of S. 520, a bill to limit the jurisdiction of Federal courts in certain cases and promote federalism.

S. 521

At the request of Mrs. HUTCHISON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 521, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 542

At the request of Mr. DORGAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue code of 1986 to extend for 5 years the credit for electricity produced from certain renewable resources, and for other purposes.

S. 576

At the request of Mr. BYRD, the names of the Senator from California (Mrs. BOXER) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 601

At the request of Mr. CONRAD, the names of the Senator from Florida (Mr. NELSON), the Senator from Colorado (Mr. SALAZAR) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 642

At the request of Mr. FRIST, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Wyoming (Mr. THOMAS), the Senator from North Carolina (Mr. BURR), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 677

At the request of Mr. SANTORUM, the names of the Senator from Texas (Mr. CORNYN), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 677, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. CON. RES. 8

At the request of Mr. SARBANES, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States.

S. RES. 31

At the request of Mr. COLEMAN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week'' in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 82

At the request of Mr. ALLEN, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Nevada (Mr. ENSIGN), the Senator from Louisiana (Mr. VITTER), the Senator from Michigan (Ms. STABENOW), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 82, a resolution urging the European Union to add Hezbollah to the Eurpoean Union's wide-ranging list of terrorist organizations.

S. RES. 85

At the request of Mr. THOMAS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. Res. 85, a resolution designating July 23, 2005, and July 22, 2006, as ''National Day of the American Cowboy''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. HAGEL):

S. 689. A bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, communities within the State of New Mexico and throughout the country will soon be faced with a costly situation that was not of their making. Beginning in 2006, Federal drinking water regulations established by the EPA will require substantial reductions in the amount of arsenic present in that water. Today the limit is 50 parts per billion in 2006 it will be 10 parts per billion. Arsenic is indeed a poison when ingested at high amounts. It is also naturally occurring in much of the groundwater throughout the nation. Indeed, in Albuquerque, NM, the natural levels of arsenic are around 13 parts per billion. This illustrates the problem that the new standards will create.

The bill that I introduce today recognizes that in some parts of America, the burden will be too great for some communities to bear.

The bill does the following: (1) finds that small communities may not have the resources to meet the new arsenic standards and that Federal programs are not in place to address the issue; (2) creates a grant program for many small communities to help upgrade their water systems; (3) ensures that not less than 20 percent of the grant monies go to communities with less than 50,000 residents; and (4) authorizes appropriations of $1.9 billion for FY2006 and for each year through FY2011.

Let me tell you more about this problem. In New Mexico, the geology, the make up of the rocks and dirt, results in relatively high levels of arsenic in the groundwater. However, over time, New Mexico residents have not experienced higher levels of diseases associated with arsenic.

Be that as it may, the standard is in our future and many small communities throughout New Mexico and the west will not be able to meet the resulting financial burden. I am sure that if we have to fix our water plants to meet the EPA's new standards, some in villages of 100 people where they have a small water system and no other water source, it will create a significant financial burden. Because of this, I believe it is important to aid communities in meeting the coming standards.

The financial burden facing many communities and individuals is great. The new standards could cost New Mexico communities between $370 million and $440 million to improve treatment systems, plus $18 million a year in operating costs. Albuquerque, NM, is looking at having to spend up to $150 million to come into compliance; Rio Rancho is facing $60 million in improvements. Many small communities in New Mexico and throughout the west are facing increases in their water

bills of $50 to $90 a month per individual. I need not say that most people cannot afford such an increase.

Most of the technologies needed for water systems to remain in compliance with the new requirements are advanced and will require a significant increase in the level of training and expertise of the public water system operators in New Mexico and throughout the Nation. This legislation will help these communities in upgrading their systems and training their people.

We are forcing communities to comply with drinking water standards that many believe will not increase public health. The least we can do is help them meet the burden.

I ask unanimous consent that my statement and the text of the bill be printed in the RECORD.

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

S. 689

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 ''Community Drinking Water Assistance Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) drinking water standards proposed and in effect as of the date of enactment of this Act will place a large financial burden on many public water systems, especially those public water systems in rural communities serving small populations;

(2) the limited scientific, technical, and professional resources available in small communities complicate the implementation of regulatory requirements;

(3) small communities often cannot afford to meet water quality standards because of the expenses associated with upgrading public water systems and training personnel to operate and maintain the public water systems;

(4) small communities do not have a tax base for dealing with the costs of upgrading their public water systems;

(5) small communities face high per capita costs in improving drinking water quality;

(6) small communities would greatly benefit from a grant program designed to provide funding for water quality projects;

(7) as of the date of enactment of this Act, there is no Federal program in effect that adequately meets the needs of small, primarily rural communities with respect to public water systems; and

(8) since new, more protective arsenic drinking water standards proposed by the Clinton and Bush administrations, respectively, are expected to be implemented in 2006, the grant program established by the amendment made by this Act should be implemented in a manner that ensures that the implementation of those new standards is not delayed.

SEC. 3. ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS.

(a) DEFINITION OF INDIAN TRIBE.—Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300f(14)) is amended in the second sentence by striking ''1452,'' and inserting ''1452 and part G,''.

(b) ESTABLISHMENT OF PROGRAM.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

''PART G—ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS

''SEC. 1471. DEFINITIONS.

''In this part:

''(1) ELIGIBLE ACTIVITY.—

''(A) IN GENERAL.—The term 'eligible activity' means a project or activity concerning a small public water system that is carried out by an eligible entity to comply with drinking water standards.

''(B) INCLUSIONS.—The term 'eligible activity' includes—

''(i) obtaining technical assistance; and

''(ii) training and certifying operators of small public water systems.

''(C) EXCLUSION.—The term 'eligible activity' does not include any project or activity to increase the population served by a small public water system, except to the extent that the Administrator determines such a project or activity to be necessary to—

''(i) achieve compliance with a national primary drinking water regulation; and

''(ii) provide a water supply to a population that, as of the date of enactment of this part, is not served by a safe public water system.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small public water system that—

''(A) is located in a State or an area governed by an Indian Tribe; and

''(B)(i) if located in a State, serves a community that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be—

''(I) a disadvantaged community; or

''(II) a community that may become a disadvantaged community as a result of carrying out an eligible activity; or

''(ii) if located in an area governed by an Indian Tribe, serves a community that is determined by the Administrator, under affordability criteria published by the Administrator under section 1452(d)(3) and in consultation with the Secretary, to be—

''(I) a disadvantaged community; or

''(II) a community that the Administrator expects to become a disadvantaged community as a result of carrying out an eligible activity.

''(3) PROGRAM.—The term 'Program' means the small public water assistance program established under section 1472(a).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Indian Health Service.

''(5) SMALL PUBLIC WATER SYSTEM.—The term 'small public water system' means a public water system (including a community water system and a noncommunity water system) that serves—

''(A) a community with a population of not more than 200,000 individuals; or

''(B) a public water system located in—

''(i) Bernalillo or Sandoval County, New Mexico;

''(ii) Scottsdale, Arizona;

''(iii) Mesquite or Washoe County, Nevada; or

''(iv) El Paso County, Texas.

''SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the Administrator shall establish a program to provide grants to eligible entities for use in carrying out projects and activities to comply with drinking water standards.

''(2) PRIORITY.—Subject to paragraph (3), the Administrator shall award grants under the Program to eligible entities based on—

''(A) first, the financial need of the community for the grant assistance, as determined by the Administrator; and

''(B) second, with respect to the community in which the eligible entity is located, the per capita cost of complying with drinking water standards, as determined by the Administrator.

''(3) SMALL COMMUNITIES.—In making grants under this section, the Administrator shall ensure that not less 20 percent of grant funds provided for each fiscal year are used to carry out eligible activities in communities with a population of less than 50,000 individuals.

''(b) APPLICATION PROCESS.—

''(1) IN GENERAL.—An eligible entity that seeks to receive a grant under the Program shall submit to the Administrator, on such form as the Administrator shall prescribe (not to exceed 3 pages in length), an application to receive the grant.

''(2) COMPONENTS.—The application shall include—

''(A) a description of the eligible activities for which the grant is needed;

''(B) a description of the efforts made by the eligible entity, as of the date of submission of the application, to comply with drinking water standards; and

''(C) any other information required to be included by the Administrator.

''(3) REVIEW AND APPROVAL OF APPLICATIONS.—

''(A) IN GENERAL.—On receipt of an application under paragraph (1), the Administrator shall forward the application to the Council.

''(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving the recommendations of the Council under subsection (e) concerning an application, after taking into consideration the recommendations, the Administrator shall—

''(i) approve the application and award a grant to the applicant; or

''(ii) disapprove the application.

''(C) RESUBMISSION.—If the Administrator disapproves an application under subparagraph (B)(ii), the Administrator shall—

''(i) inform the applicant in writing of the disapproval (including the reasons for the disapproval); and

''(ii) provide to the applicant a deadline by which the applicant may revise and resubmit the application.

''(c) COST SHARING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of carrying out an eligible activity using funds from a grant provided under the Program shall not exceed 90 percent.

''(2) WAIVER.—The Administrator may waive the requirement to pay the non-Federal share of the cost of carrying out an eligible activity using funds from a grant provided under the Program if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

''(d) ENFORCEMENT AND IMPLEMENTATION OF STANDARDS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall not enforce any standard for drinking water under this Act (including a regulation promulgated under this Act) against an eligible entity during the period beginning on the date on which the eligible entity submits an application for a grant under the Program and ending, as applicable, on—

''(A) the deadline specified in subsection (b)(3)(C)(ii), if the application is disapproved and not resubmitted; or

''(B) the date that is 3 years after the date on which the eligible entity receives a grant under this part, if the application is approved.

''(2) ARSENIC STANDARDS.—No standard for arsenic in drinking water promulgated under this Act (including a standard in any regulation promulgated before the date of enactment of this part) shall be implemented or enforced by the Administrator in any State until the earlier of January 1, 2006 or such

date as the Administrator certifies to Congress that—

''(A) the Program has been implemented in the State; and

''(B) the State has made substantial progress, as determined by the Administrator in consultation with the Governor of the State, in complying with drinking water standards under this Act.

''(e) ROLE OF COUNCIL.—The Council shall—

''(1) review applications for grants from eligible entities received by the Administrator under subsection (b);

''(2) for each application, recommend to the Administrator whether the application should be approved or disapproved; and

''(3) take into consideration priority lists developed by States for the use of drinking water treatment revolving loan funds under section 1452.

''SEC. 1473. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $1,900,000,000 for each of fiscal years 2006 through 2011.''.

By Mr. DOMENICI:

S. 690. A bill to amend the Transportation Equity Act for the 21st Century to provide for the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce the ''American Indian Reservation Transportation Improvement Program Act.'' This act will provide the people of Indian Country with the resources they need to upgrade their decaying road system.

In 1982, when I served on the Senate Environment and Public Works Committee, several members of the Navajo Nation Tribal Council Committee on Transportation approached me with an interesting proposition. These Navajo Councilmen believed the time had come for Indian tribes to participate directly in our National Highway Trust Fund programs.

I agreed with these gentlemen, the Senate agreed with me, and the Congress and President Reagan approved Indian tribal participation in the U.S. Department of Transportation highway construction program for the first time in our Nation's history.

By the mid-1980s, Indian Reservation Roads, IRR, funding was at about $100 million per year nationwide. By the late 1980s, however, IRR funding fell to about $80 million per year. In the Intermodal Surface Transportation Efficiency Act, ISTEA, for the 1990s, we were able to raise this critical highway construction funding to about $190 million per year.

Then, in TEA–21, The Transportation Equity Act for the 21st Century, we succeeded in bringing annual IRR funding up to $275 million for fiscal years 1999 through 2003.

As we seek to promote economic opportunities on our Nation's tribal reservations, I believe it is imperative that we once again increase this vital infrastructure funding. I am aware that many groups have advocated for much greater increases in funding for Indian Reservation Roads. While I am sympathetic to the need for such large increases, I am keenly aware of competing needs around the country for medical research, economic stimulus, and for our national defense, to name just a few. Therefore, I am compelled to recommend increases for the IRR program that are more likely to win acceptance among my colleagues.

For highway construction, I am recommending an immediate increase of $55 million in the first year to a new total of $330 million. My bill would then increase the amount for construction by $30 million each year so that the program receives $480 million in the final year of the authorization. For the Indian bridge program, I am recommending $15 million per year, an increase of $6 million annually. And for state roads that serve as key bus routes for Indian children, primarily on our Nation's largest Indian reservation—the Navajo Nation—I am recommending increasing this vital funding from $1.5 million per year to $3 million to retroactively fund fiscal years 2004 and 2005, to $4 million in fiscal years 2006 and 2007, and $5 million for fiscal years 2008 and 2009.

My final recommendation is to create a rural transit program for Indian reservations. Because the Federal Highway Administration and the Federal Transit Administration each have their areas of expertise that can make such a program a success, my legislation will require the two agencies to work together for the benefit of the tribes who participate in this program. My suggestion is to fund this program at $20 million.

In closing, I thank the Navajo Nation Transportation Committee and the tribal transportation department for keeping me informed of their progress and continuing needs. I believe my bill will be a positive answer to their requests. In addition, the Pueblo Indians and Apache Indians of New Mexico have continuing development needs, including new and improved roads to reach their many attractions for tourists and other visitors.

I ask my colleagues to join me in increasing the Indian Reservation Roads program funds in our Federal highways programs to the degree I have requested in this bill. I thank my colleagues and urge their support for these increases as we reauthorize TEA–21 for 6 more years.

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

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

S. 690

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 ''American Indian Reservation Transportation Improvement Program Act''.

SEC. 2. INDIAN RESERVATION ROADS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking ''of such title'' and all that follows and inserting ''of that title—

''(i) $225,000,000 for fiscal year 1998;

''(ii) $275,000,000 for each of fiscal years 1999 through 2003;

''(iii) $330,000,000 for fiscal year 2004;

''(iv) $360,000,000 for fiscal year 2005;

''(v) $390,000,000 for fiscal year 2006;

''(vi) $420,000,000 for fiscal year 2007;

''(vii) $450,000,000 for fiscal year 2008; and

''(viii) $480,000,000 for fiscal year 2009.''.

(b) ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by inserting before the period at the end the following: '', $3,000,000 for each of fiscal years 2004 and 2005, $4,000,000 for each of fiscal years 2006 and 2007, and $5,000,000 for each of fiscal years 2008 and 2009''.

(c) INDIAN RESERVATION ROAD BRIDGES.—Section 202(d)(4)(B) of title 23, United States Code, is amended—

(1) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(2) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph—

''(I) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1; and

''(II) shall not be used to pay any administrative costs.''.

SEC. 3. INDIAN RESERVATION RURAL TRANSIT PROGRAM.

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) RESERVATION.—The term 'reservation' means—

''(i) an Indian reservation in existence as of the date of enactment of this subsection;

''(ii) a public domain Indian allotment; and

''(iii) an Indian reservation in the State of Oklahoma that existed at any time before, but is no longer in existence as of, the date of enactment of this subsection.

''(C) SECRETARY.—The term 'Secretary' means the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration.

''(2) PROGRAM.—The Secretary shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(3) COOPERATION.—The Secretary shall—

''(A) establish and maintain intra-agency cooperation between the Federal Highway Administration and the Federal Transit Administration in—

''(i) administering tribal transit programs funded by the Federal Highway Administration; and

''(ii) exploring options for the transfer of funds from the Federal Highway Administration to the Federal Transit Administration

for the direct funding of tribal transit programs; and

''(B) establish and maintain working relationships with representatives of regional tribal technical assistance programs to ensure proper administration of ongoing and future tribal transit programs carried out using Federal funds.

''(4) FUNDING.—Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338 for the fiscal year, the Secretary shall use $20,000,000 to carry out this subsection.''.

By Mr. DOMENICI:

S. 692. A bill to provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I am pleased today to be introducing the Bisti PRLA Dispute Resolution Act of 2005, which will resolve a conflict regarding coal mining leases in New Mexico and which will confirm the completion of all Navajo Nation land selections in New Mexico under the Navajo-Hopi Settlement Act. Arch Coal Company and the Navajo Nation have been deadlocked within the Department of the Interior appeals process regarding certain preference right lease applications, PRLAs, in the Bisti region of northwestern New Mexico. When enacted, this legislation will resolve a complex set of issues arising from legal rights the Arch Coal Company acquired in Federal lands, which are now situated among lands which constitute tribal property and the allotments of members of the Navajo Nation. Both Arch Coal and the Navajo Nation support this legislation to resolve the situation in a manner that is mutually beneficial. In addition, this legislation will serve to mandate the completion of a longstanding set of land selections the Navajo Nation made under the Navajo-Hopi Settlement Act. In 1984 amendments to that act, Congress provided the Navajo Nation with its final opportunity, within 18 months of passage of the amendments, to select lands in New Mexico as provided in section 11 of the Navajo-Hopi Settlement Act. The Navajo Nation exercised its rights under the 1984 Amendments, but since has sought to review, revise, and seek to select other lands to the potential detriment of mineral lessees holding leases on Federal public lands near the Navajo reservation. This legislation would clarify Congress's intent that the nation no longer has land selection rights available to it in New Mexico under the Navajo-Hopi Settlement Act.

There are many reasons the solution embodied in this bill achieves broad benefits to the interested parties and the public. It will resolve a longstanding conflict between the Navajo Nation and Arch Coal and allow the Navajo Nation to complete the land selections in New Mexico that were made in the 1980s to promote tribal member resettlement following the partition of lands in Arizona to the Hopi Tribe. Specifically, section 4(a)(1) will clarify and confirm that the Navajo Nation already has selected the lands to which it entitled under the Navajo-Hopi Settlement Act and has no further rights under that act to select lands in New Mexico other than those already selected by the Navajo Nation in the 1980s.

The bill also guarantees that Arch Coal, Inc. will be compensated for the economic value of its coal reserves. An independent panel will make recommendations to the Secretary of the Interior regarding the fair market value of the coal reserves, gives the company bidding rights, protects a State's financial interest in its share of Federal Mineral Leasing Act payments, and allows the Navajo Nation beneficial ownership in their lands.

The Secretary of the Interior will issue a certificate of bidding rights to Arch Coal upon relinquishment of its interests in the PRLAs. The amount of that certificate will equal the fair market value of the coal reserves as defined by the Department of the Interior's regulations. A panel consisting of representatives of the Department of the Interior, Arch Coal, and the Governors of Wyoming and New Mexico will help determine fair market value. While the Interior Department is authorized to exchange PRLAs for bidding rights, the Department has not done so, largely because of the difficulty it perceives in determining the fair market value of the coal reserves. The panel method in this legislation will promote the objectivity of that process.

Upon the relinquishment of the PRLAs and the issuance of a certificate of bidding rights, the Department of the Interior will execute patents to the Navajo Nation of the lands encompassed by the PRLAs. This is a win-win situation for all parties involved, is endorsed by the affected parties, and is a fair resolution to this ongoing problem.

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

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

S. 692

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 ''Bisti PRLA Dispute Resolution Act''.

SEC. 2. WITHDRAWAL OF COAL PREFERENCE RIGHT LEASE APPLICATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, if any of the coal preference right lease applications captioned NMNM 3752, NMNM 3753, NMNM 3754, NMNM 3755, NMNM 3835, NMNM 3837, NMNM 3918, NMNM 3919, NMNM 6802, NMNM 7235, and NMNM 8745 are withdrawn by the holder or holders of the applications, the Secretary of the Interior, acting through the Bureau of Land Management (referred to in this Act as the ''Secretary''), shall issue under section 4(a)(2) to each such holder or holders a certificate of bidding rights (in such form and manner as provided for under regulations promulgated by the Secretary under the Mineral Leasing Act (30 U.S.C. 181 et seq.)) that constitutes the combined fair market value, as determined under section 3, of the coal reserves for each coal preference right lease application withdrawn by the holder.

(b) RELINQUISHMENT.—The relinquishment of all rights associated with the coal preference lease applications withdrawn shall be effective on the date of the issuance of the certificate of bidding rights under section 4(a)(2).

(c) NO ADJUDICATION.—The withdrawals and issuances required under subsection (a) shall occur without any further adjudication of coal preference right lease applications by the Secretary.

SEC. 3. METHOD FOR DETERMINING FAIR MARKET VALUE.

(a) IN GENERAL.—Notwithstanding any other provision of law, this section shall apply to the issuance of a certificate of bidding rights under section 4(a)(2).

(b) VALUE OF COAL RESERVES.—

(1) IN GENERAL.—The fair market value of the coal reserves of any coal preference right lease application withdrawn under section 2(a) shall be determined by the panel established under paragraph (2).

(2) PANEL.—

(A) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a panel to determine the fair market value of the coal reserves of any coal preference right lease applications withdrawn under section 2(a).

(B) MEMBERSHIP.—The panel shall be composed of 3 representatives, of whom—

(i) 1 representative shall be appointed by the Secretary;

(ii) 1 representative shall be appointed by the holder of the preference right lease application; and

(iii) 1 representative shall be appointed by the Governor of the State of New Mexico.

(3) MINERAL APPRAISER.—The Secretary shall contract with a qualified coal reserve appraiser to assist the panel established under paragraph (2)(A) in determining the fair market value of a coal reserve.

(4) SUPPLEMENTAL INFORMATION.—In determining the fair market value of a coal reserve, the panel may supplement any information provided to the panel, as the panel determines to be appropriate.

(5) DETERMINATION.—Not later than 75 days after the date on which the panel is established under paragraph (2)(A), the panel shall submit to the Secretary the determination of the panel with respect to the fair market value of a coal reserve of any coal preference right lease application withdrawn by the holder.

SEC. 4. ISSUANCE OF BIDDING RIGHTS TO HOLDERS OF RELINQUISHED PREFERENCE RIGHT LEASE APPLICATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the withdrawal of a coal preference right lease application, the Secretary shall—

(1) accept the relinquishment of the rights associated with the coal preference right lease application; and

(2) issue a certificate of bidding rights in the amount of the fair market value determined under section 3.

(b) ENFORCEMENT.—The duties of the Secretary under this section shall be considered nondiscretionary and enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

SEC. 5. USE OF EXCHANGE BIDDING RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) a certificate of bidding rights issued under section 4(a)(2) shall—

(A) be subject to such procedures as the Secretary may establish pertaining to notice of transfer and accountings of holders and their balances;

(B) be transferable by the holder or holders of the certificate of bidding rights in whole or in part; and

(C) constitute a monetary credit that, subject to paragraph (2), may be applied, at the election of the holder or holders of the certificate of bidding rights, against—

(i) rentals, advance royalties, or production royalties payable to the Secretary under Federal coal leases; and

(ii) bonus payments payable to the Secretary in the issuance of a Federal coal lease or Federal coal lease modification under the coal leasing provisions of the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(2) in a case in which a certificate of bidding rights issued under section 4(a)(2) is applied by the holder or holders of the certificate of bidding rights as a monetary credit against a payment obligation under a Federal coal lease, the holder or holders—

(A) may apply the bidding rights only against 50 percent of the amount payable under the lease; and

(B) shall pay the remaining 50 percent as provided for under the lease in cash or cash equivalent.

(b) PAYMENT UNDER LEASE OBLIGATIONS.—Any payment of a Federal coal lease obligation by the holder or holders of a certificate of bidding rights issued under section 4(a)(2)—

(1) shall be treated as money received under section 35 of the Mineral Leasing Act (30 U.S.C. 191); but

(2) shall be credited and redistributed by the Secretary only as follows:

(A) 50 percent of the amount paid in cash or its equivalent shall be—

(i) distributed to the State in which the lease is located; and

(ii) treated as a redistribution under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(B) 50 percent of the amount paid through a crediting of the bidding rights involved shall be treated as a payment that is subject to redistribution under that section to the Reclamation and Miscellaneous Receipts accounts in the Treasury.

By Mr. DOMENICI (for himself, Mr. NELSON of Florida, Mr. SANTORUM, Mr. ENSIGN, Mr. MARTINEZ, Mr. ALLEN, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. BUNNING):

S. 691. A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation that will protect U.S. trademarks and their legitimate owners from the effects of the confiscations decreed by the Cuban Government.

My colleagues and I believe in the fundamental principle that property rights must be respected and that it is wrong for governments to take property from individuals and companies, whether nationals or foreigners, without payment of prompt, adequate and effective compensation. We uphold the firmly established principle of our law and public policy that foreign confiscatory measures must never be given effect on property situated in the United States.

When the Castro regime took power in Cuba, it engaged in a program of wholesale confiscation of property in Cuba, including property owned by Cuban nationals as well as by U.S. and other non-Cuban nationals. The Cuban Government also purported to extend the effects of the confiscation to property, such as trademarks, that the confiscation victims owned in other countries, and took other actions in an attempt to seize control of such assets.

To protect U.S. trademarks and their legitimate owners from the effects of the confiscations decreed by the Cuban government, Congress enacted Section 211 of H.R. 4328, PL 105–277, in 1998. This law, referred to as Section 211, prohibits enforcement of U.S. rights to trademarks confiscated by the Cuban Government, except with the consent of the legitimate owner. Section 211 simply made it clear that the universal U.S. policy against giving effect to foreign confiscations of U.S. property applies with equal force in the case of U.S. trademarks confiscated by Cuba.

Section 211 was challenged in the World Trade Organization, WTO, by the European Union, EU. In January 2002, the WTO appellate body finally resolved that challenge by finding in favor of the United States on all points except one. The appellate body made a narrow finding that, because Section 211 on its face does not apply to U.S. nationals, it is inconsistent with the national-treatment and most-favored-nation principles under the TRIPs Agreement. The appellate body fully supported the principle embodied in Section 211, that is, the non-recognition of uncompensated confiscations and the protection of intellectual property ownership rights. The revision required to broaden the application of Section 211 to include U.S. nationals amounts to no more than a minor, technical fix.

The legislation that I introduce today makes it clear that this well-founded law applies to all parties claiming rights in confiscated Cuban trademarks, regardless of nationality. Such a technical correction will satisfy the WTO ruling and prevent the EU from applying trade sanctions against the United States at the end of this year. Moreover, this legislation does three things: it maintains protection for original owners of confiscated Cuban trademarks; it applies to all people, regardless of nationality; and it clarifies that trademarks and trade names confiscated by the Cuban Government will not be recognized in the United States when the assertion is being made by someone who knew or had reason to know that the mark was confiscated.

This bill does not in any way decide which party owns a Cuban trademark in the U.S. nor does Section 211 prevent the Cuban Government or its various entities from having access to our courts or from registering legitimate trademarks in the U.S. As long as the trademark was not confiscated, the Cuban Government can legally register any trademark it desires. Moreover, even if the Cuban Government stole a trademark in the 1960s, it can still register the trademark in the U.S as long as the original owner has consented.

Once revised, Section 211 is consistent with all of our international treaty obligations including the Inter-American Convention on Trademarks. Article 3 of the Inter-American Convention expressly allows non-recognition of a trademark when such recognition would be contrary to the public order or public policy of the state in which recognition is sought. There is no doubt whatsoever that allowing title to U.S. property to be determined by a foreign confiscation violates U.S. public policy. Section 211 simply makes it clear that the universal U.S. policy against giving effect to foreign confiscations of U.S. property applies with equal force in the case of U.S. trademarks confiscated by Cuba. Nothing in any treaty or in international law is inconsistent with that rule of U.S. law.

I believe this piece of legislation is a simple technical corrections bill which will ensure that a fairly simple, but important, U.S. law is WTO-compliant.

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

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

S. 691

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

SECTION 1. MODIFICATION OF PROHIBITION.

Section 211 of the Department of Commerce and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277; 112 Stat. 2681–88) is amended—

(1) in subsection (a)(2)—

(A) by striking ''by a designated national''; and

(B) by inserting before the period ''that was used in connection with a business or assets that were confiscated unless the original owner of the mark, trade name, or commercial name, or the bonafide successor-in-interest has expressly consented'';

(2) in subsection (b), by striking ''by a designated national or its successor-in-interest'';

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting after subsection (c) the following:

''(d) Subsections (a)(2) and (b) of this section shall apply only if the person or entity asserting the rights knew or had reason to know at the time when the person or entity acquired the rights asserted that the mark, trade name, or commercial name was the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated.''; and

(5) in subsection (e), as so redesignated, by striking ''In this section:'' and all that follows through ''(2) The term'' and inserting ''In this section, the term''.

By Mr. CORNYN:

S. 693. A bill to provide for judicial review of national security letters issued to wire and electronic communications service providers; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, it has been nearly 4 years since the terrorist attacks of September 11, 2001. In the days, weeks, and months since that day, the American people have braced themselves for the possibility of another terrorist attack on our homeland. After all, we know all too well that al-Qaida is a stealthy, sophisticated, and patient enemy, and that its leadership is extremely motivated to launch another devastating attack on American soil and American citizens.

In fact, outside the United States, al-Qaida and affiliates of al-Qaida have continued to be enormously active, responsible for numerous terrorist attacks on foreign soil in the last few years:

2001 (Dec.): Man tried to denote shoe bomb on flight from Paris to Miami.

2002 (April): Explosion at historic synagogue in Tunisia left 21 dead, including 14 German tourists.

2002 (May): Car exploded outside hotel in Karachi, Pakistan, killing 14, including 11 French citizens.

2002 (June): Bomb exploded outside American consulate in Karachi, Pakistan, killing 12.

2002 (Oct.): Boat crashed into oil tanker off Yemen coast, killing one.

2002 (Oct.): Nightclub bombings in Bali, Indonesia, killed 202, mostly Australian citizens.

2002 (Nov.): Suicide attack on a hotel in Mombasa, Kenya, killed 16.

2003 (May): Suicide bombers killed 34, including 8 Americans, at housing compounds for Westerners in Riyadh, Saudi Arabia.

2003 (May): Four bombs killed 33 people targeting Jewish, Spanish, and Belgian sites in Casablanca, Morocco.

2003 (Aug.): Suicide car-bomb killed 12, injured 150 at Marriott Hotel in Jakarta, Indonesia.

2003 (Nov.): Explosions rocked a Riyadh, Saudi Arabia housing compound, killing 17.

2003 (Nov.): Suicide car-bombers simultaneously attacked two synagogues in Istanbul, Turkey, killing 25 and injuring hundreds.

2003 (Nov.): Truck bombs detonated at London bank and British consulate in Istanbul, Turkey, killing 26.

2004 (March): Ten terrorists bombs exploded almost simultaneously during the morning rush hour in Madrid, Spain, killing 202 and injuring more than 1,400.

2004 (May): Terrorists attacked Saudi oil company offices in Khobar, Saudi Arabia, killing 22.

2004 (June): Terrorists kidnapped and executed American Paul Johnson, Jr., in Riyadh, Saudi Arabia.

2004 (Sept.): Car bomb outside the Australian embassy in Jakarta, Indonesia, killed nine.

2004 (Dec.): Terrorists enter the U.S. Consulate in Jiddah, Saudi Arabia, killing nine (including 4 attackers).

It is precisely because al-Qaida is so aggressive, so motivated, and so demonstrably hostile to America, that I am so grateful that, to date, al-Qaida still has not successfully launched another terrorist attack on our own soil. There are undoubtedly many reasons for this. First and foremost, I am profoundly thankful to the brave men and women of our Armed Forces, who fight the terrorists abroad so that we do not have to face them at home. I also firmly believe that our efforts to strengthen anti-terrorism and law enforcement tools right here at home have much to do with this record of success and peace in our homeland to date.

It is within this important context that a Senate Judiciary Committee hearing tomorrow morning will commence a new round of discussions about the USA PATRIOT Act. As I explained in an op-ed published in the Washington Times just this morning, I welcome that hearing, because the American people deserve an honest, responsible, and fair discussion to ensure that we are indeed fulfilling our dual responsibilities to protect national security and civil liberties alike.

Unfortunately, the debate about the USA PATRIOT Act has not always met that standard. Last fall, just weeks before the Presidential election, we even witnessed false reports in newspapers across the country that a Federal court had struck down parts of the act as unconstitutional. False reports and scare tactics serve no legitimate cause and greatly disserve the American people.

The war on terrorism must be fought aggressively but consistently with the protection of civil rights and civil liberties. Whenever real civil liberties problems do arise, we must learn about them right away, so that we can fix them swiftly.

It is for precisely this reason that I have long been concerned about false allegations of civil rights deprivations. Every false allegation undermines every true allegation, and that hurts us all. After all, scaring people about false civil rights deprivations unnecessarily divides our Nation and makes no one safer. If anything, false claims about civil liberties actually make it harder to monitor real civil liberties issues in the future—for the same reason that eventually no one listened to the fabled little boy who kept ''crying wolf.''

After several weeks of negotiation, Congress in 2001 enacted the USA PATRIOT Act by overwhelming bipartisan margins—98–1 in the Senate and 357–66 in the House. At the time, Senators on both sides of the aisle agreed that the legislation had struck a careful and wise balance between national security and civil liberties.

The record continues to be strong to this day. As Senator DIANNE FEINSTEIN at a Senate Judiciary Committee oversight hearing during the last Congress, ''I have never had a single abuse of the PATRIOT Act reported to me. My staff e-mailed the ACLU and asked them for instances of actual abuses. They e-mailed back and said they had none.''

The ACLU did allege in a press release last September that a Federal court had struck down parts of the USA PATRIOT Act—calling the decision ''a landmark victory against the Ashcroft Justice Department.'' See *Doe* v. *Ashcroft*, 334 F. Supp. 2d 471 (S.D.N.Y. 2004). The litigation is currently on appeal.

Newspapers across the country immediately repeated the ACLU's message. But as legal experts immediately discovered, there were two important problems with the allegation: they were attacking the wrong person, and the wrong law.

In fact, the court had actually struck down a law authored by Senator PATRICK LEAHY during the 1980s. That statute balanced the national interest in protecting electronic communications privacy against the legitimate needs of national security, by establishing a procedure for obtaining electronic communications records in certain national security investigations through the use of so-called ''national security letters.'' The USA PATRIOT Act amended the law to make clear that such letters could be issued in terrorism investigations as well.

So the statute in question was written by LEAHY, not Ashcroft. And it was the Electronic Communications Privacy Act of 1986, not the USA PATRIOT Act in 2001. Indeed, the USA PATRIOT Act did not change a single word of any provision attacked by that court.

What's more, in 1986, the ACLU endorsed the Electronic Communications Privacy Act. And shortly after that law was approved by the Senate on a voice vote and the House by unanimous consent, the chief legislative counsel of the ACLU called it a ''significant advancement of privacy rights of citizens in the age of new communications technology.''

None of this stopped the ACLU in 2004, however, from charging that the court's ruling was ''the first to strike down any of the vast new surveillance powers authorized by the Patriot Act.''

The ACLU has since backed down and admitted that they had attacked the wrong law. As ACLU attorney Jameel Jaffer eventually conceded, ''the provisions that we challenged and that the court objected to were in the statute before the Patriot Act was passed. We could have raised the same objections before the power was expanded.'' Nevertheless, it hurts all of us whenever an allegation about civil liberties is discredited—because it makes it that much easier to ignore legitimate civil liberties problems that may arise in the future.

It's also worth noting that the primary controversy in the litigation—whether judicial review is available to scrutinize the issuance of national security letters—was not actually disputed by the government. To the contrary, the Justice Department agreed that there should be judicial review. The court simply concluded that the

1986 law was not drafted with sufficient clarity to authorize such review.

Today, I introduce legislation to cure this technical defect, and to amend the Electronic Communications Privacy Act to make explicit the availability of judicial review to examine national security letters. The legislation is entitled the Electronic Communications Privacy Judicial Review and Improvement Act of 2005. I ask unanimous consent that the text of the legislation, as well as a section-by-section analysis of the legislation prepared by my office, be printed in the RECORD.

I hope that this legislation will be enacted in the same bipartisan spirit that put both the Electronic Communications Privacy Act and the USA PATRIOT Act on the books. And I hope that future discussions about the war on terrorism, civil liberties, and the USA PATRIOT Act will be honest, responsible, and fair.

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

S. 693

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 ''The Electronic Communications Privacy Judicial Review and Improvement Act of 2005''.

SEC. 2. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended—

(1) by striking ''A wire or electronic communication service provider'' and inserting the following:

''(1) IN GENERAL.—A wire or electronic communication service provider''; and

(2) by adding at the end the following:

''(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court to modify or set aside the request. Any such motion shall state the grounds for challenging the request with particularity. The court may modify or set aside the request if compliance would be unreasonable or oppressive.''.

(b) NONDISCLOSURE.—Section 2709(c) of title 18, United States Code, is amended—

(1) by striking ''No wire or electronic communication service provider'' and inserting the following:

''(1) IN GENERAL.—No wire or electronic communication service provider''; and

(2) by adding at the end the following:

''(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court challenging the nondisclosure requirement under paragraph (1). Any such motion shall state the grounds for challenging the nondisclosure requirement with particularity.

''(3) STANDARD OF REVIEW.—The court may modify or set aside such a nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. In reviewing a nondisclosure requirement, the certification by the Government that the disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.''.

SEC. 3. ENFORCEMENT OF NATIONAL SECURITY LETTERS.

Section 2709(a) of title 18, United States Code, as amended by section 2(a), is further amended by adding at the end the following:

''(3) ENFORCEMENT OF REQUESTS.—The Attorney General may seek enforcement of a request under subsection (b) in an appropriate United States district court if a recipient refuses to comply with the request.''.

SEC. 4. DISCLOSURE OF INFORMATION.

(a) SECURE PROCEEDINGS.—Section 2709 of title 18, United States Code, as amended by sections 2 and 3, is further amended—

(1) in subsection (a), by adding at the end the following:

''(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App).''; and

(2) in subsection (c), by adding at the end the following:

''(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App).''.

(b) DISCLOSURE TO NECESSARY PERSONS.—Section 2709(c)(1) of title 18, United States Code, as amended by section 2(b)(1), is further amended—

(1) by inserting after ''any person'' the following: '', except for disclosure to an attorney to obtain legal advice regarding the request or to a persons to whom disclosure is necessary in order to comply with the request,''; and

(2) by adding at the end the following: ''Any attorney or person whose assistance is necessary to comply with the request who is notified of the request also shall not disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.''.

SECTION-BY-SECTION ANALYSIS

THE ELECTRONIC COMMUNICATIONS PRIVACY JUDICIAL REVIEW AND IMPROVEMENT ACT OF 2005

The Electronic Communications Privacy Act of 1986 strikes a balance between the important national interest in electronic communications privacy and the legitimate needs of national security and law enforcement. It generally forbids nonconsensual, unauthorized disclosures of private electronic communications by communications providers, while authorizing the Federal Bureau of Investigation to issue so-called ''national security letters'' under certain conditions in order to obtain certain kinds of communications records from such providers. The original 1986 law authorized national security letters in foreign counterintelligence investigations; section 505 of the USA PATRIOT Act amended the 1986 Act to explicitly permit the issuance of such letters in international terrorism investigations as well.

The 1986 Act was authored by U.S. Senator Patrick Leahy and approved by the Senate on a voice vote and the House by unanimous consent. It was endorsed by a number of organizations, including civil liberties and privacy advocates. The ACLU's chief legislative counsel and director of its project on technology and privacy called the legislation a ''significant advancement of privacy rights of citizens in the age of new communications technology,'' according to a December 5, 1986 article in the Christian Science Monitor.

The national security letter provision of the Electronic Communications Privacy Act of 1986 has recently been challenged in federal court. During the course of the litigation, Justice Department attorneys agreed that there should be judicial review of national security letters, and argued that current law already provides for such review. Nevertheless, last September a federal district court in New York struck down the Electronic Communications Privacy Act as unconstitutional because it does not explicitly authorize judicial review. See *Doe* v. *Ashcroft*, 334 F. Supp. 2d 471 (S.D.N.Y. 2004). This litigation—which is currently on appeal—presents an important legal dispute concerning whether the Electronic Communications Privacy Act implicitly provides for judicial review of national security letters. It may be helpful for Congress to enact an explicit provision authorizing judicial review, to avoid any ambiguity and to provide clearer guidance to national security letter recipients and parties in litigation in the future.

Accordingly, the Electronic Communications Privacy Judicial Review and Improvement Act of 2005 responds to the *Doe* v. *Ashcroft* litigation by establishing an explicit judicial review provision for national security letters.

Section 1. Short title.

Section 2. Judicial review. This provision explicitly authorizes a recipient of a national security letter to seek judicial review in federal court to prevent enforcement of the letter. The provision states that a court may modify or set aside the national security letter if compliance would be unreasonable or oppressive—the same standard that governs grand jury subpoenas. See Federal Rule of Criminal Procedure 17(c)(2). Courts have made clear that, under this standard, requests must be relevant to the underlying investigation. See, e.g., *U.S.* v. *R. Enterprises Inc.*, 498 U.S. 292, 301 (1991) (requiring ''reasonable possibility that the category of materials the Government seeks will produce information relevant to the general subject of the grand jury's investigation'').

This provision also explicitly authorizes a recipient at any time to seek judicial review in federal court to set aside the nondisclosure requirement imposed by the original 1986 law. The 1986 Act forbids recipients from disclosing to any person that the FBI has issued the national security letter. This bill provides that a court may modify or set aside the nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The provision also provides that, in reviewing a nondisclosure requirement, the certification by the Government that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.

Section 3. Enforcement of national security letters. This provision authorizes the Attorney General to seek enforcement of a national security letter in federal court if a recipient refuses to comply.

Section 4. Disclosure of information. This provision establishes that the judicial review proceedings established by this bill may be secured against disclosure pursuant to the provisions of the Classified Information Procedures Act.

This provision also makes clear that the nondisclosure requirement of the 1986 law does not forbid conversations with the recipient's attorney to obtain legal advice regarding the request, nor does it forbid conversations with persons to whom disclosure would be necessary to comply with the request. All participants in such conversations

are forbidden from disclosing the existence of the national security letter, consistent with the requirements of the original 1986 law.

By Mr. COLEMAN:

S. 694. A bill to amend the Workforce Investment Act of 1998 to provide for a job training grant pilot program; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today be printed in the RECORD.

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

S. 694

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

SECTION 1. JOB TRAINING GRANT PILOT PROGRAM.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by striking subsection (d) and inserting the following:

''(d) JOB TRAINING GRANT PILOT PROGRAM.—

''(1) IN GENERAL.—

''(A) GRANTS.—The Secretary shall provide grants to qualified job training programs as follows:

''(i) PLACEMENT GRANTS.—Grants in an amount to be determined by the Secretary shall be provided to qualified job training programs upon placement of a qualified graduate in qualifying employment.

''(ii) RETENTION GRANTS.—An additional grant in an amount to be determined by the Secretary shall be provided to qualified job training programs upon retention of a qualified graduate in qualifying employment for a period of 1 year.

''(B) DETERMINATION.—In determining the amount of the grants to be provided under subparagraph (A), the Secretary shall consider the economic benefit received by the Government from the employment of the qualified graduate, including increased tax revenue and decreased unemployment benefits or other support obligations.

''(2) QUALIFIED JOB TRAINING PROGRAM.—For purposes of this subsection, a qualified job training program is 1 that—

''(A) is operated by a nonprofit or for-profit entity, partnership, or joint venture formed under the laws of—

''(i) the United States or a territory of the United States;

''(ii) any State; or

''(iii) any county or locality;

''(B) offers education and training in—

''(i) basic skills, such as reading, writing, mathematics, information processing, and communications;

''(ii) technical skills, such as accounting, computers, printing, and machining;

''(iii) thinking skills, such as reasoning, creative thinking, decision making, and problem solving; and

''(iv) personal qualities, such as responsibility, self-esteem, self-management, honesty, and integrity;

''(C) provides income supplements when needed to eligible participants (defined for purposes of this paragraph as an individual who meets the criteria described in subparagraphs (A) through (C) of paragraph (3)) for housing, counseling, tuition, and other basic needs;

''(D) provides eligible participants with not less than 160 hours of instruction, assessment, or professional coaching; and

''(E) invests an average of $10,000 in training per graduate of such program.

''(3) QUALIFIED GRADUATE.—For purposes of this subsection, a qualified graduate is an individual who is a graduate of a qualified job training program and who—

''(A) is 18 years of age or older;

''(B) had in either of the 2 preceding taxable years Federal adjusted gross income not exceeding the maximum income of a very low-income family (as defined in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2))) for a single individual; and

''(C) has assets of not more than $10,000, exclusive of the value of an owned homestead, indexed for inflation.

''(4) QUALIFYING EMPLOYMENT.—For purposes of this subsection, qualifying employment shall include any permanent job or employment paying annual wages of not less than $18,000, and not less than $10,000 more than the qualified graduate earned before receiving training from the qualified job training program.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 93—RELATIVE TO THE DEATH OF HOWELL T. HEFLIN, FORMER UNITED STATES SENATOR FOR THE STATE OF ALABAMA

Mr. REID (for himself, Mr. FRIST, Mr. SHELBY, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

S. RES. 93

Whereas Howell Heflin served as a United States Marine from 1942–1946 and was awarded the Silver Star for bravery;

Whereas Howell Heflin served as Chief Justice of the Alabama Supreme Court from 1971–1977;

Whereas Howell Heflin served the people of Alabama with distinction for 18 years in the United States Senate; and

Whereas Howell Heflin served the Senate as Chairman of the Select Committee on Ethics in the ninety-sixth and one hundredth to one hundred-second Congresses;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Howell T. Heflin, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Howell T. Heflin.

SENATE RESOLUTION 94—HONORING POPE JOHN PAUL II

Mr. BROWNBACK (for himself, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mrs. CLINTON, Mr. CORNYN, Mr. DEMINT, Mr. DOMENICI, Mr. ENZI, Mr. GRASSLEY, Mr. KERRY, Mr. KOHL, Mr. MARTINEZ, Mr. THUNE, Mr. DURBIN, and Mr. NELSON of Nebraska) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 94

Whereas His Holiness, Pope John Paul II, was born Karol Jozef Wojtyla in Wadowice, Poland, on May 18, 1920, the youngest of 3 children, born to Karol Wojtyla and Emilia Kaczorowska;

Whereas Pope John Paul II personally suffered and experienced deprivation from an early age, losing his mother, eldest brother, and father before turning age 21;

Whereas Pope John Paul II found comfort and strength in the example of his father's faith, of whom he observed ''after my mother's death, his life became one of constant prayer. Sometimes I would wake up during the night and find my father on his knees . . . his example was in a way my first seminary'';

Whereas, in 1939, Pope John Paul II was enrolled in Jagiellonian University in Cracow, which was closed by the Nazis during their occupation of Poland;

Whereas Pope John Paul II experienced the brutality of a godless totalitarian regime, which sought to eradicate the history and culture of a proud people and sent many of his professors, friends, and millions of Polish Jews to camps where they were systematically murdered;

Whereas, in 1942, Pope John Paul II was himself arrested by Nazi occupation forces, but his life was spared because of his employment at a limestone quarry, work deemed essential to the war effort;

Whereas Pope John Paul II courageously defied the Nazi occupation forces, risking his own life to protect Polish Jews from persecution, helping to organize the underground ''Rhapsodic Theatre'', which he intended to be ''a theatre . . . where the national spirit will burn'', writing two religious plays considered subversive to the Nazi regime, and enrolling in the clandestine seminary of Archbishop Sapieha of Cracow, where he studied religion, theology, and philosophy;

Whereas the Nazi occupation of Poland was ended only by the imposition of a Communist era of occupation that sought to subjugate Polish citizens, extinguish Polish nationalism, and subjected the exercise of individual religious liberty to the control of godless Stalinist rulers;

Whereas, in 1946, Pope John Paul II was ordained, later becoming a Professor of Ethics and Chaplain at the Catholic University of Lublin, the only Catholic university behind the Iron Curtain, where he, again at great personal risk, initiated activities that helped to preserve the intellectual, cultural, and historical richness of his homeland and protected the integrity and independence of the Catholic Church in Poland;

Whereas Pope John Paul II was an articulate and outspoken advocate for religious freedom and Christian humanism at Vatican Council II, asserting that the Church could not claim religious liberty for itself unless it was willing to concede it to others;

Whereas Pope John Paul II, upon returning to his homeland, frequently cited the Council's declaration that religious freedom was ''the first of human rights'', a phrase embraced by Polish Catholics in their struggle against the hegemony of the Communist regime;

Whereas, on October 16, 1978, Pope John Paul II was elected the 264th Pope, making history by becoming the first-ever Slavic Pope and the first non-Italian Pope in more than 400 years;

Whereas Pope John Paul II served for over 26 years as Bishop of Rome and Supreme Pastor of the Catholic Church, and as the spiritual leader of more than 1,000,000,000 Catholic Christians around the world, including more than 66,000,000 Catholic Christians in the United States;

Whereas Pope John Paul II served the third-longest pontificate, behind only Saint Peter, who served as Pope for over 34 years, and Blessed Pius IX, who served for over 31 years;