The PIRATE Act is another important effort in this fight. It provides alternative civil enforcement, authority. When a U.S. Attorney's Office sees a need for enforcement, but determines that a criminal case is not justified, the PIRATE Act would afford the Government a civil law route and civil law remedies. There are times when civil proceedings and remedies are more appropriate. Until we enact the PIRATE Act, they are unavailable. Presently, very few criminal cases are brought and no civil cases can be brought by the Government for these violations of Federal law. When you consider that the copyright industry employs over 11 million people in the United States, hamstringing the Federal Government by limiting it to criminal enforcement is unthinkable.

The Justice Department has appropriately refocused many resources of the FBI and the Criminal Division on preventing and investigating terrorism cases, leaving even fewer resources for protecting the intellectual property that is such a critical economic engine in this country. The PIRATE Act will enable other resources, outside the Criminal Division of the Justice Department and U.S. Attorney's Offices, to help protect intellectual property. This bill removes legal obstacles to the Justice Department's effective use of the resources it has at its disposal to fight piracy. The Attorney General should be fighting for this initiative. Unfortunately, the Bush administration and its Attorney General are missing in action.

The logic of the PIRATE Act and the reasoned approach it takes to Government enforcement of intellectual property rights is compelling. Consider that during this divisive session of Congress in which partisanship was pervasive, the Senate Judiciary Committee and the Senate passed the PIRATE Act without a single dissenting voice.

I urge the Bush administration to get with the program. If you want to talk the talk and pretend to support the protection of intellectual property rights, then walk the walk and work to clear the Republican opposition so that Congress can enact the PIRATE Act. Then use that authority as appropriate to help end the theft of intellectual property that is an enormous drag on our economy and so unfair to the artists who created the works by which others illegally profit.

The Ashcroft Justice Department issued a veto threat to the SAFE Act before a single hearing and before any markup of that legislative proposal. The PIRATE Act has passed the Senate and we still await the first word from the Justice Department providing its views on this legislation. The lack of support for enactment of civil enforcement tools by the Department of Justice is most revealing.

NOMINATION OF DR. FRANCIS JOSEPH HARVEY TO BE SECRETARY OF THE ARMY

Mr. SPECTER. Mr. President, I have sought recognition to recommend that Francis Joseph Harvey, of California, confirmed to be Secretary of the Army. I met with Secretary Harvey on October 5, 2004 in my office. I found Secretary Harvey to be not only very well qualified, but also to have a great deal of enthusiasm for the task ahead. I was particularly impressed with Secretary Harvey's background. He was born and educated in Pennsylvania. His mother still resides in Latrobe, PA.

Mr. Harvey is currently serving as Assistant Secretary of Defense for Networks and Information Integration. Prior to his nomination by the Army, he served as vice chairman of Duratek, Inc. in Columbia, MD, and has served as the chief operating officer of the Industries and Technology Group for Westinghouse Electric Corporation where he earlier served as president of the Electronic Systems Group and as president of the Government and Environmental Service Company. Dr. Harvey earned his bachelor's degree from the University of Notre Dam and his Ph.D. from the University of Pennsylvania.

Pennsylvania has a rich Army tradition. Pennsylavnia is home to several bases, and the Army War College and Military History Institute at Carlisle Barracks.

If confirmed, Secretary Harvey will no doubt apply his expertise, energy, and enthusiasm to serve the soldiers of the United States Army and our country with distinction.

SATELLITE HOME VIEWER ACT

Mr. LEAHY. Mr. President, I am very upset that the Congress has been unable to pass legislation to prevent the termination of satellite television service to hundreds of thousands households in the United States. In September, I raised these concerns on the Senate floor in the hope of preventing these potential terminations of satellite service. The Senate Judiciary Committee got its job done in June. We reported out a great satellite television bill which would have expanded viewing options for satellite dish owners. The other body has also developed a very good satellite bill which I shall discuss in a moment.

However, history may repeat itself because Congress has not completed action on this legislation. I explained my concerns on the Senate floor when I reminded everyone that in ''1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite televisions network stations.''

These terminations of satellite service will begin just after midnight on December 31, 2004. The problem is that the Congress will be out of session during most of the time between now and that termination date. If we are in session for a small portion of that time, it will most likely be during a lame duck session of Congress after the November elections. There will be very little time to enact this satellite bill with the huge press of business yet to be completed.

Many Midwestern and Rocky Mountain states have vast areas where satellite dish owners receive network stations, such as ABC, NBC, CBS or Fox, from out-of-state stations because signals from their local stations are blocked by mountains or diminished by distance from TV broadcast towers. Thousands of these families do not have any other way to receive television signals except by satellite. They do not have access to TV stations over-the-air because mountain terrain blocks those signals, and distance from the broadcast towers weakens the signals. Many residents in those states do not have access to cable TV service because of the rough terrain or the low population density which makes it economically difficult for cable companies to invest in the needed cables. Without access to network stations via satellite because the satellite legislation did not pass, and because they do not receive service over-the-air, or via cable, thousands of families in those areas will lose national network service.

Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Hatch-Leahy Satellite Home Viewer Extension Act of 2004 was approved by the Senate Judiciary Committee in June. All the Members of the Judiciary Committee supported that bill. Similar legislation in the other body entitled the Satellite Home Viewer Extension and Reauthorization Act of 2004, if enacted, would also be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America. Unfortunately, the time is rapidly approaching when it will be too late to act.

I am especially pleased that both the Senate and the House, H.R. 4518, bills contain a provision which I worked on with my colleagues from New Hampshire, Senator SUNUNU and Senator GREGG. We, along with Senator JEFFORDS, introduced legislation to ensure that satellite dish owners in every county in each of our States would be able to receive signals, via satellite, from our respective in-State television stations. While our two States represent a small television market as compared to some of the major population centers, this provision is nonetheless very important to residents in six of our collective counties two in Vermont and four counties in New Hampshire. The Senate bill, S. 2013, as reported in June by the Judiciary Committee also contains this provision, which was just included in H.R. 4518, the House bill.

In Vermont this will mean if one of these bills passes—that satellite dish owners in Bennington and Windham Counties will be able to receive all Vermont network stations in addition to the out-of-State network stations they now receive.

The Senate bill was introduced on January 21, 2004, by Chairman HATCH and was cosponsored by myself and Senators DEWINE and KOHL. When the bill was reported out of committee on June 17, 2004, I noted that the bill does far more than just protect satellite dish owners from losing signals. I pointed out that the new satellite bill ''protects subscribers in every state, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.''

I continued by saying that, ''easily, this bill will benefit 21 million satellite television dish owners throughout the Nation, and I am happy to note that over 85,000 of those subscribers are in Vermont.''

The Senate Judiciary Committee-reported bill, and the recently passed bill H.R. 4518, go far beyond protecting what current subscribers receive. As I mentioned in a September statement on the Senate floor, the bills allow additional programming via satellite through adoption of the so-call ''significantly viewed'' test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from ''nearby'' stations outside that area, those cable operators could offer those station signals in that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular rooftop antenna, then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

Mr. President, I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

AUTHORIZATION FOR LIHEAP

Mr. FEINGOLD. Mr. President, as the Nation faces crude oil prices of over $53 per barrel, the Federal Government must commit to helping families fight high home heating oil costs. This week, the Milwaukee Journal Sentinel projected that home heating oil costs will increase by 18 percent this winter. Despite the higher energy costs consumers will face this winter, States are reducing benefit levels in order to try to serve an increased number of households. Congress must act now to help low-income families and the elderly pay for high home heating costs.

To combat these high prices, I urge my colleagues to support a bill introduced today by the Senator from Vermont, Mr. JEFFORDS, to extend and increase the authorization of the Low Income Home Energy Assistance Program, LIHEAP. LIHEAP provides a vital safety net for our Nation's low-income households, who spend approximately 17 percent of their annual income on residential energy costs. Last winter, my home State of Wisconsin received more than $40 million in Low Income Energy Assistance and the program served over 112,656 Wisconsin households. I strongly support extending the LIHEAP program and efforts to increase the authorization to $3.4 billion each year to ensure that low-income families and the elderly have this crucial support to heat their homes. I urge my colleagues to support and pass this important legislation as soon as possible.

SUPPORT OF ENERGY SAVINGS PERFORMANCE CONTRACTS

Mr. DORGAN. Mr. President, I rise to thank members of the Defense Authorization Committee for addressing the Energy Savings Performance Contract, ESPC, program. Not only did the conference adopt the Senate position on the importance of this program, they went a step further and extended the program through 2006. Getting this reauthorization has been a long process and unfortunately one that will need to be revisited during the next Congress. We could have avoided this situation by simply providing a permanent authorization for the program, but since we didn't, I believe we should focus on this issue at the beginning of the next Congress instead of waiting until the contracting authority runs out in 2006.

I want to take a moment of the Senate's time to explain to my colleagues the importance of energy savings performance contracts. Energy Savings Performance Contracts allow Federal agencies to enter into unique contracts through which private companies provide energy-efficiency improvements in Federal buildings. What makes these contracts unique is that the private companies are reimbursed for these improvements only through the resulting stream of savings on that Federal agency's energy bill. Simply put, if there are no savings, then there are no payments. The Federal Government owns the energy efficiency improvements, but pays for these improvements through actual energy savings achieved. The Government retains the monetary value equivalent of any savings that exceed the payments to the private company during the duration of the contract and then retains all energy savings once the contract is complete. Importantly, the Federal agency pays no upfront capital costs for the upgrade.

The authority to enter into these contracts expired last year. To ensure continuation of the program, several of us in the Senate worked to include renewal authority in the comprehensive energy bill. Unfortunately, that extension authority was removed from the modified version of the energy legislation introduced by the majority leader. One of the main reasons for this deletion was because the CBO has assigned a significant revenue impact to continuation of the program. This scoring occurred even though the private sector energy efficiency providers are required by law to guarantee the energy savings and thus provide no net cost to the Treasury. Let me say this again, unless there are savings, the Government owes nothing. CBO's interpretation of how to score these contracts may be in line with the literal meaning of the Budget Act, but it certainly is not in line with the spirit of the act. By allowing these private sector companies to work with the Federal Government on installing energy efficiency measures, an enormous service is being provided. We are saving energy; the Government is not required to pay up front costs; and at the end of the day, the Government and the American taxpayer gets the benefit of lower energy bills.

With passage of this short-term extension, the Senate must now turn its attention to passing a permanent extension. The start-stop program we have now is not conducive to getting these efficiency measures installed. During debate on the fiscal year 2005 budget resolution over 40 companies and associations signed a letter in support of the ESPC program. The signatures ranged from USPIRG to the Chamber of Commerce. There are not many instances when you have those two associations agreeing on a measure, so I believe the benefits of the program speak for itself.

In closing, I want to again thank members of the conference committee