PAUL LAXALT is a valued friend and colleague. I know we shall miss him and that we all wish him well.

BARRY M. GOLDWATER: PROFILE IN CONSCIENCE

Mr. PELL. Mr. President, when the 100th Congress convenes next January one of our most colorful and forceful colleagues will be absent from the Senate Chamber. After 30 years of distinguished service in the Senate, BARRY M. GOLDWATER is retiring and returning to his native Arizona.

I have been privileged to serve with Senator GOLDWATER for the last 22 years of his service in this body. During that time I have grown to admire and respect his integrity, his passion for freedom and individual rights, and, above all, is candor and unsurpassed ability to "call them as he sees them."

BARRY GOLDWATER began his political career in 1949 when he was elected to the Phoenix City Council on a reform ticket. Three years later he pulled off one of the greatest political upsets in Senate history when he defeated Senate Majority Leader Ernest McFarland. In 1964, BARRY GOLDWATER took on another giant when he opposed incumbent President Lyndon B. Johnson. Although he was defeated in that election by a wide margin, he won the respect of the American people for his refreshingly candid style of political campaigning. Many of the concerns he raised in that campaign—and several of the more controversial positions he adopted—today represent the mainstream views of the American people. As he enjoys what I hope will be a long and healthy retirement, BARRY GOLDWATER will savor the knowledge that he was truly the political and ideological grandfather of the so-called Reagan Revolution of the 1980's.

It was after the 1964 presidential campaign that many Americans living and working abroad told BARRY GOLDWATER of their frustration in not being able to vote. When he returned to the Senate in 1969, BARRY GOLDWATER and I began to work on securing absentee voting rights for Americans temporarily living abroad. Our effort took 9 long years, but—as in every other task he approached in the Senate—BARRY GOLDWATER never gave up. I was privileged to serve as chairman of the Rules Committee, the authorizing committee for this legislation, when the Overseas Voting Rights bill became Public Law 95-593 in 1978.

Senator GOLDWATER capped his career in the Senate by serving as chairman of the Senate Armed Services Committee. No other role could have been more appropriate for BARRY GOLDWATER. He has served and loved the military throughout his entire life, beginning in 1930 when he was commissioned a second lieutenant in the Army infantry reserve. Following active duty service in World War II, Senator GOLDWATER organized the Air National Guard. In 1967, he retired as a major general in the U.S. Air Force Reserve. Every man and woman serving in uniform today owes a debt of gratitude to BARRY GOLDWATER and his unflinching commitment to improving our armed forces.

The range of BARRY GOLDWATER's career in the Senate reveals the diversity and depth of the man. He is a former member of the Senate Aeronautical and Space Sciences Committee and has devoted a great deal of time to aviation problems. He is known as Mr. Communications for his dedicated work on telecommunications legislation and tenure as chairman of the Communications Subcommittee of the Senate Commerce Committee. Senator GOLDWATER's keen interest in photography, centered on the beautiful landscapes of Arizona, prompted his work in protecting the environment and preserving the cultural contributions of native American Indians. He and I have had the pleasure of serving together on the Smithsonian Board of Regents.

Senator BARRY GOLDWATER is a man who has always loved his native land of Arizona and the other lands of the Southwest. His dedication to preserving individual freedoms is an outgrowth of his Southwestern background, his prominent business career before entering politics, and his happy and enriching family life, all of which have been sources of inspiration throughout his public service. BARRY GOLDWATER is not a Senator who will be easy to replace, and our deliberations next year will be diminished in the absence of his feisty and colorful spirit. My wife, Nuala, joins me in wishing BARRY GOLDWATER a long, healthy, and productive retirement in his beloved Arizona.

FREEDOM OF INFORMATION ACT CHANGES

Mr. HATCH. Mr. President, several sections of this important bill will make important changes in the Freedom of Information Act, particularly those which will considerably enhance the ability of Federal law enforcement agencies such as the FBI and the DEA to combat crime, including drug offenses.

At this juncture, the Senate has made three technical amendments in this part of the bill. First, we have restored the originally intended language of exemption 7(C) to provide that that exemption applies to information which "could reasonably be expected to" cause harm to personal privacy interests. This language comports with the other changes being made to other subparts of exemption 7 in this bill. It also is precisely the language that was contained in the earlier Senate-passed bill, S. 744, from which it was agreed all exemption 7 amendments would be taken for purposes of this bill.

Similarly, we have corrected the apparently inadvertent deletion of a phrase in the "review costs" portion of the bill, section 1803, subparagraph (4)(A)(iv). As corrected, the language now reads: "Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purpose of withholding any portions exempt from disclosure under this section." This language is precisely what was contained in the draft bill negotiated between the Justice Department and the staff of the House Subcommittee on Government Information, Justice and Agriculture this year, which I understand was what was intended to be employed for purposes of this bill and is certainly most appropriate.

Third, we have changed the effective date contained in section 1804(b)(1) of the bill to specify a more realistic 180-day effective date. This change is necessary to permit a more reasonable period of time in which the Office of Management and Budget and, in turn, Federal agencies, need promulgate new fee regulations. I am certain that no one in this body or in the other House intends that the assessment of any properly applicable FOIA fee be impaired by any difficulty or delay encountered in the development and promulgation of new fee regulations.

As Chairman of the Judiciary Committee's Subcommittee on the Constitution, which held primary responsibility for considering FOIA reform legislation during these past several years, and as a principal author of much of this bill's FOIA reform sections, I would like to emphasize several things about the nature of these important provisions and what they are intended to accomplish.

First, it is expected that the law enforcement provisions will greatly enhance the ability of all Federal law enforcement agencies to withhold additional law enforcement information necessary for them to maximize the effectiveness with which they perform their critical functions. As Representative TOM KINDNESS has already observed in the House, the important alterations to the language of exemption 7 that are made by this bill serve to modify the scope of this exemption. There should be no misunderstanding that, as they derive precisely from the provisions of S. 774, they are intended to broaden the reach of this exemption and to ease considerably a Federal law enforcement agency's burden in invoking it.

For example, I do think it should be noted particularly that the bill's substantial broadening of exemption 7(E) is designed to permit agencies to withhold without question all "guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circum-

vention of the law." As such, it will directly overrule any lingering effect of the D.C. Circuit's decision in *Jordan* v. *Department of Justice*, 591 F.2d 753 (D.C. Cir. 1978) (en banc). Because of the great sensitivity of such guidelines in the law enforcement context, and the very significant harm threatened to prosecutorial effectiveness if they were to be freely available under the FOIA, this important modification should be applied where necessary to protect critical law enforcement interests, regardless of the extent of their availability within the law enforcement community.

As for the additional law enforcement provisions of the bill, there likewise should be no misunderstanding that they will logically operate as exclusions—not as mere exemptions—to be applied whenever the special circumstances specified in them are found by the agency to exist. Thus, while the effect of these provisions will be somewhat analogous to the situation in which an agency neither confirms nor denies the existence of responsive records—colloquially known as glomarization—their operation, both administratively and in court, will of necessity be different. An agency invoking one of these special exclusions will necessarily do so without the specific knowledge of the requester—because anything else would defeat the very intention of the exclusion—and any requester who wishes to challenge an agency's possible application of an exclusion can expect the agency to defend against such a challenge with the automatic filing of an in camera affidavit, regardless of whether the exclusion was in fact employed in that case.

In addition to these critical law enforcement amendments, which should be broadly applied in future FOIA cases to achieve their intended law enforcement protection effects, the bill changes and clarifies the FOIA's provisions regarding fees and fee waivers.

A number of points should be noted regarding these provisions, lest there be any misunderstanding about their agreed-upon intended effects. First, as I mentioned in my brief floor statement on September 30, the Senate made a number of specific changes to the fee and fee waiver provisions for specific reasons. As modified here in the Senate, these provisions are not intended to permit a fee waiver to any requester simply on the basis of his status as a disseminator of public information. In fact, the dissemination of Government information as part of a commercial enterprise is not an activity that should be subsidized by the Government, especially in this time of fiscal shortages, and it is not intended that these provisions have such an effect. Nor is it intended to specially favor the speculative possibility that a freelance writer or hopeful author might be able to disseminate requested information. Of course, a true "media" requester, in the traditional and common sense meaning of that term, should be treated otherwise, as is clearly provided for in the plain language of the bill.

As a matter of fact, it should be noted that the bill's fee and fee waiver language, as modified here in the Senate, is phrased in very clear and plain terms, which should be construed and applied according to their ordinary and common meanings. Certainly no extraordinary meaning is intended to be conveyed by use of terms such as "commercial" and "media." Similarly, the bill's language providing for the continued viability of fees chargeable under "a statute specifically providing for setting the level of fees for particular types of records" is plainly intended to preserve the fee structure of any such statute, such as those which are part of the National Technical Information Service [NTIS] statutory scheme, without any particular other limitation.

As for the bill's new general fee waiver standard itself, it should be likewise taken to mean exactly what it says, which is not so very different from the fee waiver standard found in existing law. The new standard should serve to clarify the law in this area and to permit agencies, under the regulations of the Office of Management and Budget and the guidance of the Department of Justice, to make less controversial fee waiver determinations.

For example, this change will give greater effect to the administrative judgment belatedly reached in the case of *Better Government Association* v. *Department of State*, 780 F.2d 86 (D.C. Cir. 1986), in which the agency erroneously failed to apply a proper "public interest" standard at the administrative level. It is quite significant that the bill's clarified general fee waiver standard, as modified in this particular regard here in the Senate, retains the most important touchstone of the previous statutory standard: Both provide, most fundamentally, that a fee waiver is to be granted only where to do so will be in the "public interest." Agencies should keep this standard uppermost in their minds in making determinations under this revised formulation. It is certainly not intended that any waiver be granted under circumstances in which the public's interest is not being served through the FOIA request.

Indeed, this standard focuses on only those disclosures determined "likely to contribute significantly to public understanding of the operations or activities of the Government," which establishes a considerable standard to be satisfied. It is intended that the word "significantly" in this formulation be given its common force and weight in application and that the qualifying word "public" be applied so as to require a breadth of benefit beyond any particularly narrow interests that might be presented.

It is also quite significant that the reformulated fee waiver standard retains the firm requirement that, regardless of any other consideration, waivers not be granted where disclosure would be "primarily in the commercial interest of the requester." The term "commercial" here, as elsewhere, should of course be given its common meaning, so that information vendors, data brokers, and other second-hand disseminators of documents who do so at a price as the means of their economic self-sufficiency, should not qualify under this language. Such requesters, of course, would hardly qualify under any reasonable construction of the term "media"; indeed, such requesters should be required to pay the new review costs provided for in this bill.

Finally, it is not intended that the general approach of the Justice Department's 1983 fee waiver guidelines be repudiated by this bill's alteration of the general fee waiver standard. Those guidelines logically required agencies to make careful determinations about the circumstances surrounding a FOIA request before determining that a waiver was warranted under the statutory standard. That task will fundamentally be no different under this bill, because agencies will continue to have the responsibility of reaching the judgment, based upon all information provided by requesters, as to the propriety of a waiver. Requesters, in turn, should expect to fully document and, where necessary, attest to, the facts which they say warrant the expenditure of public funds on their immediate behalves.

PROFILE OF A UNIQUE RHODE ISLAND FAMILY

Mr. PELL. Mr. President, the Providence Journal recently profiled a very talented and unique family, that of Matthew and Laura Lopes of East Providence. Their five children have excelled in athletics and academics, and brought credit not only to their proud parents but to their entire community. I ask unanimous consent that the text of the article, entitled "East Providence Lopes': They're solid athletes . . . and solid citizens" be printed in full in the RECORD.

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

EAST PROVIDENCE LOPES': THEY'RE SOLID ATHLETES AND SOLID CITIZENS

(Bob Leddy)

East Providence—Families, say the sociologists, are the backbone of a society. Cohesiveness.

You don't need experts to see cohesiveness at work in the Lopes household of East Providence. The ties that bind Matthew and Laura Lopes with their five children are not only those of respect, but, in the case of three of the Lopes offspring those of sports, too.