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think his remarks: I've been right on target this evening. I know that may not be the hour for his comments, and they were not particularly well listened to, but I hope he will repeat them at a later date.

I visited one of our leading drug and alcohol treatment centers in this Nation a few weeks ago and talked to people there and know the trauma they have been through.

I think the Senator is right on target. Alcohol kills 25,000 people a year just on the highways of our country. Every 2 years, we equal all the slaughter of the Vietnam war—every 2 years.

The real answer to alcohol and drugs is not sealing our borders. It is as we get peer pressure not to use. We are only putting aside 10 percent of the money in this bill into education, in trying to get the peer pressure off us.

A little while ago, the distinguished Senator from Connecticut (Mr. Wicker) was talking about the need for $375 million, and I agree with Senator Wicker's comments on that. I submit that we might add that to what we did on the reconciliation bill last week. What a sham that was. We did everything else on the reconciliation bill; we might as well do this, too.

So there is no problem getting the money, after what we did last week.

I compliment the Senator for his remarks. I hope they are repeated in this Chamber when the audience is a little more receptive and when people across the country are watching. I think he was right on target.

AMENDMENT NO. 3065
(Purpose: To express the sense of Congress that the entertainment industry take certain steps to assist in the national war effort)

Mr. HARKIN. Mr. President, there is an amendment at the desk. I assume that it is going to be voted on and that there will be a rush of judgment to show our strength and determination to stop drug use. In that sense, I send to the desk an amendment in the name of a colleague.

THE PRESIDING OFFICER (Mr. MCCONNELL). The amendment will be stated.

The assistant legislative clerk reads as follows:

The Senator from Iowa (Mr. Harkin) proposes an amendment numbered 3065 to amendment numbered 3062.

On page 1115 of the bill, which is page 1 of the Appropriations Bill in conference committee, as inserted in lieu thereof, the following:

It is the sense of Congress that, whereas illegal drug consumption and alcohol consumption and the trafficking in those legal and illegal drugs is a major problem in the United States, whereas the problem of alcoholism is particularly prevalent among and harmful to the Nation's young people; and whereas the values and mores portrayed in various forms of mass entertainment have a profound effect on the attitudes of young people in this country, the entertainment and written media industries should voluntarily refrain from producing material meant for general or encouraging the use of illegal drugs and alcohol and the entertainment industry, in any way they can, to encourage the development of films, television programs, recordings and advertising which encourages the rejection of illegal drug usage and alcohol use.

Several Senators. Vote! Vote! Mr. DOMENICI. Mr. President, as I understand it, the amendment adds the written and adds alcohol wherever the Domenici amendment referred to the entertainment industry and drugs. I think the amendment is a good amendment. I accept it, and I hope the Senate will adopt this substitute.

Mr. THURMOND. Mr. President, we accept the amendment on this side.

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment: (No. 3065), as modified by amendment No. 3065 was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3066

Mr. LEAHY, Mr. President, I have an amendment on behalf of myself, Senator HATCH, and Senator DEDROW, which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk reads as follows:

The Senator from Vermont (Mr. Leahy), for himself, Mr. Harkin, and Mr. DEDROW, proposes an amendment numbered 3066.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 522(a) of the bill and insert in lieu thereof the following:

SEC. 522. CRIMINAL ORGANIZATIONS, FEES AND FEES SCHEDULES.

(a) Section 522 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) or (B), (A) the investigation or proceeding involves a possible violation of criminal law; and (B) there is reason to believe that (I) the subject of the investigation or proceeding is not aware of its pending, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Senate during only such time as that circumstance continues, treats the records as not subject to the requirements of this section.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence (as defined in Executive Order 13333), or international terrorism (as defined in the Foreign Intelligence Surveillance Act), and the existence of the records is classified information as provided in subsection (b)(7)(A), the Bureau may, so long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

"(d) Paragraph (4)(A) of section 522(e) of title 5, United States Code, is amended to read as follows:

"(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and public comment, for fixing the fees for the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(e) Such agency regulations shall provide that—

"(1) fees shall be limited to reasonable and customary charges for document search, duplication, and review, when records are requested for commercial use;

"(2) fees shall be limited to reasonable and customary charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is to promote scientific research, or a representative of the news media; and

"(3) any request not described in (1) or (2) fees shall be limited to the standard charges for document search and duplication.

"(f) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester, or a request is indicated and can demonstrate a compelling need for the documents.

"(g) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. No fee may be charged by any agency under this section.

"(1) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(2) if any request described in clause (ii)(I) or (ii)(III) of this subparagraph for the first one hundred pages of duplication.

"(h) No agency may require advance payment of any fee unless the requester has

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence (as defined in Executive Order 13333), or international terrorism (as defined in the Foreign Intelligence Surveillance Act), and the existence of the records is classified information as provided in subsection (b)(7)(A), the Bureau may, so long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

"(4) Paragraph (4)(A) of section 522(e) of title 5, United States Code, is amended to read as follows:

"(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and public comment, for fixing the fees for the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(e) Such agency regulations shall provide that—

"(1) fees shall be limited to reasonable and customary charges for document search, duplication, and review, when records are requested for commercial use;

"(2) fees shall be limited to reasonable and customary charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is to promote scientific research, or a representative of the news media; and

"(3) any request not described in (1) or (2) fees shall be limited to the standard charges for document search and duplication.

"(f) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester, or a request is indicated and can demonstrate a compelling need for the documents.

"(g) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. No fee may be charged by any agency under this section.

"(1) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(2) if any request described in clause (ii)(I) or (ii)(III) of this subparagraph for the first one hundred pages of duplication.

"(h) No agency may require advance payment of any fee unless the requester has
previously failed to pay fees in a timely fashion, the agency has determined that the fee will exceed $250.

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees in all.

(7)(i) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo provided that the court's review of the matter shall be limited to the record before the agency.

Mr. LEAHY. Mr. President, the bill contains language concerning release of law enforcement records under the Freedom of Information Act which passed the Senate in 1986. The language of our amendment addresses the problem which was the concern of the original proposers the use of FOIA by sophisticated criminal enterprises to learn about ongoing criminal investigations. It is a narrower and more acceptable to legitimate users of FOIA, especially the news media.

In addition, our amendment addresses fees for FOIA fees and fee waivers so that more of the costs of FOIA will be recouped, and at the same time relieve the news media of the high cost for access to Government records.

Mr. MATHIAS. Mr. President, will the Senator yield so that I may offer an amendment to the amendment?

Mr. LEAHY. I yield.

AMENDMENT NO. 3007

Mr. MATHIAS. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The amendment is printed in today's Record under "Amendments Submitted."

Mr. MATHIAS. Mr. President, today the Senate considers an amendment to the drug bill that embodies an important bill to enhance the privacy of Americans and update the provisions of the 1968 Wiretap Act—the Electronic Communications Privacy Act of 1983.

A measure similar to this amendment has already been approved by the House body. H.R. 4062 passed the House Judiciary Committee by a vote of 34 to 0. That bill passed the House by a voice vote on June 24. In the Senate, the Electronic Communications Privacy Act has been thoroughly considered. The Subcommittee on Trademarks and Copyrights held hearings last fall on an earlier version of this legislation. After House passage of H.R. 4062, I joined with Senator LEAHY to introduce an identical amendment S. 2978. With some modifications, that bill received the unanimous approval of the Subcommittee on Patents, Copyrights and Trademarks on August 12, and, with further improvements, was ordered reported by the full Judiciary Committee on September 19.

The revised version embodied in this amendment enjoys the active support of the Department of Justice, of numerous affected communications and computer businesses and trade associations, and of the American Civil Liberties Union.

I have given this thumbnail sketch of the history of this legislation in order to show that the problems addressed by this amendment have been thoroughly studied, and the solutions it proposes have been significantly refined, throughout the legislative process. In these closing days of the Congress, the 7th, perhaps before the Senate without the benefit of such careful scrutiny, I can assure the Senate this is an important bill.

As I mentioned earlier, this amendment enjoys the strong support of the Department of Justice. Currently, the 1968 Wiretap Act is operating under the 1968 Wiretap Act. Many vital law enforcement functions are unnecessarily inhibited because that act, written almost 20 years ago, does not anticipate the many changes in technology and business organization that have occurred over the past two decades.

For example, this amendment would provide the Department with clear authority to conduct so-called 'roving' wiretaps. Many drug dealers are sophisticated. They know that their phone could be tapped under an appropriate court order. Therefore, they do not use their own phones. They instead use public telephones—moving among several phones for their illicit business contacts. This amendment gives the 3rd circuit authority to obtain a court order to tap these phones and listen to these conversations. It recognizes that under carefully defined circumstances the court should be able to order the conversations of a particular person to be tapped rather than just those from a specific telephone.

The bill also clarifies the use of pen registers and trap and trace devices. Pen registers keep a record of all the phone numbers dialed from a particular phone. Trap and trace devices are similar, keeping track of the phone numbers from which all incoming telephone calls are placed. Pen registers have been in existence for many years, but effective and inexpensive trap and trace devices are of much more recent vintage and were not practical at the time the 1968 law was written. With the advent of the Wiretap System, the need has grown for uniform statutory rules covering these devices. This amendment provides explicit authori-