended to cases involving protection of databases under this Act;

(5) the extent, if any, to which the provisions of this Act constitute a barrier to entry, or have encouraged entry into, a relevant database market;

(6) the extent to which claims have been made that this Act prevented access to valuable information for research, competition or innovation purposes and an evaluation of these claims;

(7) the extent to which enactment of this Act resulted in the creation of databases that otherwise would not exist; and

(8) such other matters necessary to accomplish the purpose of the report.

SEC. 5. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

“13 Misappropriation of Databases 1301”.

SEC. 6. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) DISTRICT COURT JURISDICTION.—Section 1338 of title 28, United States Code, is amended—

(1) in the section heading by inserting “misappropriations of databases,” after “trade-marks.”; and

(2) by adding at the end the following:

“(d) The district courts shall have original jurisdiction of any civil action arising under chapter 13 of title 17, relating to misappropriation of databases. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.”

(b) CONFORMING AMENDMENT.—The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting “misappropriations of database,” after “trade-marks.”.

(c) COURT OF FEDERAL CLAIMS JURISDICTION.—Section 1498(e) of title 28, United States Code, is amended by inserting “and to protections afforded databases under chapter 13 of title 17” after “chapter 9 of title 17”.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) PRIOR ACTS NOT AFFECTED.—No person shall be liable under chapter 13 of title 17, United States Code, as added by section 2 of this Act, for the extraction or use of all or a substantial part of a collection of information for which the investment of resources which qualified the collection of information for protection under this chapter occurred prior to the effective date of this Act.

REAUTHORIZATION OF THE DEPARTMENT OF JUSTICE

Mr. HATCH. Mr. President, I rise to discuss for the benefit of my colleagues a matter of great importance—consideration this Congress of legislation to reauthorize the Department of Justice.

It has been nearly two decades since Congress has passed a general authorization bill for the Department of Justice. It is in my view a matter of significant concern when any major cabinet department goes for such a long period of time without congressional reauthorization. Such lack of reauthorization encourages administrative drift, and permits important policy decisions to be made ad hoc through the adoption appropriations bills or special purpose legislation.

However, these concerns are amplified when the department in question is of such central importance to our national life as is the Department of Justice. The Department is entrusted critical duty of primary responsibility for the enforcement of our Nation’s

laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of federal criminal laws protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States Government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. And, among the Department's key duties is providing assistance and advice to state and local law enforcement.

The growing importance of the Department's role is demonstrated by the growth of its budget in the last two decades. In fiscal year 1979, the Department of Justice's budget was just \$2.538 billion, and represented one half of one percent of the federal government's \$559 billion budget. In fiscal year 1999, the Department of Justice's budget is more than seven times greater—an estimated \$18.2 billion, representing about 1 percent of the \$1.75 trillion federal budget.

As Chairman of the Judiciary Committee, I would like to advise my colleagues that a major priority of the committee this year will be the reauthorization of the Department of Justice. Last Congress, the Judiciary Committee reported a bipartisan, 3-year Justice Department reauthorization bill which was sponsored by myself and the distinguished ranking member, Senator LEAHY. Unfortunately, this legislation, which was similar to a bill passed by the House of Representatives, never received consideration by the full Senate.

In the next several weeks, I will reintroduce legislation to reauthorize the Department of Justice. The Judiciary Committee will redouble its efforts to address this important issue.

I look forward to continuing reports to my colleagues on the important issue of Department of Justice reauthorization, and to working with each of my colleagues on this matter.

WASHINGTON AND LEE UNIVERSITY—250TH ANNIVERSARY

Mr. WARNER. Mr. President I rise today to commemorate the 250th anniversary of Washington and Lee, an institution revered in Virginia and rooted in American history.

My first association with Washington and Lee came at the knee of my father, a 1903 alumnus. His deep sense of honor and integrity was indelibly linked to his days at Washington and Lee. Indeed, still today, Washington and Lee's strong honor system is the foundation of the moral standard that is the guiding principle at the university for its alumni.

As a student at Washington and Lee and even after my graduation in 1949, I

have had a keen interest and fascination with the history of the university. In 1749, Scottish-Irish pioneers founded Augusta Academy in the vicinity of what is now known as Lexington, Virginia. Fueled by a budding Revolution and a sense of patriotism, trustees of the academy changed its name to Liberty Hall in 1776.

In 1796, George Washington saved the struggling institution from possible demise with a gift of stock shares in the James River Company. At the time, this gift, which was valued at \$20,000, was the largest gift ever made to a private educational institution in America. Moreover, as part of the University's endowment, George Washington's gift has generated over \$500,000 of income and, to this day, helps pay part of the cost of every student's education.

In appreciation of Washington's gift, the trustees changed the school's name to Washington Academy in 1798. Washington responded: "To promote the Literature in this rising Empire, and to encourage the Arts, have ever been amongst the warmest wishes of my heart."

Following the Civil War, the Board of Trustees unanimously elected Confederate General Robert E. Lee as president in 1865. Initially, Lee was very hesitant about accepting the position. He feared his name would be forever linked to the Confederate cause, bringing embarrassment and hostility toward the school. However, after repeated urging by the trustees, Lee accepted and on September 18, he rode Traveler into Lexington to assume the presidency of Washington college.

During his tenure, Lee affiliated Lexington Law School with the college and institutionalized the school's unique honor system. He greatly emphasized the sciences and created courses in business and journalism that were among the first by any school in the United States. In appreciation for Lee's lasting contribution to the growth of the college, the trustees changed the school's name from Washington College to Washington and Lee University in 1870.

Mr. President, I ask that my colleagues join with me today, on Washington and Lee University Founder's Day, in tribute to the ninth oldest institution of higher learning in America.

BUDGET PROCESS REFORM

Mr. MCCAIN. Mr. President, today, I am pleased to sponsor three bills designed to improve the way Congress spends Americans' hard-earned dollars.

First, Senator DOMENICI and I and others are co-sponsoring legislation requiring Congress to adopt a biennial budget process. Second, Senator KYL and I are introducing a resolution to establish a 60-vote point of order

against any item in any appropriations measure that provides more than \$1 million for any program, project, or activity which is not specifically authorized in a law other than an appropriations act. Third, Senator KYL and I are introducing a resolution to establish a privileged, non-debatable motion to proceed to any appropriations measure after June 30 of any year.

As anyone who has followed Congress over the years knows, budget process reform is not new. It is often the subject of heated political debate. It has spawned numerous vigorous floor debates and been the subject of much controversy. Unfortunately, little in the way of substantive reform has ever been accomplished. Surely, after our experience with the fiscal year 1999 budget process, most in Congress would agree that budget process reform is an idea whose time has finally come. The time for rhetoric has passed, and the time for overall substantive reforms is here.

The power of the purse is vested in the Congress. However, the obligation to control the purse does not mean Congress do so with impunity or with disregard for the greater good of the Nation.

Since I came to Congress, I have spent a great deal of my time considering matters related to the budget. As critical as I have been of the Congressional budget process over the past 16 years, the monstrosity of a spending bill we passed last year took my outrage to new heights. This bill clearly illustrates that our budget process is flawed. If we had adequate controls on the budget process, the fiscal year 1999 omnibus appropriations bill would never have occurred.

The second session of the 105th Congress convened on January 27 and adjourned on October 21, 1998—a total of 266 calendar days in which Congress completed work on only 4 of the 13 regular appropriations bills that keep the federal government open and functioning. Yet it took us just 24 hours to debate and pass a 4,000-page, 40-pound, non-amendable, budget-busting omnibus appropriations bill that provided more than half-a trillion dollars to fund 10 Cabinet-level federal departments for the fiscal year that started 21 days prior.

The bill exceeded the budget ceiling by \$20 billion for what is euphemistically called emergency spending, much of which is really everyday, garden-variety, special interest, pork-barrel spending projects. Sadly, these projects are paid for by robbing billions from the budget surplus. This bill made a mockery of the Congress' role in fiscal matters. It was and still is a betrayal of our responsibility to spend the taxpayers' dollars wisely and enact laws and policies that reflect the best interests of all Americans, rather than the special interests of a few.