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## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, October 7, 2002, at 9:30 a.m.

## Senate

FRIDAY, OCTOBER 4, 2002

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK DAYTON, a Senator from the State of Minnesota.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have endowed us with a thinking brain so we could think Your thoughts after You. That is awesome, Father. You are omniscient; You know everything. You also know what is best for our future as a Nation and our continuing battle with terrorism. This is Your Nation; we are Your people; we are a Nation under Your sovereignty. In response, we make Proverbs 16:3 the motto for this day, "Commit Your works to the Lord and Your thoughts will be established." Throughout this day, we intentionally will submit the work of this Senate to You and seek Your guidance for the resolution on war with Iraq. We claim Your promise for clarified direction in keeping with Your will. We say with the psalmist:

*I commit my way to the Lord and trust also in Him, and He shall bring it to pass . . . I rest in the Lord and wait patiently for Him—(Psalm 37:5,7).*

Speak to our minds; we are listening. You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, October 4, 2002.

#### To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK DAYTON, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. DAYTON thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### AUTHORIZATION OF THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S.J. Res. 45, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 45) to authorize the use of United States Armed Forces against Iraq.

The ACTING PRESIDENT pro tempore. Under the previous order, the

time until 11:30 a.m. shall be equally divided between the two leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each.

Who yields time?

The Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise in support of S.J. Res. 46 to authorize the use of U.S. Armed Forces against Saddam Hussein's Regime in Iraq.

This bipartisan resolution would enable the President to take necessary action in order to defend our Nation and our people against Iraq and any other threatening terrorist nation or organization.

I believe it will pass Congress by broad bipartisan support and send a signal to the world that America stands united behind our President.

This vote will be one of the most important—if not the most important—that I or any of my colleagues will ever take in Congress.

Nothing is more sobering or serious than voting to send troops into battle and committing our Nation to war.

As the President said the other day, war is not our first choice. In fact, it is our last choice.

Having this debate and making this vote is something that none of us wants but in the end, I am afraid that we have no other choice.

The case against Saddam Hussein is clear. We can no longer tolerate him and the threat that he poses not only to us, but to his neighbors, the Middle East and the entire world.

To do anything else would be to repeat the mistakes of the past and to bury our heads in the sand.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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After September 11, we cannot afford to simply sit on our hands. Now is the time to take bold and decisive action in our own self-defense.

The arguments against Saddam Hussein are compelling, and I believe the President made a convincing case when he spoke to the United Nations about Saddam's contempt for the rest of the world.

Eleven years ago after he was defeated in the Gulf War, Saddam suspended hostilities and agreed to a series of commitments to help bring peace and stability to the Middle East.

He has broken each of these commitments.

In 1991, U.N. Security Council Resolution 688 demanded Saddam cease repression and torture of his own people.

He broke that promise.

Also in 1991, the Security Council passed resolutions demanding that Iraq return all prisoners from Kuwait and other lands. Saddam Hussein broke that promise also.

The U.N. Security Council, through Resolution 687, demanded that Iraq renounce all involvement with terrorism and permit no terrorist organizations to operate in Iraq. Saddam not only broke that promise, but he continues to harbor terrorists, including al-Qaida leaders who fled from Afghanistan.

Most importantly, after the Gulf War, Iraq promised to destroy and to stop the development of weapons of mass murder and agreed to inspections by the world community. Once again, Saddam Hussein broke that promise. In fact, U.N. officials believe Iraq has produced tons of biological and chemical agents and failed to account for more than 3 metric tons of material that could be used to produce biological weapons.

In 1995, Iraq finally admitted it had a nuclear weapons program prior to the Gulf War.

And up to now, Iraq continues to withhold important information about its nuclear program. We know Iraq is working on rebuilding its nuclear capability.

After the Gulf War, Saddam promised to allow for a vigorous series of inspections of his military programs.

But for 7 years, we watched, on almost a daily basis, as the Iraqi Government bobbed and weaved and did everything in its power to delay, stop and confuse the inspectors.

Finally, in 1998, Saddam kicked the United Nations Inspectors out of Iraq altogether. Once again, he broke his promise.

All in all, Iraq has failed to abide by 16 U.N. Security Council resolutions. Saddam has broken his word at every opportunity.

There is an old saying: "fool me once, shame on you. Fool me twice, shame on me."

I don't see how we can let Saddam fool us again. There is absolutely no doubt in my mind that Saddam Hussein cannot be trusted.

The time for inspections, diplomacy, and delay has passed. It is time for us to act.

Many in Congress believe we should not use force against terrorist nations such as Iraq without approval from the United Nations or our allies.

I believe this resolution takes the right approach and addresses their concerns.

It says that we should do all we can to work with our friends and the United Nations to address the menace of Saddam Hussein.

But it does not tie our hands and preserves our right to act in self-defense.

In trying to resolve tensions with Iraq, America has gone the extra mile. And I believe that our allies and the U.N. have done so as well.

We have done all that we can to ensure a peaceful resolution of disputes with Saddam.

And I support Secretary Powell's continuing efforts to reach out to the security council and the rest of the world to find a way to bring peace to the Middle East without using violence.

But I do not believe that in the end you can negotiate with a madman.

Sooner or later, we are going to have to act, and we should pass this resolution to give the President every tool at his disposal to prevail in this struggle with evil.

I know that some of my colleagues and many in the world community worry that America is acting without provocation and that we should not preemptively attack another Nation.

I have to disagree with them on two grounds.

First, we have already been attacked.

Last September 11 was the bloodiest day in our history. We have already lost 3,000 of our friends and neighbors.

Many of those involved in planning and carrying out those attacks are now living in Iraq.

In fact, Saddam Hussein has openly praised their actions.

We are not acting preemptively. We are reacting to an assault on our Nation and our people.

Second, in the case of Saddam Hussein, he has made it clear many, many times already that he will attack us as soon as he feels he can effectively do so.

His past actions against his neighbors and even his own people prove he is a man of his word.

To say now that we should wait and not act first is foolhardy and naive.

In the wake of September 11, we have a choice. We can either act or we can wait and react.

I do not think we should sit like children on the beach and simply wait for the tide to come in and wash us away.

We should act now to protect ourselves and our Nation.

Some have even made the argument that attacking Saddam would destabilize the Middle East and lead to further tensions in that sensitive part of the world.

But I cannot imagine a more destabilizing and threatening menace than Saddam.

This is one time where that old saying "The devil you know is better than the devil you don't" is wrong—dead wrong.

After all, under Saddam's rule, Iraq has used nerve gas and other weapons of repression to slaughter tens of thousands of its own people.

It used chemical weapons over and over during its war with Iran in the 1980s.

Saddam has launched ballistic missiles at four of his neighbors—Israel, Iran, Saudi Arabia, and Bahrain.

He has had his followers assassinate opponents in Iraq and abroad.

During the Gulf War, his regime beat and tortured Americans and used them as "Human Shields."

And on almost a daily basis Iraq continues to fire missiles and artillery at U.S. and coalition aircraft patrolling the no-fly zones in Northern and Southern Iraq—no-fly zones that Saddam agreed to after the Gulf War.

Looking at the evidence, I cannot imagine anything more destabilizing and threatening than the status quo.

Some say wait and let the U.N. pass another resolution. They argue that more inspections and towing a tougher line against Saddam will work this time.

But surely Saddam is not going to adhere to the 17th resolution after ignoring the first 16.

Finally, those who make the argument about preemption say we need more proof—that we can't act first without a smoking gun.

Even if they ignore all of the evidence, I would still argue that the last thing we want is a smoking gun.

A gun only smokes after it is fired and our goal and fight must be to prevent Saddam from firing that weapon.

I have heard the arguments from the opponents of this resolution say that we should wait and deal with Saddam after the upcoming November election.

They say this issue smacks of politics and that President Bush is using the war as a political tool in this next election.

Some have even had harsh words for President Bush on this issue and at times I wonder who they think the real enemy is—President Bush or Saddam.

I believe that politics should not be part of this debate from either party.

This debate is about war and peace, not petty political squabbles.

The congress should vote now and the President should act when it would be most effective to end Saddam's evil regime.

I don't know if that's today, tomorrow, the day after the election, or some other time in the near future.

But I will give the Commander-in-Chief and our military leaders the benefit of the doubt.

What is most important is that we do this right and launch our assault when it will be most effective.

The longer we wait, the more time this mad man has to hatch his evil plots.

There are risks in acting. But there are more risks in not acting.

In conclusion, I urge support for the resolution.

The evidence is clear. And the arguments against acting do not stand up to hard-headed reality.

Saddam Hussein is a deadly threat, a threat we have ignored, put off and used every excuse for not finally dealing with for too long.

We cannot afford to wait anymore. After September 11, the world has changed. It is time for us to act. It is time for us to be bold.

God bless this republic and our Great People.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. LEVIN. I ask unanimous consent I be allowed to speak for up to 30 minutes.

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

#### RESOLUTION ON IRAQ

Mr. LEVIN. Mr. President, I come to the floor today to speak in support of an alternative resolution which I will be introducing, and to explain why I believe it is the right way to go, and is a better alternative than the White House approach.

At the outset, it must be noted that whatever differences there may be among us, the one thing which we can all agree upon is Saddam Hussein is a tyrant and a threat to the peace and stability of the Middle East. He has used weapons of mass destruction against his own people and against Iran. He has launched invasions of Iraq and Kuwait. For the last 11 years, he has defied the will of the entire world, as expressed in United Nations security resolutions, by refusing to destroy his weapons of mass destruction and prohibited ballistic missiles.

Another point which I believe there is a consensus on among Members of the Senate is the fact that confronting the threat posed by Saddam Hussein could lead to committing U.S. military forces, including ground forces, into combat, and that the vote we take on a resolution relating to Iraq may be the most important vote we make this year.

Whether we commit our forces to attack Iraq as part of a United Nations authorized coalition, or whether we go it alone, could have immense consequences for our security and for future peace and stability in the Persian Gulf and the Middle East and beyond. That is why I will be introducing an alternative resolution.

The resolution agreed to between the White House and House leadership fails

to address the two main problems with the original White House discussion draft. Those problems are the following: The White House approach still specifically authorizes at this time the use of force on a unilateral go-it-alone basis. That is, without Security Council authorization. Second, the White House approach authorizes the use of force beyond dealing with Iraq's weapons of mass destruction and their means of delivery.

The resolution I will be introducing is consistent with how I think most Americans want us to proceed. It emphasizes the importance of dealing with Iraq on a multilateral basis and it withholds judgment at this time on the question of whether the United States should go it alone, should go unilaterally against Iraq, should the United Nations fail to act.

My alternative resolution does the following: First, it urges the United Nations Security Council to adopt promptly a resolution that demands unconditional access for U.N. inspectors so Iraq's weapons of mass destruction and prohibited ballistic missiles may be destroyed; and within that same U.N. resolution authorizes the use of necessary and appropriate force by U.N. member States to enforce such resolution in the event Iraq refuses to comply.

My alternative resolution will also specifically authorize the use of the United States Armed Forces, pursuant to that U.N. Security Council resolution if Iraq fails to comply with its terms and the President informs the Congress of his determination that the United States has used appropriate diplomatic and other peaceful means to obtain compliance by Iraq with such U.N. resolution.

My resolution affirms under international law and the U.N. Charter, the United States has at all times the inherent right to use military force in self-defense, affirming the fact there is no U.N. veto over U.S. military action. The alternative resolution which I will be introducing affirms that Congress will not adjourn sine die so that Congress can return to session to consider promptly proposals relative to Iraq if, in the judgment of the President, the U.N. Security Council does not adopt the resolution I described above.

It provides further that the President report to Congress every 60 days on the status of efforts to have the U.N. Security Council adopt such a resolution, and if such a resolution is adopted, to obtain compliance by Iraq with the resolution.

Many were relieved when the President of the United States went to the United Nations and rightfully declared the Iraqi threat is "exactly the kind of aggressive threat that the United Nations was born to confront." The President reminded the world that Iraqi aggression was stopped after the invasion of Kuwait "by the might of coalition forces and the will of the United Nations." In calling upon the United Na-

tions to act again, the President committed the United States to "work with the U.N. Security Council to meet our common challenge. We will work," the President said, "with the U.N. Security Council for the necessary resolutions."

Acting in this manner, the President was setting in motion the same process that was used when Iraq invaded Kuwait in August of 1990. At that time, then-President Bush on November 29, 1990, obtained U.N. Security Council authorization for the use of force if Iraqi forces did not withdraw from Kuwait by January 15, 1991. President Bush assembled a coalition of 39 nations that included Arab nations, Bahrain, Egypt, Oman, Qatar, Saudi Arabia, Syria, The United Arab Emirates, and Muslim nations Afghanistan, Bangladesh, Morocco, Niger, Pakistan, Senegal, Sierra Leone, and our NATO ally, Turkey.

The Senate and the House of Representatives passed a joint resolution authorizing the use of force to achieve implementation of the U.N. resolution on January 12, 1991, almost 7 weeks after the U.N. acted, and 3 days prior to the U.N.'s deadline.

The fact the United States went to and obtained U.N. authorization for the use of force meant that, with very few exceptions, the world was united in support of the United States and against Saddam Hussein. It did not mean the United States was going to war against an Arab nation. It meant that the world community, with the participation of Arab nations, was taking action against Iraq. It did not mean the United States was going to war against a Muslim nation. It meant the world community, with the participation of Muslim nations, was going to war against Iraq. It resulted in the sharing of risks and the sharing of costs of war.

Also important, the United Nations, by its approval, gave unquestioned international legitimacy to the United States-led military action. And the United States, by seeking U.N. approval, cemented the credibility and the relevancy of the United Nations.

President Bush has now gone to the U.N., as his father did before him, and laid out the issues with the following words:

All the world now faces a test and the United Nations, a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequences? Will the United Nations serve the purpose of its founding, or will it be irrelevant? The United States helped found the United Nations. We want the United Nations to be effective, and respectful, and successful. We want the resolutions of the world's most important multilateral body to be enforced. And right now those resolutions are being unilaterally subverted by the Iraqi regime. Our partnership of nations can meet the test before us, by making clear what we now expect of the Iraqi regime.

That test for the United Nations was laid out clearly by President Bush. Negotiations are going on now among the

permanent members of the U.N. Security Council. We all pray they will meet the test, and that is why my resolution specifically urges the Security Council to adopt, promptly, a resolution that:

demands that Iraq provide immediate, unconditional, and unrestricted access of the United Nations weapons inspectors so that Iraq's weapons of mass destruction, nuclear-weapons-usable material, ballistic missiles with a range in excess of 150 kilometers, and related facilities are destroyed, removed, or rendered harmless; and authorizes the use of necessary and appropriate military force by member states of the United Nations to enforce such resolution in the event that the Government of Iraq refuses to comply.

Congress has a test that we have to face as well, and that test, in my view, is to support the President's request to the United Nations and not to do anything that will undermine the effort to get the United Nations to do what the President has requested that they do, and that, in my judgment and I think in the judgment of most of us, they should do.

In other words, if Congress endorses the use of force, even in the absence of a U.N. authorization at this time, what it does is enable the members of the Security Council to take a pass on the use of force. They can avoid taking a tough position on the basis that the United States will act no matter what the U.N. does.

I think we all want the U.N. to be relevant and credible. We want the U.N. to succeed. We do not want the U.N. to be relegated to humanitarian and disaster relief and other tasks that are useful to international peace and security but are not essential.

I believe if it is done wisely, we can unite not only the Congress, but ultimately the world community, on a course of action that we all seek: The elimination of Saddam Hussein's ability to threaten the world with weapons of mass destruction. In other words, our focus should be on uniting the world and not dividing it.

Let me say that again. I strongly believe that the test for Congress is to help the President lead and unite the world, and not divide it.

The resolution the White House supports authorizes the use of military force with or without world community support. In addition to letting the members of the U.N. Security Council off the hook, the adoption of that type of resolution tells the world that the United States is ready to act unilaterally, to go it alone, and the Congress is not even willing to wait to see if the United Nations will act to follow the President's request and unite the world to enforce its resolutions before deciding we will go it alone.

Moreover, by not limiting the authorization for the use of force at this time to the destruction of Iraq's weapons of mass destruction and their means of delivery, the White House resolution endorses the use of force for regime change and for a host of other purposes as minor as getting the return

of Kuwaiti archives, which is a requirement of one of the U.N. resolutions which the White House resolution says we will go to war to enforce.

That language saying we will use force for purposes other than the elimination of weapons of mass destruction separates us from the one nation that has been our most faithful and trusted ally, Great Britain. British Prime Minister Tony Blair and British Foreign Secretary Jack Straw made clear on numerous occasions that Great Britain's willingness to go to war with Iraq is to destroy Iraq's weapons of mass destruction. Why on Earth would we want to divorce ourselves from Great Britain? Even if we abandoned the effort to unite the world, why would we emphasize the only apparent difference that we have with Great Britain?

But the most important question, in my opinion, is whether we decide to go it alone at this time, to go to war with or without the support of the world community. In my view, a go-it-alone approach, where we attack Iraq without the support and participation of the world community, entails serious risks and could have serious consequences for us in the Middle East and around the world. It makes a difference. It makes a difference, when deciding to use force, whether or not the use of force has the support of the world community.

If we go it alone, will we be able to secure the use of airbases, ports and supply bases, and overflight rights in that region? Those rights and those capabilities are so important to the success of a military operation against Saddam.

If we go it alone, will there be a reduction in the broad international support for the war on terrorism, including the law enforcement, financial, and intelligence cooperation that is so essential?

If we go it alone, will that destabilize an already volatile region, undermine governments such as Jordan and Pakistan, and possibly end up with a radical regime in Pakistan, a country that has nuclear weapons?

If we go it alone, if we go it without the support of the world community, will Saddam Hussein or his military commanders be more likely to use weapons of mass destruction against other nations in the region and against our military forces in response to our attack than would be the case if he faced a U.N.-authorized coalition, particularly if that coalition included Muslim nations as the coalition did during the gulf war?

If we go it alone, will other nations view our action as a precedent for threatening unilateral military action against their neighbors in the future?

If we go it alone, will we be undercutting efforts to get other countries to help us with the expensive, lengthy task of stabilizing Iraq after Saddam is removed?

By seeking a U.N. resolution that will authorize U.N. member states to

use force if Iraq does not comply with its terms, we are not giving the United Nations a veto. Rather, we are getting from the United Nations strength and international credibility and legitimacy, should military force be needed.

The alternative resolution which I will offer is clear about the fact that we are not giving the U.N. a veto. We are just seeking support from the world community before we decide whether to go it alone.

This is a similar approach to what Prime Minister Tony Blair said recently in an interview with David Frost. Prime Minister Blair is quoted as saying, "I do not think that the U.N. will avoid the issue; but if they do, then we'll see at that time."

In his testimony before the Armed Services Committee on September 23, former Chairman of the Joint Chiefs of Staff Gen. John Shalikashvili addressed the issue of acting pursuant to a U.N. Security Council resolution that authorizes the use of force in the following manner:

I am convinced that such a resolution would in fact be a powerful tool, and I say that for a number of reasons. First of all, we need to impress upon Saddam Hussein that he is not just facing the United States, but that he is facing the will of the majority of the world.

We must also ensure that we have made it possible for as many of our friends and allies to join us. Some of them privately tell us they would do so, but that it's difficult for political, internal reasons, whatever, very difficult to do so without the United Nations having spoken on the issue. Some of them believe deeply that you should go to war only—unless you're directly attacked—that you should go to war only with the sanction of the United Nations. Others just have that in their culture.

Finally, I think it's important from a security point of view, because every time we undermine the credibility of the United Nations, we are probably hurting ourselves more than anyone else. We are a global Nation with global interests. And undermining the credibility of the United Nations does very little to help provide stability and security and safety to the rest of the world.

General Shalikashvili ended by stating, "So I see nothing but value added for the United States to try our very best to get that kind of a resolution."

General Clark, the former NATO Supreme Allied Commander, who testified at the same hearing, echoed the views of General Shalikashvili and added "we need to be certain we really are working through the United Nations in an effort to strengthen the institution in this process and not simply checking a block."

Those two former senior commanders were concerned, of course, not only with the diplomatic and political aspects of working through the United Nations, but also with the practical impact that not going through the United Nations would have on the actual conduct of a war.

General Joseph Hoar, former Commander in Chief of U.S. Central Command, the command with responsibility for the Middle East region, including Iraq, testified that:

And the Arab countries, while they are supporting us in private, have a serious problem in convincing their populations that this is the right thing to do. And so I believe that we have to give them top cover, as well, and we will do that with the United Nations.

On an operational level, I would just point out this, that, for example, if you can't bring Saudi Arabia into the coalition to be able to use, at a minimum, air space, but, ideally air bases as well, the complications associated with carrying out a military campaign will grow exponentially.

We need them. We need a broad base. We need it for the political reasons as well as the military reasons that we all understand. It will make the whole job a great deal easier. And, in the long run, as Wes (General Clark) said, in our relationship with these countries in the future, it will expedite and ease our ability to do business after the military campaign is over.

General Hoar's testimony points out the practical problems that result if we are using military force against Iraq without the support of the world community. The Saudi Foreign Minister has stated that if there was a Security Council Resolution backing military action, all United Nations members would have to honor it. But he made clear that Saudi Arabia remained opposed in principle to a unilateral attack by the United States. The inability to use Saudi airspace—no less Saudi air bases—would be a major impediment to the use of military force against Iraq.

The position of European allies need to be considered as well. As the Washington Post reported last Monday, a senior European official responding to the United States going it alone, said "A lot of Europeans would feel they'd been put in an intolerable position." For those who would agree to participate militarily, "it would be less a coalition of the willing than of the dragooned."

That says a lot.

It is very important that we carefully consider the short-term and the long-term effects of unilateral action by the United States, and whether we need to make a decision on that at this point when we should be pressing all of our energies for United Nations action, and—as my alternative resolution does—letting the United Nations know we are ready to enforce their resolution.

My alternative resolution specifically authorizes the use of American forces in support of a United Nations resolution. My alternative doesn't wait to see what the United Nations will do. My resolution puts the focus on getting the United Nations to act, and says in advance to the United Nations that we will authorize military force and use it in support of the resolution that we are seeking.

It is very different than waiting for the United Nations to act, which, in fact, is what we did during the gulf war. This body didn't vote on authorizing military force until after the United Nations authorized member states to use force.

My alternative resolution is stronger than that. It is a strong message to the

United Nations. We are so committed to your acting to enforce your resolution and to authorize member states to enforce those resolutions with military force—we are so committed to that course and we believe it is so important that we force Saddam Hussein to open up to inspections and to disarm, we are so committed to that—that this Congress in my alternative resolution authorizes U.S. military force now in the expectation and the hope and the belief that you as a United Nations body will authorize member nations to act.

This alternative approach—called The Multilateral Use of Force Authorization Act of 2002—provides for the use of force pursuant to a subsequent United Nations Security Council resolution that authorizes United Nations member states to use force.

It withholds judgment at this time on the question of whether the United States should go it alone unilaterally against Iraq. It doesn't preclude that. Should the President call us back into session and seek that authority, it does not preclude that at all.

If we authorize the use of our military forces on a go-it-alone basis at this time—at the time we are seeking United Nations support—we will send the wrong message to the United Nations. Telling the United Nations that, if you do not enforce your resolutions, we will, not only send an inconsistent message, but it lets the United Nations off the hook.

We should be seeking to unite the world against Saddam Hussein and not divide it. The best chance of having Saddam Hussein comply is when he looks down the barrel of a gun and sees the world at the other end, and not just the United States.

So our focus should be securing a United Nations resolution that can unite the world; that has the best chance of forcing compliance; that reduces the risk to our forces and to our interests throughout the world; that avoids to the maximum extent possible the negative consequences, if force is required, including the loss of cooperation on the war on terrorism; and that has the best chance of isolating Saddam Hussein rather than isolating the United States.

This resolution, again, does not determine that we will not go it alone if the United Nations does not authorize the use of force. It withholds judgment on that very difficult and very different issue. But it says in that case, if the United Nations does not act, that the President can convene us quickly in order to seek authorization for going it alone should the United Nations not act in a prompt way.

The vote that we take may have significant consequences for our children and our grandchildren. I believe our security is enhanced when we seek the authority and the credibility of the United Nations, and if military force is required, that it is used with the full support of the world community.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Mr. President, I first compliment my good friend from Michigan. He is one of the more thoughtful Members of this body, addressing a very grave issue.

#### ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. President, as we debate the degree to which the United States and the Congress should be giving authorization to the President of the United States to commit military action, a decision which affects all of us as Americans, I also want to point out there is another group of people whom we have neglected, and that is our armed services personnel, in many of the provisions of the Tax Code.

I am now going to explain several provisions of a tax bill we passed last night which will have a very direct, positive effect on millions of Americans individuals, and those are our men and women serving in our Armed Forces and our Foreign Service.

For several months, the Finance Committee has been working on tax legislation that would affect the individuals who fight our country's wars. As our Nation responded to the attacks on 9/11, as military personnel went through Afghanistan to fight the Taliban and to break apart the al-Qaida network, Senator GRASSLEY and I began looking at how the Tax Code affects those who defend our national security.

We consulted first with Senator CLELAND, who chairs the Personnel Subcommittee of the Armed Services Committee. He and his staff pointed out several areas where the tax law had not kept up with changes in military compensation. We reviewed military tax legislation that was introduced by various Senators, including Senator MCCAIN and Senator DEWINE.

We listened to the problems that other Senators had identified through discussions with their constituents. I went back home to my State, Montana, to Malmstrom Air Force Base in Great Falls, to meet with military leadership there. I also worked with Major General Prendergast of the Montana National Guard. He provided a great deal of assistance as we crafted this package.

The Finance Committee met with the Armed Services Committee leadership, Senator LEVIN and Senator WARNER, to discuss these proposals. The result is, last night the Senate unanimously passed the Armed Forces Tax Fairness Act of 2002.

I come to the Chamber today to explain this bill in a little more detail, to pay tribute to the men and women who serve in our military and Foreign Service, and to pay tribute to the Senators who helped shape this legislation.

I will begin with military death gratuity payments.

In 1986, the U.S. Government paid death gratuity payments to the families of military personnel who died in the line of duty. That was \$3,000. Prior to 1991, none of that was taxable income to the estate.

In 1991, the Congress increased the gratuity death benefit to \$6,000, and, regrettably, we failed to exclude all of that from taxable income. So \$3,000 of that death gratuity was treated as taxable income.

So the proposal we passed last night is one that restores the full tax exclusion of the death benefit gratuity. So now when the \$6,000 is paid to the family of the deceased military personnel, all \$6,000 is paid tax free.

Another provision applies to the exclusion-of-gain on the sale of a principal residence. The general rule, prior to 1997, for most taxpayers, is that they would have the gain on their home excluded, so long as they replaced their home within 2 years after its sale, so long as the principal place of their residence was established 2 years after the sale.

We provided a break for the military at that time, prior to 1997, and that is, the military personnel could replace their home within up to 8 years. They were given an additional 6-year period within which to replace their home and still get the full exclusion from the gain on their home.

In 1997, Congress changed the law with respect to exclusion of gain on the sale of a principal residence. The new law provided that the taxpayer must live in a home for at least 2 years of the 5 years preceding the sale of that home. That has been the standard rule since 1997.

The Congress, however, neglected to make this special change for our military personnel, neglecting to recognize that military personnel travel a lot more, which is not of their choice, because of their military orders as to where they are stationed.

So the general rule has been the same for them, and it has made it very difficult for them, because sometimes they cannot live in their principal residence, their home, for 2 years of the preceding 5 years to get the full exclusion.

So what we have done is this, essentially. We have suspended the 2 years out of 5 rule for military personnel when they are on active duty or when they are in the line of duty, stationed someplace else around the world, someplace different from their principal residence. It is suspended during that period. So when they come back to their principal residence, then the 2 out of 5 years begins to apply.

So it is much more fair to military personnel now, so they will also, in effect, as with other taxpayers, be able to get the full exclusion from the sale of their principal home so long as they live there 2 of the 5 years.

Another change is the Military Homeowners Assistance Program. Under current law, the homeowners in the military, who stay at a base that has changed because of BRAC—the Base Realignment and Closure Commission—sometimes experience a loss in the value of their home. The results of BRAC recommendations—they ei-

ther close a military installation or substantially change a military installation—have the effect of changing the value of the home of someone in the military.

Here is an example of what happens today. Let's say the value of a home prior to the BRAC decision was \$140,000. Then the sale price, after the announcement of the BRAC decision, fell to \$100,000; the loss, obviously, being \$40,000 on that home.

Currently, the U.S. Government, the military, in what is called the Military Homeowners Assistance Plan, will reimburse that person in the Army, the Air Force, the Navy. It is a formula. In this example, the reimbursement would be \$30,000 out of the \$40,000 loss. Unfortunately, under current law, that \$30,000 law is fully taxable income to someone in the military. So what we have done is said: No, none of that military reimbursement is taxable. It is not taxable.

Another change is this. We have extended the filing delay rules to contingency operations. So now it will not only be for combat zones but also for contingency operations. What does that mean? That means, when someone in the military is overseas, currently, if he or she is in a combat zone, that person gets to file a delayed filing date of 180 days after departure to file his or her tax return. We are extending this to apply to not only combat zones but also to contingency operations when military personnel are sent overseas.

Next we are changing the tax treatment with respect to our Reserve officers—Army Guard, Air Guard,—when they are on reserve, when they are off in training, so that they are not penalized for the expenses they have incurred when they were in training.

This is above-the-line deductions for overnight travel expenses of National Guard and Reserve members. For example, let's say Reserve Sergeant Jones—basically the rank would be E-5—is on a weekend drill. His take-home pay would be \$200. His weekend drill expenses might be \$65 for travel, roughly \$110 for lodging, and meals for \$25, also totaling \$200. That is not reimbursed. That is an expense that the reservist or the person in the National Guard has to incur him or herself. That is not reimbursed.

So we are saying, OK, we will take that full cost of overnight travel expenses, and that will be an above-the-line deduction from that person's taxable income. That is an above-the-line deduction. The expenses are deducted above the line.

We have two more items.

Another change in legislation that passed last night, essentially, is to extend the definition of Qualified Veterans' Organizations. Today, the membership test is 75 percent of the members—let's say, the American Legion or the Veterans of Foreign Wars,—75 percent of the membership has to be present or past military personnel. That is current law.

In addition, substantially all of the members must be military or spouses or widowers of the members. The trouble is, a lot of military organizations, a lot of these organizations, veterans organizations, would like to expand the definition of membership to include ancestors and lineal descendants, and we have done that with the law that was passed last night.

Finally, we are clarifying the treatment of childcare subsidies. Currently, the military reimburses half the childcare expense. That is basically a subsidy. Let's say on average a subsidized benefit for two children is \$7,700. The current exclusion for childcare subsidies today is \$5,000. That is the limit. No more than \$5,000 can be excluded from a person's income to date generally. We are now clarifying the law so that for military personnel, the childcare subsidy portion of 50 percent is fully excluded from taxable income.

I believe these changes will go a long way. I thank my colleagues for making tax law more fair to military personnel. We have neglected them over the years. This makes the laws much more fair to them. After all, they are serving us, helping make this country continue to be the greatest country on earth. We are deeply indebted to all of them.

I thank Senators who helped with this legislation, provided ideas, who worked with us to make sure these are in a form that should be enacted into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

#### EDUCATION

Mr. HARKIN. Mr. President, as I have every day and will every day we are in session, I will make a few remarks, and then ask unanimous consent to go to the education appropriations bill, to bring it up so we can debate it and get the funding out there for our schools. I have warned the Republican side, I said every day I am here, I am going to ask unanimous consent to bring it up.

Our schools need this money. If we go to a continuing resolution, we could lose up to \$1 billion in funding for special education. We could lose up to \$700 million in title I so we can really help our schools truly leave no child behind.

Pell grants for our kids going to college, there is an increase in the education funding bill for middle-class kids to go to college under the Pell grant system. That will not be there for them, either, if we go into a continuing resolution.

Again, the Republicans are holding up funding of education. I don't know why. I have heard all these speeches about the President going around the country, banging on the podium, saying he wants the Congress to act. Well, we are here to act. We are here to move. The education funding bill passed the subcommittee unanimously. It passed the full committee unanimously.

I have tried for 2 or 3 days in a row to bring it up. Yet every time I try to bring it up, there is an objection from the Republican side to moving to the education appropriations funding bill.

I will ask unanimous consent again to bring this up today. I see we don't have any Republicans on the floor right now. I see my colleague from Oregon waiting to speak also on another topic. I know Senate comity requires we have at least someone from the other side on the floor before propounding a unanimous consent request.

I have said repeatedly, every day I am here I will be offering this, so it should come as no surprise to the Republicans I am trying to bring up a unanimous consent request to move to the education appropriations bill. I will hold off a couple of minutes.

I ask unanimous consent that I yield the floor to my colleague from Oregon, and then when one of the Republicans shows up on the floor, we could interrupt his speaking to move to my unanimous consent request at that point in time.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent that Senator BAUCUS, who I know has a unanimous consent request to make at this time—and then I could follow him for my remarks—I would like to let Senator BAUCUS make his unanimous consent request at this time, and then per my unanimous consent request, when Senator BAUCUS has completed, I would then make my remarks.

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

#### UNANIMOUS CONSENT REQUEST—S. 3018

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3018, a bill to amend title 18 of the Social Security Act; that the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements thereon be printed in the RECORD at the appropriate place.

I might say before I put the question to the Chair, as Senator HARKIN has said, there are no Members of the body on the other side, the Republican side, who I know, if here, would object. This has been cleared on the Democratic side.

This is the Medicare give-back bill. It has been cleared on the Democratic side.

I might say in all fairness—here he is. I was going to say, the failure of someone to appear is tantamount to an objection from the other side.

I will repeat the request for the benefit of my good friend and colleague from Oklahoma.

I ask unanimous consent that the Senate proceed to the consideration of S. 3018, a bill to amend title 18 of the Social Security Act, the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements thereon be printed at the appropriate place in the RECORD.

Before putting that request to the Chair, again, I add, this has been cleared on this side. Nobody on the Democratic side objects to this unanimous consent request. So I put the request to the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, I might ask my friend and colleague from Montana, chairman of the Finance Committee, I am just wondering—I happen to be a Member of the committee. I can't remember a markup—did we mark up this bill in committee?

Mr. BAUCUS. Mr. President, there are so few days remaining in this session that in order to help American hospitals, American doctors, beneficiaries who desperately need this bill, and with so little time remaining, as chairman of the committee I feel I have an obligation to the people of Montana to get this legislation up and passed. There are so few days remaining. We are on the Iraq resolution, which is going to take a lot of time. We are on homeland security, which is not passed. We have all the appropriations bills not passed. As a service to the people of the State of Montana, as a service to the American people, and because this is a bill Senator GRASSLEY, the ranking member of the Finance Committee, and I have worked out together, working with all Members of the committee, trying to find an agreement, which Senator GRASSLEY and I do have, an agreement to the provisions of this bill, this is by far the most efficient and best way to get the help to the people in our States who need this legislation passed.

Mr. NICKLES. If the Senator will yield further, I am a little disgruntled. I am a Member of that committee. I had some issues. Senator SESSIONS wanted me to work with him to do something for the wage index for rural areas. I understand that is not in the bill.

I had a provision I wanted to do dealing with the outpatient prospective payment system. I understand that is not in the bill. There was nothing done on prescription drugs. Senator SNOWE and many of us wanted to do something this year. We never had a markup on that issue in the Finance Committee.

So waiting until the last minute, we have known, frankly, of the necessity to do some type of adjustment. The House passed some of these provisions months ago. The Senate, to never have a markup, never to schedule one even in the Finance Committee, to debate and let all Members—not one and maybe two Members—to offer amendments, to come up with a Medicare adjustment bill, I think, is not letting the Senate work. To come up and say we introduced a bill—correct me if I am wrong, I believe it was placed on the calendar Wednesday, and on Friday they want to pass it without letting somebody offer other amendments.

That is not allowing the Senate to work its will as it should.

I happen to have waited many years to be on the Finance Committee. I waited for a purpose. I thought it was such a prestigious committee because it dealt with issues I like dealing with—Medicare, Medicaid, welfare, Social Security, and taxes. Not to be able to do a markup on bills such as this, on which almost always we would have a markup—we would have a bipartisan consensus and maybe then it could pass by unanimous consent through the Senate.

But I don't think we did anything on the wage index for rural areas or on the outpatient payment system. I know we didn't do anything on prescription drugs. So, regrettably, at this point, unless there is—I ask my colleague, how much does this bill cost?

(Mrs. LINCOLN assumed the Chair.)

Mr. BAUCUS. In answer to the question, my good friend knows that October 1 has come and gone. That means 15 percent of home health care provisions that we have to address—large nursing home cuts—the so-called “cliff” that we have to address—and teaching hospital provisions, and after October 1, we have to move. I also say to my good friend from Oklahoma that the ranking Republican on the committee and I spent a lot of time talking with staffs of Senators on both sides, including that of the Senator from Oklahoma—all Senators on the committee and their staffs. This is the bill we all agree on, Senator GRASSLEY agreed to. This has been worked out very thoroughly, and it has been around a long time. The Senator well knows the provisions of the bill. There was a selective error on one—that is, we do address the wage index factor. Most importantly, this has to pass quickly to help our people. The cost of the bill is \$43 billion over 10 years.

Mr. NICKLES. It is \$43 billion over 10 years. If the Senator will yield further, what is the cost over 2 or 3 years?

Mr. BAUCUS. I don't have that estimate because we have been dealing with 10-year figures here. So it is calculated over 10 years. They are very good provisions. When this comes up for a vote, in whatever form, it is going to get a large vote.

Mr. NICKLES. Madam President, the bill was introduced, I believe, on Monday. It was printed in the RECORD, I believe, on Tuesday or Wednesday. Many of us—most all Senators, including most on the Finance Committee—have not had a chance to look at the bill. I don't believe it dealt with the wage index for rural areas, at least satisfactorily to Senator SESSIONS and myself. I don't believe it dealt with outpatients. I know it didn't deal with prescription drugs, which Senator SESSIONS and others want to deal with this year.

We may be willing to do something, but before we pass bills by unanimous consent—introduce bills on Wednesday and say we want to pass them Friday—



it is going to take a little more bipartisan work. There has not been enough of that. Maybe two Senators are in agreement on this bill in the committee. But other committee members are entitled to look at it and to have some input and have a little more of a chance to figure out what is in it. To introduce a bill or have it put on the calendar Wednesday and say we want to pass it on Friday by unanimous consent, I don't think is a proper way to legislate. Also, all of us have known October 1 was fast approaching. As I mentioned before, the House passed this months ago. There is no reason, in my opinion, to not have a markup in the full committee. There is no reason in my mind. We didn't have a markup on prescription drugs in the full committee. I don't think you should disenfranchise members of the committee, some of whom have waited a long time to be a member. For those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. While we are waiting, Madam President—

Mr. BAUCUS. Madam President, I know the Senator is concerned about a couple provisions, and I would like to clarify what the costs are. There are provisions here with respect to wage index for rural hospitals. We clearly want to do the best we can, and all these provisions cost a little bit of money. The provisions suggested by Senator SESSIONS would cost about \$10 billion over 10 years. That will be in addition to the \$43 billion that is already there.

For the Senator's information, we did rough calculations for 2 years, and it would be about \$10 billion for the cost of the bill.

Mr. NICKLES. If the Senator will yield further, you estimate the cost over 2 years to be \$10 billion?

Mr. BAUCUS. Yes.

Mr. NICKLES. Let me work with my colleague. I may be willing to come back with a counteroffer in the not too distant future, pulling in a few other members of the Finance Committee and maybe the administration. I would like to see us do something this year in this area. It is not too late. I haven't had a chance to review the proposal that the chairman is trying to pass this morning. I am happy to look at it. I am happy to look at what others are trying to do. We may make a counteroffer in the not too distant future.

UNANIMOUS CONSENT REQUEST—S. 2766

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, turn to the consideration of S. 2766, the Labor, Health and Human Services and Education appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, reserving the right to object—and I will

object—the majority leader has the right to move to any bill he wants to move to. It is one of the prerogatives of the majority leader. If he wishes to move to the Labor-HHS bill, he has to set aside a few other bills. I happen to think we should finish the appropriations bill we started a month ago, the Department of Interior bill. If he really wants to move off the Interior bill and go to Labor-HHS, the majority leader can do that.

I don't know what kind of games are being played. People are running to the floor saying, "I want to pass this bill," and it never was marked up in committee or "I want to pass this," and we want to do unemployment compensation. And some people said on the floor, oh, it is a straight extension, but it costs about three times as much as a straight extension. I have not figured out all the differences, but we find out it is much more expensive. It is not a good way to legislate. They say we are going to pass unemployment compensation legislation, and it was estimated by the proponents that it might cost \$10 billion or \$12 billion. Now I get estimates it is going to cost \$18 billion. The proposal was made a moment ago to do Medicare adjustment, and the cost was estimated by the proponents at \$43 billion. I have not even had a chance to look at it. So one proposal was \$17 billion, dealing with unemployment.

I guess this proposal by the chairman of the Finance Committee is \$43 billion, and that is \$60 billion. Most of the expenses are over the first couple of years, certainly on unemployment compensation, and I would think on the Medicare adjustment bill as well. And then on successive actions we have people running to the floor saying: I want to pass a unanimous consent, and I hope a Republican will object, and then we can say we didn't pass that bill because a Republican objected—not telling people, wait a minute, did these things go through committee? Do we have an idea how much they cost?

That is a pretty crummy way to legislate. The fiscal year just began October 1, but we didn't know it was going to come, so we will go to the floor. I have made umpteen speeches this month as to why are we not marking up bills and passing the Interior bill. We should have passed the Interior bill in 2 days. We got stuck on a provision dealing with fire management. Several Senators said they wanted to have flexibility on how to deal with fire in their own States. The Senator from South Dakota got a fix in for his State. They are able to do it in South Dakota. I compliment him, but shouldn't the rest of the West be able to have fire management tools to get out some of the dead timber so they don't have such enormous fires? That is what several Senators have asked. Yet we have not even been able to get a vote on that proposal.

If you were managing a bill in days past, you would have an amendment,

and you would vote on it. If you didn't like it, you moved to table it. We didn't do either of those. We just let the bill amble along and take up the entire month of September.

Then we have the Department of Homeland Security. I do not know if we are any closer today than we were when we started the day after Labor Day. We are on that bill now for the fifth week. People are running to the Chamber saying: We need to pass an appropriations bill; we are just going to do it by unanimous consent. That is a pretty crummy way to legislate. We did not know we were running out of time; we did not know October 1 was coming; we did not know it was the beginning of the fiscal year. There is gross ineptitude as far as management of the appropriations process and the budget process.

I used to be a member of the Appropriations Committee. I still am a member of the Budget Committee. It is the first time since 1974 that we have not passed a budget. Because we did not pass a budget, unfortunately, it has really clogged up the appropriations process. Now the Interior bill is back on the calendar. We have homeland security, which the majority leader promised the President we would pass. We thought we would pass it before the August break. We have not done it, and we are well into October.

Now we are on the Iraq resolution and, hopefully, we will be able to conclude that shortly. I happen to be one who wants to do the appropriations bills, but the majority leader is the one who sets the agenda, and he is the one who calls up the appropriations bills, not individual Senators calling them up and saying: I have my bill; let's pass it today. No one gets to look at it; no one gets to know how much is in it. No one gets to know whether it is signable or not.

The bill the chairman of the Finance Committee is promoting today has a lot of provisions that I am sure a lot of Senators want. I would like to get a bill the President will sign. I would like to get a bill that does not bust the budget. I would like to get a bill that is responsible. Maybe we can do that. I am willing to work with colleagues. But if you are going to come to the floor and pass a bill dealing with an unemployment compensation extension, it is going to take unanimous consent. We are not going to be able to pass a bill that costs \$17 billion or \$18 billion when we might be able to do a straight adjustment for \$5 billion or \$6 billion.

It is the same for the Medicare adjustment bill. It is going to have to be a unanimous consent package that all people sign off on, not just two, and all members of the Finance Committee should have a chance to review it and say: Yes, this is a good package.

I will work with my colleagues. We pass a lot of legislation by unanimous consent, but it takes bipartisan cooperation to do it. I do not think we have seen evidence of that enough. I



hope we will see it in the next few days as we conclude this very unproductive year in this session.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized.

Mr. WYDEN. Madam President, I ask unanimous consent that the Senator from Montana speak next to respond and then, per my unanimous consent request, I will make my comments following those of the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered. Objection was heard to the prior request.

Mr. BAUCUS. Madam President, I thank my friend. We are down to the last several days. It is important we all work together. As we all know, under Senate rules, that number 60 means a lot, particularly with so few days remaining, not knowing exactly how many days remain, but we all know there are not many of them. It is important we all work together.

I thought it unfortunate the Senator used the words "gross ineptitude" in managing the budget process and the appropriations process. I am sure he did not really mean that because, in the spirit of comity, in working these issues out, the Senator well knows both sides are trying to work out solutions, and sometimes there are Senators on both sides who have their particular views which tend to impede or slow down the work of the majority. That happens on both sides of the aisle.

I urge we work together and find ways. Honey attracts more than vinegar, we all know that. I am trying to figure out a way to get more honey around here and a little less vinegar so we can do what we all want to do. I know the Senator agrees with that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I appreciate my colleagues's remarks. He mentioned 60 as a magic number. At this point, 100 is the magic number. So it takes a lot of bipartisan work and cooperation to get things done because right now we have to do a lot of legislation by unanimous consent.

I think my statement of gross ineptitude in dealing with the budget process is probably pretty accurate. I was not defining any one Senator, but we have not passed a budget. That is a pretty significant failing. We have passed one every year I have been in the Senate for the last 22 years. It is never easy but is always done. Because we did not get a budget done this year, we do not have the appropriations bills done. It has led to a whole chain of failures.

This is the first year—you have to give Congress an F in the appropriations-budget process. We have not sent to the President one appropriations bill, other than a continuing resolution. Not one. I hope we can break that train. I hope we can pass several appropriations bills, certainly the Department of Defense, and I hope others, but

we are going to have to move much more rapidly.

The majority leader is going to have to call them up. I hope maybe we can change and have a more productive week. I hope it is just a week and not 2 weeks.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. BAUCUS. I wonder if the Senator can make a telephone call to the other body and have them send over appropriations bills so we can pass them over here—they have not sent over appropriations bills yet—in the spirit of comity.

Mr. NICKLES. I will be happy to urge my friends and colleagues in the House to pass more appropriations bills, but frankly, they are reticent to do so because the Senate is working off much different numbers than the House. Always before, when we passed a budget, ultimately the House and the Senate worked off similar numbers, the same gross numbers. So there is a reason the House is reluctant to pass bills because they are going to pass them at lower figures than the Senate, and they feel as if that puts them at a disadvantage when they go to conference.

I do not know that I agree with that. I know Senator HARKIN was on the floor wanting to pass Labor-HHS. The House has not passed Labor-HHS. I never believed constitutionally that we had to wait on the House. Some people have made that argument, but that is not constitutional. The Senate does not have to wait on the House of Representatives to pass an appropriations bill—a tax bill, yes, not an appropriations bill.

Mr. BAUCUS. That is the point I was going to make, revenue bills, yes. Appropriations bills are not required in the Constitution. However, it has been a matter of tradition for years.

Mr. NICKLES. I understand.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to speak up to 20 minutes.

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

#### BUSINESS OF THE SENATE

Mr. WYDEN. Madam President, I had intended to talk on energy, but since our good friend, the distinguished Senator from Oklahoma, is here and talking about getting the important business of the Senate done in the last few days, I wish to reflect for a minute on how we are in these delays, particularly on issues such as homeland security.

I note that the New York Times this morning points out that on the homeland security bill—and I am going to quote from an editorial in the New York Times:

... the Democrats have made key concessions on personnel management for the department in recent weeks that give the administration almost everything it wants.

It is clear Senators on this side are very anxious to attack the serious

questions that are before this country. This editorial really sums it up. They point out literally that Democrats have practically done somersaults to address these important questions that colleagues on the other side and the administration have with respect to homeland security, and this morning in one editorial in the New York Times, they say on the other side of the aisle there is an inexcusable filibuster taking place on a measure that is of great importance to this country as we struggle to win this war against terrorism.

Madam President, I ask unanimous consent that editorial be printed in the RECORD.

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

#### IMPASSE OVER HOMELAND SECURITY

The prospect of war so dominates Washington that vital elements of the campaign against terrorism have fallen by the wayside. One victim is the drive to establish a new Homeland Security Department by consolidating disparate parts of the government into an agency to protect Americans from attack. Such a department has widespread support in Congress, but President Bush is foolishly holding up its creation by demanding complete freedom to hire and fire those working there. He claims that such power is needed to run the department properly. There is no basis for such a claim. Moreover, the Democrats have made key concessions on personnel management for the department in recent weeks that give the administration almost everything it wants. Yet Mr. Bush and his Republican allies are inexcusably filibustering a homeland measure that has a majority of votes in the Senate.

For months after Sept. 11 last year, Mr. Bush and the Republicans adamantly opposed efforts to create a department for domestic security. When support for such a measure grew, the White House shifted tactics. Behind closed doors it wrote a bill that would give radical powers to the president to hire, fire and punish employees without due process and to hire people from the outside without respect to Civil Service rules. Since there were no consultations with the departments being consolidated, it was obvious that this demand came more from ideology than from a careful look at what was needed to run the new department.

A group of conservative Democrats has joined with Senator Lincoln Chafee, a Rhode Island Republican, to give Mr. Bush substantially what he wants. The bill would confer on him the power to decertify union affiliation for any federal workers because of national security concerns, but it would require him to declare that their mission had changed in a way that justified such a move. This is a wholly reasonable limitation. The bill would also give the new agency head more flexibility than now available to offer raises, shift someone's job or punish an employee. But it would also require a good-faith effort to consult with the employee or union and submit any disagreements to a federal panel whose members would all be appointed by him.

In trying to eliminate even these narrow limits on presidential prerogative, Mr. Bush has accused the Democrats of putting "special interests"—by which he means unions and workers—above the nation's security. But one might equally argue that Mr. Bush, in refusing to compromise, is making the nation's security secondary to the administration's union-busting conservatism. If the

homeland security bill goes down, it will kill not only a vital consolidation of federal agencies but also such measures as an independent commission to investigate the Sept. 11 attacks and increased funding to protect container ports against possible nuclear bombs. In the waning weeks of this session, Mr. Bush should compromise for the sake of one of the nation's most urgent priorities.

#### ENERGY POLICY

Mr. WYDEN. Madam President, as our country faces the possibility of war with Iraq, one of the most patriotic steps our Nation can take is to change our energy policy and reduce our dependence on foreign oil.

Today, more than half of our Nation's oil is imported from overseas. Reducing our dependence on foreign oil would reduce threats to our Nation's economy and security, whether from enemies who would do us harm, like Saddam Hussein, or simply the greed of the OPEC cartel.

If Congress passes an energy bill that truly reduces our dependence on imported oil, that would be important. It would be a strategic security action. Reducing our dependence on oil imports would clearly strengthen our energy and our national security. It would provide an additional measure of economic security.

Reducing oil imports also strengthens our economy by reducing our vulnerability to shortages and price spikes. And it would be patriotic. As our Nation does face the possibility of war, this would reduce our vulnerability to one of the enemy's most powerful weapons. So far this year, the United States has been importing more than 600,000 barrels of oil per day from Iraq.

How does the energy bill currently in the House-Senate conference reduce our dependence on foreign oil and strengthen our Nation's security? The short answer is it does not do enough. The best way to reduce our dependence on imported oil is, in fact, to take specific steps that do that. That is the critical yardstick—my guess is a lot of Americans might call it a dipstick—that could be used for measuring the importance of any energy bill that Congress passes.

I happen to think the best place to look for those energy savings is in the transportation sector. All the evidence shows the best place to look is in the transportation sector with the cars, trucks, and sport utility vehicles all of us drive each day. By that measure, the conference has basically left us stalled by the side of the road.

At a time when the fuel economy has sunk to the lowest point in 21 years, the conference agreed on provisions that amount to savings of less than 1 mile per gallon. Think about that: At a time when fuel economy has sunk to the lowest point in 21 years, the conference agreed on provisions that amount to savings of less than 1 mile per gallon. That is doing virtually nothing to reduce our dependence on foreign oil.

The bottom line, when one looks at all of the fuel economy provisions to-

gether, as far as I can tell by the energy conference at this point, this country would actually be increasing consumption of gasoline by billions of gallons.

Where is that oil going to come from to meet the increased demand for gasoline that I think will be required by the conference as the bill is written now? It is not going to come from the United States. Our Nation has only 3 percent of the known oil reserves in the world. Almost two-thirds of the reserves come, in fact, from the Middle East. Instead of reducing dependence on foreign oil, the energy conference has adopted provisions that would increase consumption and, my guess is, increase imports from the Middle East.

Better fuel economy could have saved millions of barrels of oil a day, almost as much as U.S. imports from the Persian Gulf. The energy conference not only has missed the boat as far as reducing oil imports, it missed the supertanker when it failed to adopt an increased fuel economy standard.

Passing the right kind of energy bill, in fact, would advance our Nation's energy security, our economic vitality, and our strategic interests. I fear Congress may pass legislation that has the word "energy" in the title but does little or nothing to reduce our dependence on foreign oil. That will not strengthen our national security. That will not strengthen our economic security, and it is going to send the wrong message around the world to all of those who would use oil as a weapon against the United States of America.

There are those who are going to try to claim the energy bill could meet all the goals if only the Congress opened the Arctic National Wildlife Refuge to drilling. But even if Congress authorized drilling today, the oil produced would be too little too late to reduce our reliance on foreign oil. Even the rosier scenarios show if the Arctic National Wildlife Refuge is open to drilling, it would provide only a 6-month supply of oil, and it would take about 10 years to even do that.

Drilling in the Arctic National Wildlife Refuge is certainly a risky proposition. The U.S. Geological Survey, in their most likely scenario, estimates a profitable yield of just 2 billion barrels. If that is the case, the Arctic National Wildlife Refuge drilling, at peak production, would supply no more than 1 percent of America's projected daily petroleum needs.

By comparison, the National Academy of Sciences says the fuel economy savings needed to reduce our dependence on foreign oil would be achieved using existing technologies.

That is the choice, use existing technologies, technologies today that are available in Arkansas, Oregon, Montana, and around this country, something we can look to now to stop those who are using oil as a weapon against us, or look at risky scenarios that do not produce a whole lot and take a long time to do it like drilling in the Arctic National Wildlife Refuge.

Our country urgently needs an energy policy that meets our national security needs and our economic needs, especially as the prospect of war with Iraq looms on the horizon. If the energy conference can produce a bill that actually does it, I think one of the most patriotic steps the Congress can take now is to pass that legislation. If Congress cannot come up with an energy bill that actually meets those challenges, maybe there should not be an energy bill at all.

That is not what I want. I want a bill that takes away the weapons of those around the world who are using oil against this country. That is one of the key challenges we face.

As I go home to Oregon—I am sure this is true in Arkansas, Montana, and all of our States—I see such extraordinary patriotism at this time. The people of our country understand we face extraordinary threats around the world, and I want us to come together to show that we understand how strongly we feel about the concerns of our citizens and that we identify with the patriotism that we see in our communities every day. One of the most patriotic steps that can be taken now is to change our energy policy, stop those who are using oil as a weapon against us, and to actually pass energy legislation that reduces our dependence on foreign oil.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

#### NEGOTIATIONS REGARDING A U.S.-CHILE FREE TRADE AGREEMENT

Mr. BAUCUS. Madam President, I want to take a few minutes today to discuss the trade negotiations that are currently taking place with Chile.

Let me get straight to the point.

We worked tirelessly this year to reinvigorate our trade agenda by passing the Trade Act of 2002. This legislation includes, as most people know, an extension of fast track negotiating authority—something which was stalled for nearly a decade.

We were able to pass that legislation only after agreeing on a delicate balance for new trade negotiations—particularly on the issues of labor and environment, investment, trade laws, and congressional consultations.

The first test of this new legislation will likely be the U.S.-Chile Free Trade Agreement. Those negotiations are in the final stages—and they are down to some of the most controversial issues.

Let me say at the outset—I have been an advocate for trade negotiations with Chile for several years.

And as recently as several weeks ago, I felt confident about this agreement. Most importantly, the President had just signed the Trade Act, which lays out Congress's goals regarding new agreements. That legislation passed with bipartisan support, particularly in the Senate.

At the same time, an agreement with Chile makes sense—it is, first and foremost, an important trading partner.

Last year we exported over \$3 billion worth of goods to Chile. And with an agreement, our opportunities should increase.

Completing an agreement with Chile will also increase pressure on other countries in the region, particularly Brazil, to let go of their protectionist tendencies, and instead work toward their own agreements with the United States.

Because a free trade agreement with Chile seemed substantively promising, I really viewed it as a major opportunity. Here is a chance, I thought, to take this great trade bill we passed, and use it to regain some momentum on trade—to move beyond the arguments of the past.

I now fear that some in the administration, and frankly some of my colleagues, may be squandering this opportunity.

On issues that were critical to passing this bill—congressional consultations, labor, environment, and investment—some seem bent on clawing back the progress that has been made.

Let me begin with consultations, and by that I mean real congressional participation in trade policy an equal partnership.

During negotiations of the trade bill, there was a clear understanding that congressional trade advisors would be able to observe negotiations. Yet just last week I sought to send one of my staff to observe—simply observe—negotiation between the U.S. and Chile. Ambassador Zoellick declined this request.

The argument the administration makes is separation of powers. But, as Justice Jackson famously remarked, the Constitution “enjoins upon its branches separateness but interdependence, autonomy but reciprocity.” We need some reciprocity to make the fast track deal work.

The administration when criticized about consultations seems fond of recounting a list of times they have met with Congress. But these statistics have little meaning. The test of consultations is not the number of meetings; it is the willingness to hear substantive input and have that input reflected in trade negotiations.

Similarly, we in Congress certainly expect that the administration will allow us to see negotiating documents far enough in advance to have a meaningful opportunity to comment. That means there must be enough time for reasonable congressional suggestions to be incorporated into U.S. negotiating potions.

In the first test, the results were mixed. On the highly charged issue of investment, a proposal was shared, but only one day before the latest round of negotiations with Chile were to begin. That is clearly not enough time to provide Congress with the opportunity to carefully consider and suggest revisions.

These actions undermine confidence. Why would the administration be so

concerned about Congress merely observing negotiations? Why are they reluctant to share documents with Congress that they plan to share with foreign governments? It suggests, perhaps unnecessarily that there is something to hide.

The bottom line is this: There is no substitute for first-hand information. There is no substitute for seeing and evaluating events through your own eyes. And having this greater transparency in the process could have many benefits—better relations between the Hill and the White House, better agreements, and, I believe, a better likelihood that agreements will pass. Given the benefits, I cannot for the life of me understand why the administration would not make more of an effort to engage Members of Congress early in the process.

In the trade act we also hammered out a clear direction to the administration to follow the so-called Jordan standard on labor and environment issues—that is, non-derogation from existing laws and equal access to dispute settlement.

Senator GRASSLEY and I agreed on this—it was key to moving forward—and we spelled this out very clearly in the Finance Committee report.

In fact, just so everyone understands this point, let me read the exact provision in the report that Senator GRASSLEY and I authored:

The provisions on labor and environment standards are “based upon the trade and labor and trade and environment provisions found in articles 5 and 6 of the United States-Jordan Free Trade Agreement. Those provisions (including their coverage by the Agreement’s general dispute settlement procedures) have come to be known as the “Jordan standard.” They seek to ensure that a country does not promote exports or attract investment by lowering or relaxing the enforcement of its environmental and labor laws. The agreement with Jordan accomplishes this through several commitments, which the present bill directs negotiators to pursue in ongoing and future trade negotiations.

To me, this is not ambiguous. Yet there are indications that both the administration and some of my colleagues would now like to ignore this clear direction in the Trade Act. They do so at the risk of losing support—including my support—for future agreements.

Finally, let me address the issue of investment. As many will recall, this was one of the most contentious issues in the Senate debate on the trade bill. The question is, in setting rules for arbitration between investors and governments, how do we balance the interests of U.S. investors abroad with the interests of Federal, State and local regulation here at home? In the trade act, we laid out a blueprint for achieving that balance. The objectives we set in this area include:

Mechanisms for prompt dismissal of frivolous claims;

Clearer definitions of key terms—such as “expropriation”—based on U.S. legal principles and practice; and

The establishment of an appellate body to review arbitration decisions in investment disputes and bring coherence to the interpretation of investment provisions.

I am cautiously optimistic about the administration’s approach to implementing these objectives.

Early consultations suggest that Congress’s instructions were understood.

The one issue on which I have particular concern is the appellate body. It is perhaps the most important aspect of the objective on investment. An appellate body will help ensure that erroneous conclusions of law are corrected and that text is interpreted consistently from one case to the next. Given the potential for investor suits to challenge legitimate policies designed to promote the public welfare, it is crucial that the decisions in these cases “get it right.”

I realize that establishing an appellate body is a big task. It is something new. The closest analogy under current investor-state dispute settlement rules is what is known as “nullification.” In certain circumstances, a party may ask to have an arbitration award “nullified” by a court or other competent body. However, the standard for nullification is extraordinarily high. The question is not whether the arbitrator got it right, but rather, whether the arbitration process itself was fundamentally tainted.

We need something more than nullification review. We need an institution that will take a fresh look at arbitrators’ conclusions of law and decide whether they got it right.

It may be that we will not be able to build a new appellate body for investor-state dispute settlement in the context of the Chile agreement over the course of the next few months. However, it is my expectation that our negotiators will continue this endeavor beyond the formal initialing of that agreement, and that they will secure Chile’s commitment to that endeavor. I want to make it clear that any first steps short of true appellate review included in the U.S.-Chile Agreement should be understood as just that—first steps. The trade act’s objective requires that we go further.

An agreement with Chile can be one of two things—if supported by a large bipartisan majority, it can put us on the right track for other agreements—agreements with Singapore and Morocco, agreements for hemispheric free trade. It can even help us achieve success in the WTO.

Or this agreement can become a political battleground—where those in Congress who were promised a partnership of equals in trade policy feel duped. Where commitments to agreements that reflect strong labor and environmental standards go unrealized.

I hope that I can strongly support an agreement with Chile—I want to. And I know many of my colleagues who voted for the trade act also want to. But I

would caution the administration that they have responsibilities to Congress under this Act. And so far, they seem willing to play fast and loose with those responsibilities. I say respectfully that they continue that path at their peril.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. WARNER. Madam President, I was privileged 2 days ago to join on the floor with my esteemed colleague, Senator LIEBERMAN of Connecticut, and Senator BAYH and Senator MCCAIN when the four of us introduced the resolution which is the pending resolution before the body. We came together as a foursome, sort of, under the following circumstances.

Senator LIEBERMAN and I, in 1991, were the principal cosponsors of the resolution which authorized President George Herbert Walker Bush to institute the use of force with the U.S. men and women in uniform together with numbers of uniformed individuals from the coalition that he, President Bush, had put together in the fall of 1990 and early 1991.

I had talked with Senators LIEBERMAN and MCCAIN about this forthcoming resolution, which our President requested. I happened to be among the Senate leadership in the Cabinet Room when he spoke to us about a month or so ago indicating he would want the Congress to provide a resolution, given the growing crisis that the world faces with Saddam Hussein and his threatened use of weapons of mass destruction.

I think our President has shown extraordinary leadership in this crisis. I remember vividly the fall of 1990 and 1991 as the buildup was taking place. But that buildup was taking place against the background of the clear, unwarranted, blatant use of force by Saddam Hussein against the people of Kuwait. Together with a number of our colleagues, I visited that region several times. Ever so vivid is my memory of the burning oilfields, of the capital of Kuwait severely damaged. It was something that was indelibly emblazoned in my mind.

The purpose of this resolution is to show the resolve of the Congress of the United States, show the resolve of other nations, not to let that happen again. People say: Where is the smoking gun? Let's hope we do not have a smoking gun. In other words, that gun will not have been fired, leaving a trail of smoke, as it was in 1990 and 1991.

The rapid development of technology in the decade-plus since that conflict

undergirds the decision now to bring together a coalition of nations and for the Congress to speak with one voice with our President to try to avoid a conflict.

Each day, I watch our President address this issue. Wherever he is traveling in the United States, time and time again he reminds the people: The last option is the use of force and war. Throughout the history of the world, famous military leaders, George Washington and others, have said the best way to avoid war is to show clearly the preparations and the ability and the willingness to fight.

Through the centuries, that has proven to be the most effective way to deter war.

It is the desire of our President, it is the desire of everyone privileged to serve in the Senate, and indeed in the House of Representatives, to avoid war. But through the leadership of our President, he has brought to the attention not only of the people of the United States but to the people of the entire world the threat posed today by Saddam Hussein.

The conflict in 1990-1991 was fought by Saddam Hussein and repelled by the coalition of nations led by the United States. That conflict, almost without exception, was fought with what we refer to as conventional weapons—the tanks, the artillery people, the rifles, and the hand grenades. We were fortunate in that conflict that weapons of mass destruction such as biological and chemical were not employed to any great extent.

I say that because Saddam Hussein had those weapons strategically placed with his various elements inside Iraq and some forward-deployed cache, if he were to give the order to use them. So they were there. Indeed, the destruction of some of the cache could well have had injured some of our troops. That is still not fully known. But those weapons of mass destruction were poised and ready for use.

Now we know that in the years subsequent to that conflict—once he drove the inspectors who were there in accordance with United Nations resolutions out of Iraq some 4 years ago—he has put the resources of his country behind replenishing those weapons and even building larger stocks and newer types—types that are now more easily transportable, types that can be containerized in weapons.

Here we are faced with the situation of an individual who has extensively utilized in years past—not in the 1990-1991 conflict but in the war with Iran—chemical weapons. He also used those chemical weapons against elements of his own people who he was trying to repress and subject to his tyrannical regime.

So there is a clear case history of the use of these weapons. There is now a clear, documented case of open intelligence that he possesses larger stocks, more versatile stocks and the ability to use them.

How can this Nation and how can other nations just sit and wait?

To the everlasting credit of President Bush, our President, he has alerted the world, and he has taken those steps necessary to prepare this Nation and those steps necessary to engage every possible diplomatic means to avoid conflict. That is the course of action he is embarking on now here at home and in the United Nations and foreign capitals of the world.

Madam President, I have been advised that one of our colleagues has a very tight schedule to enable him to return to his State. This Senator is going to be available throughout the day. At this point in time, I would like to yield the floor as a courtesy to a colleague.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, I thank the Senator from Virginia for extending the courtesy to allow me to speak for about 13 minutes in regard to the resolution that is before us today.

Madam President, after careful consideration, meditation and prayer to the Holy Spirit for enlightenment and wisdom, I rise today in support of the resolution before us.

We all recognize that the world is a very different place than it was before September 11. In spite of the 1993 bombing at the World Trade Center, the attack on the U.S.S. *Cole*, and the attacks on our Embassies in Africa, the threat of terrorism was not taken seriously enough by our country and the rest of the world. The tragic events of that day—our 21st century Pearl Harbor changed the way that we and the rest of the world perceive terrorism and weapons of mass destruction. For America, the loss of more than 3,000 lives demanded this change and, as I said on 9/11, demanded that we “identify those who committed these cowardly acts, as well as those who encourage them through actions or silence, and make them fully pay for their crimes.”

Saddam Hussein poses a clear threat to peace in the world, to America and our interests, to regional stability, and to his own people. After briefings by the Secretary of Defense, the President's National Security Advisor, the Director of the CIA, and members of the Joint Chiefs of Staff, I am convinced that the threat is real. He has an arsenal of sophisticated chemical and biological weapons and continues to refine and manufacture them and develop ways to deliver them. He is working as if his life depended on it to acquire nuclear weapons and deliver them. He supports terrorist groups and encourages violence against Israel with cash payments to the families of suicide bombers. Although we have not connected the acts of al-Qaida and 9/11 directly with Iraq, we know that al-Qaida is present there as are representatives of other terrorist groups.

After 9/11, do we doubt that terrorist groups would turn down the opportunity to get their hands on Saddam's weapons and use them against us?

It is well documented that Saddam Hussein has used chemical weapons against his own people and his neighbors. According to the Center for Strategic and International Studies, during the Iraq-Iran War Saddam used chemical weapons in August 1983, against Iranians and Kurds, resulting in 100 casualties; in October and November of 1983 against Iranians and Kurds resulting in 3,000 casualties; in February and March of 1983 against Iranians causing 2,500 casualties; in March 1984 against Iranians causing between 50 and 100 casualties; in March 1985 against Iranians causing 3,000 casualties; in February 1986 against Iranians causing 8,000–10,000 casualties; in December 1986 against Iranians causing 1,000 casualties; in April 1987 against Iranians causing 5,000 casualties; in October 1987 against Iranians causing 3,000 casualties; and in March of 1988 against Iranians and Kurds causing hundreds of casualties.

And, no one needs to be reminded that he invaded a peaceful neighbor and committed countless atrocities against the people of Kuwait until the world community acted in concert to drive him out.

Saddam Hussein has thumbed his nose at the international community for a decade by ignoring U.N. Security Council resolutions—resolutions that required him to disclose his weapons stockpiles, to disarm, and to cut ties to terrorist groups. He has lied repeatedly and has proven beyond any possible doubt that he cannot be trusted.

Moreover, by example, Iraq encourages other rogue nations and groups to follow its lead with a simple message: "Go ahead and do what you want. The world community does not have the backbone to stop you."

That example cannot be allowed to stand. Saddam Hussein is the neighborhood bully and only when neighbors come together and say enough is enough can he be stopped. He needs to understand that the jig is up and the world must act now together to protect the peace by confronting this bully.

It is not only appropriate but essential that members of the United Nations come together to confront Saddam Hussein, and I applaud the President for challenging the United Nations to reaffirm its relevance by standing up to Iraq. Already his diplomatic efforts have produced results. If the President had not successfully crystallized international attention with his speech before the United Nations, then Iraq would not even have started talking about letting inspectors return.

It is imperative that the U.N. Security Council pass a strong resolution demanding that Iraq comply with U.N. resolutions allowing for unfettered inspection without conditions, dismantle his weapons of mass destruction, and

that the U.N. back up these demands with the threat of force.

It is my hope and prayer that these diplomatic efforts will succeed. However, if the world is to be safe from Saddam Hussein, if we are to preserve stability in the Middle East, and if the United States is to be safe, then we—in cooperation with our allies—have to be willing to take military action if our diplomatic efforts are rebuffed.

In the event that military action should be required, it should be done under the auspices of the U.N. or, in the alternative, in conjunction with our allies as we did in Operation Desert Storm. That coalition successfully drove Saddam out of Kuwait and paid for \$57 billion of the operation. A broad, multinational coalition will send a strong signal of international resolve not only to Saddam Hussein, but to others who seek to acquire weapons of mass destruction. It will show that the international community will not sit idly by, but will instead come together to confront grave threats to peace and security in the world.

Finally, should Saddam Hussein be removed from power as a result of military action or internal upheaval, a strong international coalition will more effectively implement peace-keeping and rebuilding efforts—rebuilding efforts that can largely be paid for with Iraq's substantial oil resources. If we are to count on the international community's participation throughout this effort then it is imperative that we work to solidify their support from the very beginning.

Let us be perfectly clear, Congress has already enacted strong legislation concerning Iraq. The Iraq Liberation Act of 1998 passed the Senate unanimously and passed the House by a vote of 360–38. This legislation established that regime change is U.S. policy toward Iraq and it provided \$97 million to Iraqi opposition groups.

The resolution before us today puts a premium on diplomacy first but backs up words with actions if necessary. It is a significant improvement over previous versions that, frankly, failed to adequately prioritize diplomacy and the need for the U.S. to seek international cooperation.

One of the concerns I have heard repeatedly from Ohioans was the fear that the U.S. would go it alone and preemptively strike Iraq without first reaching out diplomatically or engaging the international community. I would strongly oppose that course of action. The resolution before us today, in my opinion, does not allow that to happen.

It makes clear the convictions of Congress that the President should exhaust all diplomatic options first, but if Iraq resists diplomatic solutions, then the President is authorized to use all necessary means to enforce U.N. Security Council resolutions in Iraq.

In section 2, the resolution calls on the President to work with the United

Nations. In section 3, the resolution allows the President to back up our diplomacy with action, defend American interests against Iraqi threats and enforce U.N. resolutions concerning Iraq.

In exercising the authority under section 3, the President is required to first determine that reliance on diplomacy alone will not succeed in protecting our national security or lead to enforcement of U.N. Security Council resolutions. Also, he is required to report that determination to Congress and make regular reports on the status of any military action.

This version of the resolution is an improvement over previous versions because it contains new language supporting the President's efforts in the U.N. to obtain Saddam's compliance with Security Council resolutions. It also limits and defines the scope of the authorization to use military force specifically to Iraq instead of the entire region. It limits the duration of authorization to the current and ongoing threats from Iraq and clarifies that the authorization to use force applies to the U.N. resolutions concerning Iraq.

The resolution today reflects compromise, is balanced, limited in scope, and specific in its goals. Most importantly, it reflects the importance of putting diplomacy first and working with the international community to solve the Iraqi threat.

Madam President, I do not take my vote on this resolution lightly and understand the enormous impact it can have on the men and women who serve in our Armed Forces and their families, and on our country and the world.

As Governor I served as the commander-in-chief of the Ohio National Guard during Operation Desert Storm. I attended the funerals of those that did not come back and, because my wife Janet and I have lost a child, I understand the grief of parents and have an insight into the enormous loss to surviving spouses and to their children. I also grieve for those we lost on 9/11 and for their families and I vowed that I would do all in my power to make sure that we would never have another 9/11. Madam President, I believe that voting for this resolution will help me keep my vow. I also believe that voting for this resolution will reduce the likelihood of using force.

Madam President, I trust our President. He is a man of good character. He has surrounded himself with one of the most experienced, knowledgeable teams fielded by any President in my memory starting with Vice President CHENEY to Secretary Powell, Secretary Rumsfeld and National Security Advisor Condoleezza Rice.

I have been briefed by State, Defense, the CIA and the White House. I wish all Americans could have sat in on these briefings.

I believe the resolution before us that was put together in bipartisan negotiations reflects the balance of power that must exist between the executive and legislative branches. It allows the

President the authority to use force but respects Congress' power to restrict that authority. It reflects the concerns of Congress that every diplomatic effort be made first and that any action take place in cooperation with the international community.

May the Holy Spirit enlighten the leaders of the world to understand the true meaning of the Second Great Commandment to love their neighbor as thyself and may God continue to bless America as we go forward.

Thank you, Madam President. And I thank the Senator from Virginia for allowing me to make this statement on my support of the fine resolution he has put together.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank our colleague for a very strong statement of support. I know he has reflected long and hard on this issue, and will continue to do so. He has searched his conscience, reached his decision and, in a most fitting way, concluded his remarks with prayer, which is so important as we go into these difficult times ahead. I hope at some point he might consider becoming a cosponsor of the resolution.

With the resolution Senators LIEBERMAN, BAYH, MCCAIN and I put before the Senate, we embark on this historic debate. One of my great recollections is of the debate we had in 1991 at the time the first George Bush was President, and sought to use force. It was, with a deep sense of humility, one of the highlights of my career to have been on the floor as a comanager with then-Republican leader Senator Dole and Senator MCCAIN, Senator STEVENS, and others who were working the management side of that historic debate. On the other side of the aisle was the distinguished majority leader, Senator Mitchell, a lifelong friend, Senator Sam Nunn, who at that time was chairman of the Armed Services Committee, and I was ranking member. They took quite a different position.

The Nation experienced a very good debate by the Senate. Of course, at the conclusion of that debate, only by a mere five votes did the resolution—I won't say on our side of the aisle, but it was bipartisan—the resolution Senator LIEBERMAN and I submitted to the Senate prevailed.

We are on the threshold of another debate of similar significance and proportions. I welcome it, as do other colleagues, who at the moment do not agree with the contents of the resolution. We will see in the days to come the evolution of one of the greater debates in the contemporary history of the Senate.

One of the most difficult things any of us here in Congress, indeed, any citizen of the United States, ever faces is a decision to authorize the use of the Armed Forces.

I have been privileged myself to serve twice in uniform, once as a 17-year-old sailor at the concluding months of

World War II. I did not go overseas at that time. Fortunately, the war was concluded rather unexpectedly. But we were prepared, my age group of 17 and 18, 19-year-olds, not unlike those today in uniform, to follow out the orders of the Commander in Chief, President Harry Truman. I have in my office today a small bronze statue of him given to me by one of the veterans' organizations as a reminder of the courage that President showed at that time in our history.

When I enlisted in January 1945, the Battle of the Bulge was just completing. It was an extraordinary battle, where Hitler had thrown his last divisions against the force that crossed the Normandy beaches and had been working its way through Belgium toward Germany. I remind our audience today, in that one battle alone, 41,000 Americans were killed, wounded, or missing in action, to give the proportion of the battles that our Nation, together with Great Britain, France, and others, were engaged in in that conflict. That is in comparison to the valiant efforts of our troops today in Afghanistan, where the casualties, fortunately, are in the 100s to 200s so far in their heroic efforts to turn the tide of terrorism.

It is important to remind America of the sacrifices of previous generations, as we make this difficult decision. The Battle of the Bulge was followed by United States forces in the Pacific, when the Marines and elements of the United States Army stormed Iwo Jima. That was a battle of some 6 to 7 weeks. There 21,000 Americans were killed, wounded, or missing. Again, we always have to reflect on the enormity of the sacrifices previous generations have made to enable us to be standing here today with the same courage and conviction they had to face the dangers of the world in this hour, on this day, and in the weeks and months to come.

I remember so well the Korean war. Again, I had the privilege of serving in the Marines. My two periods of military service were very modest. I am always extremely humble when I am in the presence of others who served far more valiantly and displayed far more courage than I ever had the opportunity to display. I was able to serve alongside brave men and some women in both of those conflicts.

Again, in the Korean war, for a brief period, I served in Korea with the First Marine Air Wing. I remember the aviators in our squadron. They flew every day. Occasionally I was in the capacity of an observer with them. Again, I don't put myself in the combat arms category because I was a staff officer. I remember they didn't come home from those missions; several in the tent in which I slept. You are mindful of the sacrifices when you have to take the personal effects of your bunkmate, wrap them in a blanket, and send them back home.

So those are the things that cross my mind as I stand here today and as I will stand on this floor in the days to come as we pursue this resolution.

Even though I had those modest experiences of active duty, and then, I must say, during the next major engagement, the war in Vietnam, I was privileged to serve in the Pentagon, again, alongside the brave men and women of the Armed Forces of the United States who fought in that battle, several of whom are serving in this Chamber today: Senators MCCAIN and HAGEL. Those are truly warriors. But in visiting the battlefields in Vietnam in the concluding months and years after, 50,000-plus Americans were casualties in that conflict. Again, it was the courage and the resolve of that generation and previous generations that undergird the same courage and resolve that is in the Armed Forces today, if the Commander in Chief has to give the order to engage them in conflict.

It is with a sense of deep emotion I deliver these remarks today in support of this resolution which I was privileged with others to draw.

Senator LOTT, throughout the drawing up of this resolution, has shown extraordinary leadership. His door and his office were opened. He convened from time to time small groups of Senators to sit down and gather their ideas and their thoughts. He continues to do that. Finally, the time came when the administration, working actively with the group that was drawing up the resolution, laid down a marker, and that is this resolution.

My distinguished friend and colleague, the chairman of the committee on which I am privileged to serve as ranking member, Senator LEVIN, engaged in his debate this morning in setting forth his ideas, which are very different from mine. Perhaps there will be other Senators who will come to the floor and set forth their ideas, which could be different from this resolution. We will see how, procedurally, the Senate addresses the differing views. But I think those debates and differing views will add to the strength of the ultimate resolution, which I respectfully say to my colleagues will be passed upon with strong, bipartisan support behind the ultimate resolution and the form it takes. I believe it will remain as it is today, but I will not make a prediction as to what might occur.

We must pay due respect to our colleagues who have different views. But the important thing is that the Congress speaks with one voice with our President as he proceeds to address these issues in the United Nations and as he proceeds to engage other nations' leaders to encourage them to accept the same responsibility the United States is prepared to accept in addressing the potential dangers of these weapons of mass destruction which are clearly possessed by Saddam Hussein and his regime.

This is, quite literally, a decision to put our Nation's sons and daughters in harm's way. It is a decision that must never be taken lightly. It is also a decision we must be willing to make when



the security of our Nation or our vital national security interests are threatened. Today, our President and others have made it eminently clear that those interests are threatened.

Another interesting bit of history is that our Republic—some 200-plus years old—has sent forth the men and women of our Nation in uniform—depending on the calculation you use—close to 100 times. Some calculations use 80, some 90, but it is roughly 100 times.

The issue is often put to me as to the Constitution, which created the two coequal branches of our Government—the executive branch headed by the President of the United States, and the legislative branch composed of the two Houses of Congress, coequal in their responsibilities as it relates to the crisis we face today and the crises we have had over 200 years when about 85 times—I will use that figure—men and women have gone forth into harm's way. The interesting thing is that in article I, section 8, of the Constitution, it lays out the responsibilities of the Congress. I would like to read this:

The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

Then it goes on to enumerate with specificity the duties and the powers of Congress. One is to declare war. What does that mean? Well, that is the ultimate and most serious responsibility of the Congress of the United States. But as I look over those 80-plus times that the men and women of the Armed Forces have gone forward, only 4 times in the 200-plus-year history has this Congress ever declared war. My recollection is the War of 1812, and then in 1840, and—5 times—the Spanish-American War, World War I, and World War II—5 out of the 80-plus times that the men and women have gone forward.

So why is it we are not declaring war? Well, it would take too long to engage my colleagues, in my own view, as to why we do not declare war. What we are about to do, let me say unequivocally, has the same depth of seriousness and the same depth of consequences to the men and women in the Armed Forces as does the constitutional recitation of the power to declare war. So it is an awesome one.

I respect the vote of every person in this Chamber with whom, I say with a sense of humility, I have enjoyed friendships, working relationships—with some for the 24 years I have been privileged to serve here, almost a quarter century, and with others who are completing their first term, such as my colleague from Virginia, GEORGE ALLEN, with whom I have discussed this in great depth. He has a searching mind, is intensely interested in the points of this issue, is clearly aware of the threat to this Nation, and is strongly in favor of this resolution.

But each will have their own conscience to serve. I doubt if there is a

Member of this Chamber who has not spent a great deal of time already in studying the implications of this perplexing conflict that looms with Saddam Hussein, the individual, and his immediate regime—not the people of Iraq, but it is this dictator and those around him. Each of our colleagues has spent time studying this matter.

We have received, in varying degrees, briefings on the facts. My long-time friend, Senator STEVENS, the ranking member of the Appropriations Committee and the ranking member of the Defense Subcommittee on Appropriations, and I conferred with our leadership yesterday. I think there will be a similar initiative taken by the Democratic leadership to bring others in early next week to provide further briefings, particularly in the area of intelligence.

I have undertaken—I will speak for myself—to encourage the administration to see what further declassification we can make of certain facts that could be important to each Senator as he and she reach their decisions on this resolution—facts that will enable them to go back home with coequal responsibility to the duties we have in the Chamber. It is going back home—as I will do this weekend, with two scheduled meetings with people and to talk with my constituents about this resolution, but more importantly, the overall problems that face this Nation today, as posed by this arsenal of weapons of mass destruction possessed by Saddam Hussein.

I cannot tell you the satisfaction I receive—and I think others do—when we go back home to our communities, whether large or small—and it is not necessarily whether they are Republicans, or Democrats, or Independents; they are citizens, and they are focused on this problem. It has been my experience, in the past weeks particularly, that they are focused very intently on this problem. Many have their sons and daughters serving in uniform today. Many now recognize, in the wake of the tragedy of September 11 of last year, that we no longer as a nation enjoy the protections of being here in this country and so much of the threat being beyond the oceans.

If I may, I will enter into a little personal story. My father served in World War I. He was a young doctor who served in the trenches. I proudly hang his picture on the wall of my Senate office—in uniform, in France, where he was decorated for valor and gallantry for going to the front trenches to care for the wounded—wounded himself. I remember when I was growing up and the looming clouds of war began to make an awareness in this country in the late thirties when I was a very young man and the forties that the United States could become embroiled. He, of course, having deep roots in the State of Virginia, took me on trips. We took a trip down the coastline in the area of Norfolk, VA. He wanted to show me the coastal artillery weapons. Not

one of those weapons exist today, except maybe in a museum. They were enormous cannons. The whole cannon itself was probably half the width of the Senate Chamber from the barrel back to the carriage where the shell was put in the breech.

My father would say: You know, son, these oceans protect us, but if an enemy were to come, this weapon fires 20 miles out to sea with enormous accuracy. This was a brilliant man, my father. He had seen war. He said: We are protected by the ocean. We are protected by our coastal defenses.

He was proven wrong. In the first place, those weapons hardly ever fired. They were eventually, during World War II, melted down and the metal incorporated in more modern artillery pieces. We did, however, as a nation, experience warfare right off the coast of Virginia and other coastal States on the Atlantic coast when the German submarine force began to sink merchant ships. We were trying to supply those nations abroad in Europe that were suffering the ravages of World War I, and those ships were sunk right off the coast of Virginia.

I went back with my father one time. To his astonishment, there on the beaches was scattered the debris from those sinkings. Those are memories that I cherish and I keep.

I always remember those oceans have protected us—those long distances. Saddam Hussein is up to 6,000 miles away, and people in the security of our homes say: Is he really a menace to us? We will see unfold here in the days to come the story of how he can take the weapons of mass destruction, he can take some of that biological material and put it in the hands of the worldwide terrorist organization, and we only need to look at 9/11 to know that organization existed then and still, to a lesser extent, to the credit of the initiatives of our President and the men and women in the Armed Forces, it possibly is not as powerful, certainly, as al-Qaida, but it exists today. And if that technology manufactured by Saddam Hussein gets into the hands of those terrorists—and I say as strongly as we try to protect the borders of this country, we put in a lot of measures to strengthen our borders, but it is not beyond risk that material could be smuggled into this country and utilized in such a way as to cause incredible damage and destruction to human life and further complicate our ability to have a security umbrella in homeland defense to enable us to conduct our way of life, perform our work at our places of business, and to live our lives.

It is very serious. This man has that material. For example, open intelligence now shows, and the experts have discussed this in the open, some of the manufacturing infrastructure of the biological and possibly chemical weapons are now on trucks, trucks of the proportions we see on the highways throughout this country; three or four of those larger trucks put together at



one location, the manufacturing capability to build—manufacture perhaps is a better word—manufacture the biological and chemicals weapons. We know it is transportable because it can move about in those trucks. He does that to provide deception and cover for his manufacturing capability.

I will point out one other tragic fact. This very institution, the Congress of the United States, together with our postal system, suffered through an anthrax—that is a biological weapon—attack. To this day, no matter how hard our investigative infrastructure has worked—and they have worked hard—we do not have the full story of how that was done.

The leadership of our Senate and the House of Representatives, together with our infrastructure—the Secretary of the Senate, the Sergeant at Arms, the medical department, Admiral Eisold—worked to enable us to as quickly as possible resume the use of the Hart Building which was closed down and took precautions in the Congress of the United States, most particularly the Senate, to carry on our business.

Think of the disruption we experienced. That is the type of threat we are addressing in this resolution. That is the type of threat.

In the days to come, I will have more specifics to share with my colleagues and with those who are following this debate.

None of us wants to see our men and women in uniform committed to foreign battlefields. None of us seeks a war with Saddam Hussein. Our President has reiterated that almost every time he has spoken. I was privileged to be with him the other day on the steps of his office when he addressed the Nation, and I had the privilege of saying a few words in support at the time this resolution was introduced.

He reminded the Nation and the world again: War, conflict is the last resort; that the strength and the resolve that we take now is the best way to avoid that conflict.

There are times, again, we must be prepared and willing to resort to the use of force to protect our national security and the people of our great Nation and those of our allies. This is one of those times, critical times, in the 200-plus years of our Republic.

The principal purpose of this resolution is to authorize our President to use military force if—if—he deems it necessary to remove the threat to our Nation and the world possessed by Saddam Hussein and his growing inventory of weapons of mass destruction—the chemical and biological weapons this evil man already possesses and the nuclear weapons he is racing to acquire—I repeat, working to acquire.

My colleagues will recall in the early 1980s, Israel struck a bold move to bomb the plant that Saddam Hussein was utilizing at that time to build his arsenal of nuclear weapons. That set him back. I often wonder: Could we

have, as a member of a coalition of nations, prevailed in the gulf war of 1990 and 1991 had that plant finally, with other elements of infrastructure, produced a nuclear weapon?

Stop and think about it. That war, in terms of combat by the coalition forces, was 100 hours of vigorous fighting to repel Saddam Hussein's forces out of Kuwait and drive them across the border of Iraq. Could we have done that war as successfully in the face of a nuclear weapon had he possessed it at that time?

I remember going with other Members several days after the conclusion of the final hours of that war, visiting the battlefield on the border of Iraq strewn for miles with abandoned and burning equipment, where the Iraqi armed forces dropped their arms, fled to their homes, and the safety they felt their borders provided. Had he had a nuclear weapon at that time, they might not have turned, dropped their arms and ran.

We know he is working on it. There is unquestioned evidence to show he is working to obtain that category of weapons. But the primary concern we have at the moment is he actually possesses weapons of mass destruction in the category of biological and chemical. That is irrefutable in fact.

The principal purposes resolution is to authorize our President to use that force if, and I repeat, if he deems it necessary to remove the threat of those weapons for the security of our Nation and other nations.

As recently as September 19 of this year, a week after President Bush addressed the United Nations, Saddam Hussein denied he has such weapons. It was clear in 1984, when Saddam Hussein used chemical weapons against Iran, that he had such weapons. It was clear in 1987, when Saddam Hussein used chemical weapons against his own citizens in the Kurdish areas, that he had such weapons. It was clear in 1994, after UNSCOM—those are the first inspectors—had uncovered enormous stockpiles, that he had such weapons. It was clear in 1998, when Saddam Hussein expelled UNSCOM inspectors from Iraq that he had such weapons. It is clear in 2002, after 4 years without the international United Nations inspectors being able to perform their duties, that Saddam Hussein has such weapons and is urgently attempting to manufacture and acquire more, most particularly the nuclear capability of weapons.

This resolution also authorizes the President to use all necessary means to ensure that Saddam Hussein complies with the U.N. Security Council resolutions which prohibit Iraqi support for terrorism and terrorist organizations, prohibits Saddam Hussein's repression of minorities within his country, require repatriation and accounting for prisoners of war—that is the 1990 war—which he was required to do but has defied the resolution; and return of such other property as owing to Kuwait,

that small little country he so devastated in 1990–1991.

Why now, is the question we hear in this debate? And I pay respect to those who raise questions because I think it is important that the toughest of questions are raised.

The answer is simple. Enough is enough. In this post-9/11 world, we as a nation cannot afford to wait while this evil dictator, who terrorizes his own people and shelters those who terrorize others—just think, al-Qaida elements are now known to be within Iraq—acquires even more destructive capabilities to attack and terrorize our Nation, possibly his neighbors in the region and the entire world.

Saddam Hussein brutally invaded Kuwait in August of 1990. In the ensuing Persian Gulf war, he was decisively defeated on the battlefield by the coalition of forces in that heroic battle of roughly 100 hours.

In the aftermath, Saddam Hussein agreed—and the pictures are there of his representatives meeting in the desert to sign these agreements—to comply with a number of U.N. Security Council resolutions. He was defeated. The coalition forces made a decision not to pursue the remnants of his bedraggled fleeing army into Iraq, but they decided to impose upon Saddam Hussein and his regime a very strict set of resolutions in order to prevent any comparable use of aggression by his forces beyond his borders.

Almost 12 years later, we are still waiting for Iraq to comply with those international mandates. Saddam Hussein has defied the international community for far too long. Diplomatic efforts have not worked. Economic sanctions have not worked. He has skillfully figured out how to evade those sanctions, to sell on the world oil market.

His nation has the second largest known reserves of petroleum, second only to Saudi Arabia, from which he can generate considerable oil revenues—and that he has done in the ensuing years, skillfully evading the United Nations clear restrictions on the use of oil revenues; diverted it away from his people, let them starve; diverted it away from food and medicine to care for his people; diverted those funds into building weapons of mass destruction.

The time is running late. That is why now. The time is now for Saddam Hussein to live up to the 16 U.N. resolutions he has defied.

In my public life, I have had the privilege of working with two very well-respected Secretaries of State, and I want to take a moment to quote these two Secretaries, George Schultz and Henry Kissinger. These are men who have dominated the international scene and worked with world leaders for many years. I know them both very well, I am privileged to say. This has nothing to do with politics, nothing to do with Republican versus Democrat. These are their views as the elder statesmen. They are still both very active in international discourse, still

very active in trying to achieve peace in the world. Extraordinary. They have not rested on their laurels and slipped back into blissful retirement. They still remain on the cutting edge of diplomacy the world over.

Secretary of State George Schultz recently stated:

The danger is immediate. The making of weapons of mass destruction grows increasingly difficult to counter with each passing day. The moment is racing toward us when Hussein's possession of nuclear weapons could transform the regional and international situation into what in the Cold War we called a balance of terror.

He is referring to that period when our Nation and other nations were faced with an awesome inventory of nuclear weapons possessed then by the Soviet Union.

Strong determination in the Western World—and led in the final days by a very courageous President, Ronald Reagan, who said, tear down that wall, Mr. Gorbachev, referring to the Berlin wall. Because of the determination of the free nations and because of the voice of expression of so many people who had been repressed in the Soviet Union, that wall did come down. Today we see a revived and strengthening nation of Russia. There is a clear example of when forces of freedom gathered against the forces of oppression and were successful.

I remember going to that wall with Senator Moynihan, a wonderful, marvelous friend of mine from New York, as it was being torn down. We were part of a delegation. We actually went out with people who were gathered there who picked up their own hammers and chipped off pieces of the wall. The chip is on my mantle in the Senate. That little chip reminds me of the symbolism and the importance of nations resolving to have the strength to overcome oppression.

Shultz said the moment is racing toward us when Saddam Hussein's possession of nuclear weapon could transform the regional and international situation into what in the cold war we called the balance of terror. Some argue that to act now might trigger Hussein's use of the worst weapons. We must have that in mind. Such self-imposed blackmail presumes easier judgments when he is even better equipped than now. "Time is his ally," concluded Secretary Shultz, "not ours." Ours, being the United States, Great Britain, whose Prime Minister has stood steadfast with President Bush in the resolve to alert the people of both of our Nations to the potential dangers.

(Mr. DAYTON assumed the Chair.)

Mr. WARNER. Prime Minister Tony Blair, whom I have been privileged to be with on several occasions, has shown enormous courage, in the face of dissension among his own political party, dissension of the people in Great Britain who marched in the streets, 100,000, but that is the burden put on leadership, be it in Great Britain, America, or elsewhere, to go and explain.

As George Shultz said, time is Saddam Hussein's ally, not ours. We must join our arms in a solid phalanx to repel the threats of the weapons of mass destruction possessed by Saddam Hussein.

Continuing in the testimony before the Senate Foreign Affairs Committee last week, Dr. Kissinger testified. I talked to Dr. Kissinger by phone. I do it occasionally, as do other Members of the Senate. He is always available, no matter how busy or where he is in the world, to take the calls from the Senate Members from both sides of the aisle.

I was engaging with Senator LEVIN in an effort to have him testify before our committee, but travel commitments prevented that. He wanted to do it, but said he would testify, if not before our committee, before the Foreign Affairs Committee. I commend Senator BIDEN and Senator HELMS, Senator LUGAR, and others who persuaded him to come down.

In his testimony before the Foreign Affairs Committee, he said:

Unlike previous centuries, when the movement of armies foreshadowed threat, modern technology in the service of terror gives no warning, and its perpetrators vanish with the act of commission. Cold war principles of deterrence are almost impossible to implement when there is a multiplicity of states, some of them harboring terrorists in position to wreak havoc. The concern that war with Iraq could unleash Iraqi weapons of mass destruction on Israel and Saudi Arabia is a demonstration of how even existing stockpiles of weapons turn into instruments of blackmail and self-deterrence. Procrastination is bound to magnify such possibilities.

Both Secretaries join in concluding in these remarks that time is Saddam Hussein's ally. Time is not ours.

Again, I commend our president, President Bush, for the leadership he has shown on this issue. Saddam Hussein is a threat, not just to the United States but to the world, with his relentless drive to manufacture and acquire weapons of mass destruction. We would not be having this debate in the U.S. Senate had not our president focused the attention of the world on this threat to freedom.

Time and time again, abroad, at home, wherever he is, he stops to points out this threat. We would not have in the United Nations at this very hour the consideration of a new and strong resolution, we would not be having this debate in the United States at this very hour, had not this courageous President of ours for months and months brought to the attention of this Nation that time is not on our side.

President Clinton, to his credit, in 1998, brought this to the attention of the Congress, sought and received a resolution from the Congress which in many respects is parallel to this. But then again, and I do not criticize the President; I simply point out the fact of history, Clinton felt the United Nations would step in and pick up their responsibility as required by their

charter. President Clinton directed and utilized force in December of that period, had a bombing of Iraq when the inspectors were driven out. But again, the United Nations began to go through its motions and this Nation and other nations felt we could entrust them with addressing that serious problem recognized by President Clinton in 1998. But they failed. They failed. The U.N. failed.

Let us hope they do not fail today or tomorrow or in the weeks to come in devising a resolution, the four corners of which I think this Nation has outlined to the Security Council, which if it is a decision that inspectors once again go back, then and only then they go back if it is a new regime with teeth in it, backed up by the clear expression of the use of force if, in fact, Saddam Hussein does not cooperate, Saddam Hussein does not allow them to perform their duties consistent with such new directives as the United Nations may lay down. That process is now on hold.

Members of the Senate have had available to them extensive briefings from senior administration, national security, and intelligence officials on the situation in Iraq. We are continuing with that consultation. These are sobering, thorough assessments that have been given to Members. A common base of knowledge of these facts is being gathered and presented to the Senate—much classified but an increasing amount unclassified. But that adds up to a clear threat that Saddam Hussein poses to the United States, to the region in which his nation is situated, and to elsewhere in the world. In particular, Saddam Hussein's relentless pursuit of weapons of mass destruction and the means to deliver these weapons represents a present threat and an immediate challenge to the international community.

That is the basic framework in which our President went to the United Nations and gave his historic speech. I think there is not one on either side of the aisle who does not respect that moment in the United Nations when our President stood up and challenged them to live up to their charter.

I remind my colleagues that the Iraqis agreed in writing on April 6, 1991, just weeks after the 100-hour war had concluded, in a letter to the U.N. Secretary General from the Iraqi Foreign Minister—Iraq as a nation accepted the cease-fire conditions as embodied in U.N. Security Council Resolution 687. It is very clear. It is all a matter of record. Not today, but next week I will put that resolution and its full text in the RECORD.

Prior to that, we all watched as Iraqi generals, at the direction of Saddam Hussein, met in a tent. I remember the pictures very well. It was a tent in the middle of the desert, at the Safwah Airfield in Iraq, with Gen. Norman Schwarzkopf. What an American hero he was. I had the privilege, together

with many of my colleagues, to visit him on several occasions. As a matter of fact, I remember one time on our fourth trip over there, he said to us—and he was a man who had a good sense of humor—if I see any of you back here again, I am going to put you in khakis and send you out into the battlefield.

I remember that. He had a good sense of humor. But he used to brief us thoroughly and carefully. What a magnificent individual: The right man at the right place at the right time.

Anyway, at that airfield, General Schwarzkopf, the commander who had led the forces of the coalition in that 100-hour engagement, discussed the conditions of a cease-fire. He witnessed the signing of the papers. He transmitted those papers to the United Nations. Colleagues, those conditions have never been met by Saddam Hussein and his regime. That is why we are gathered here today for this debate.

Last month, our President gave an historic speech, as I said, at the United Nations, challenging the U.N. to live up to its responsibility as stated in article I of the United Nations Charter, and I quote his remarks:

... to take effective collective measures for the prevention and removal of threats to the peace.

In my view, President Bush was clearly there not to seek a declaration of war but to challenge this important organization to live up to the terms of the charter. That speech was one of the finest and most important speeches ever given by a head of state of any nation to the United Nations. The speech dramatically elevated the level of debate and the attention of the world's leaders on Iraq's conduct and continued defiance of the U.N. It further challenged the nations of the world to think long and hard about what they could expect from the United Nations: Is it to be effective and relevant—their actions today, tomorrow, and in the weeks to come—and live up to its charter, over 50 years old? Or is it to be irrelevant and fall into the dustbin of history, as did the League of Nations, as the world descended into the darkness in the years following World War I and on the eve of World War II?

There are among us Senators, and I hope one who will soon speak who has spent much of his life studying diplomatic history. I will not take further time, but I do want to bring to the attention of Senators a little bit of history about the League of Nations. It was put together in the aftermath of World War I to prevent further conflict. I remembered, as I spoke about my father who served in World War I, our library that was filled with books about the history of that conflict. I remember one book was entitled "The Last Great War." There it is. I still have that book, "The Last Great War." And the world reposed trust and confidence in the League of Nations, to ensure that war wouldn't happen.

I learned so much of my history from my father because when I was young,

he would have me read the newspapers with him. I remember the world was shocked in the 1930s, the late 1930s, when Mussolini, in a bolt out of the blue, invaded Abyssinia—a small nation presided over by a world-renowned statesman and President, Haile Selassie.

I remember when I first came to the Senate, he came to Washington and a group of us went down and had breakfast with him. I will put in the RECORD at another time the quotes of Haile Selassie, pleading with the League of Nations to come and rescue his tiny little nation from, in those times, the high-tech Italian Army decimating his country.

What did the League do? It debated, it debated, it debated, it debated. It did nothing.

I remember there was one press report. The reporters covered these debates, covered what the League was discussing. One day, finally, the League decided to issue a press release. It said something to the effect that: There is a hope that we can make a little progress.

That reporter said: I don't know how I can report in truthfulness that press release when in fact I am privy to being in closed session, behind closed doors, and seeing that the League is doing nothing—nothing to resolve that conflict. And nothing they did. They limped on as an irrelevant international body throughout much of World War II and finally packed up their remnants of files and furniture and office spaces, and I think they are in the archives of the U.N. somewhere.

Perhaps my colleague would be interested in probing, as I have, and will in the days to come, that bit of history. We are on that threshold now, when this organization can become irrelevant, as did the League, and go into the dustbin of history. That is the challenge this President has placed at the doorstep of the U.N. today.

Of equal importance, the President's U.N. speech articulated a clear, decisive, and timely United States policy on Iraq; that is, to remove the threat before Iraq is able to use its weapons of mass destruction. The United States is now firmly on a course to accomplish this policy and invites the nations of the world to join.

Prior to his U.N. speech, this body, Members, challenged the President to do exactly what he did, go to the U.N. As our President builds this international coalition, it is vital that he do so with the strong bipartisan support of the Congress. That is the purpose of this resolution. Over the summer, many Members of Congress and many American citizens expressed the hope for meaningful consultations between Congress and the President, as well as consultations with our allies in the United Nations. Our President has done exactly that.

It is now time for Congress, in accordance with his expressed request to the Congress, to express to the people

of our Nation and to the world its support of our President, squarely and overwhelmingly—with no daylight whatsoever—between how we stand firmly behind our President. That is the purpose of this resolution.

I say this as my own view: To the extent that Congress joins and supports our President and sends that message unambiguously to the international community—most particularly to the United Nations and to Saddam Hussein with this resolution as now drafted—is to the extent to which we will be able to get a strong and decisive action from the United Nations.

We are making success. The reports are this morning that Hans Blix—who has been deputized here in the past years to begin to work out plans for such further inspections in Iraq—when Hans Blix came back he was ordered to the Security Council. The thought this morning was that he believes before he goes back that he wants to see what actions the Security Council will take to enable a new regimen of inspection to be effective and not to be thwarted by Saddam Hussein.

We are, at this hour, at a very important juncture. I hope this body, as well as the House of Representatives, will send a resolution that will have no daylight that could be exploited most certainly by some of those nations that do not share the threat now that we know exists and that could be used not only against us but against them, possibly.

It is my firm conviction that diplomatic efforts to achieve Iraqi compliance with all applicable United Nations Security Council resolutions—16 so far—will fail unless the Iraqi dictator, Saddam Hussein, clearly understands that swift and decisive force will be the automatic consequence of any additional thwarting of such inspections as may be agreed upon.

Clearly, there are risks associated with confronting Iraq. I have enumerated those in some detail. But the risks associated with inaction, to me and to our President, are far greater if we fail to confront this danger now—not tomorrow; now.

Some argue that a war with Iraq would distract our attention from the global war on terrorism. I disagree, and that disagreement is predicated on the testimony of not only administration officials but, most particularly, the leadership of the Armed Forces of the United States. They can handle both situations. That remains clear, certainly to the Committee on Armed Services.

Confronting Saddam Hussein now is a logical step, a necessary step, and a mandatory step to rid the world of his potential.

As President Bush reminded us a few days ago when I was privileged to join him on the steps of his office:

We must confront both terrorist cells and terrorist states because they are different faces of the same evil.

How will we explain to the American people—in the wake of a possible future

attack on the United States or U.S. interests, directly by Saddam Hussein, or indirectly through surrogate terrorists equipped and directed by him—that we, the Congress, knew Saddam Hussein had weapons of mass destruction, that we knew from history that he did use them against others, and that he intended to manufacture and acquire even more and to use these weapons possibly against us and others, and yet the world failed to act timely?

Now, more than ever, the Congress, as a coequal branch of government, must join our President and support the course that he has set. We have to demonstrate a resolve within our Nation and internationally that communicates to Saddam Hussein a clear message that enough is enough. You are to be held accountable to the world law and order as enunciated in 16 resolutions—and possibly a 17th—of the United Nations. He has to be convinced that America and international resolve is real, unshakable, and enforceable if there is to be a peaceful resolution. But, if diplomacy fails, we must be prepared to act.

I was never more proud of an American President than Wednesday—again, on the steps of his office, joined by many of us here in this Chamber—when he said:

We will not leave the future of peace and the security of America in the hands of this cruel and dangerous man. None of us here today desires to see military conflict because we know the awful nature of war. Our country values life and never seeks war unless it is essential to security and to justice. America's leadership and willingness to use force, confirmed by the Congress, is the best way to ensure compliance and avoid conflict.

I support our President's call to duty. I urge my colleagues to likewise join.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ELECTION REFORM

Mr. DODD. Mr. President, I know the debate is about Iraq and the pending resolutions. At an appropriate time, I would like to address that subject matter. But I want to take the floor briefly this afternoon to announce some good news. Early this morning, at around 2 a.m., we were able to reach an agreement on the election reform bill between the House and the Senate.

Earlier today, I held a press conference with the leadership on this bill in the House, including Congressman

BOB NEY from Ohio, the chairman of the House Administration Committee; Congressman STENY HOYER from Maryland, and Congresswoman EDDIE BERNICE JOHNSON from Texas, who is the chairperson of the Congressional Black Caucus; as well as my colleague from Kentucky, Senator MCCONNELL, and my colleague from Missouri, Senator BOND; with statements from CORRINE BROWN from Florida and JOHN CONYERS from Michigan, my original cosponsor, who could not be there but wanted to be heard on this issue.

This has been a long and arduous trail over the last two years, as I know the Presiding Officer is aware. I believe the Presiding Officer was in the Chair about a year-and-a-half ago when we announced on the floor that we had an agreement, at least in the Senate anyway, on this issue.

So it is a historic day. If we are able to adopt this conference report in the coming days before adjournment, it will be the first time in over 200 years—since the founding of this Republic—when the Federal Government becomes a partner with the States and localities in the conduct of Federal elections.

None of us have to be reminded of the tragic events that occurred almost 2 years ago in Florida and many other places around the country. They showed that the condition of our democracy was deteriorating because the quality of our elections was falling apart.

Trying to reform the electoral process was critically important for all of us. We needed to provide adequate resources—the change of outdated equipment. In my own State of Connecticut, we have used the same voting machines for 40 or 50 years now. The company that made them has long since gone out of business. In light of the constitutional crisis that plagued our nation two years ago, I believe it would have been a great shortcoming not to pass this legislation before the end of this session of Congress.

There has been a lot of talk about whether or not we would get this done. Obviously, when you talk about election reform, unlike other subject matters where people will likely defer to someone who may know more about the subject matter, every one of us in this Chamber is an expert because we got here through the electoral process.

For too many years, there has been a Republican suspicion, as my colleague from Kentucky likes to point out, that Democrats were interested in having everyone vote, no matter if they had a right to or not; and Democrats were suspicious of Republicans that they too often wanted to deny people a right to vote or to make it difficult.

It is very difficult to craft a piece of legislation when people have such reluctance and hesitation. However, we were able to break down all of that, and what we did is come up with a bill that has new responsibilities, new rights, and new resources for the first time in our country.

It is a civil rights act in many ways. The rights here will say: The voter gets to cast a provisional ballot; and the voter has a right to see your ballot and correct your ballot. In addition, the bill gives the voter a right to redress grievances through a remedy process, if, in fact, a voter is denied these rights.

I will quickly say, a remedy process that isn't everything I would like it to be, but the bill that came out of the Senate had very little remedy in it while the House had none. We fashioned a remedy in conference which, as you know, is very difficult when there are strong voices in opposition to doing anything.

We did not roll back in any way the motor voter legislation. The Department of Justice is involved, obviously, to enforce the provisions of this act.

The responsibilities are also here on the part of voters. Senator BOND felt very strongly about having some requirements that a person who is registered by mail or voted by mail would in some way identify themselves.

I know there are those who are concerned that having some form of identification could be problematic for the first-time voter, for the first-time registrant. Those provisions are in the bill.

If you are a first-time voter or registrant, then you have to provide some identification. There is no requirement in this bill that mandates any specific form of identification. Can you use a photo ID? Yes, you can. It must be current and valid. That is all we say. Can there some other forms of identification? Yes, there can be.

We also provide that States must check the last four digits of a voter's Social Security number or driver's license. If the voter has neither, he or she will be given a four-digit number. It is a simpler way and less intrusive for people to become registrants.

You would have statewide voter registration for the first time. So if you move around in your State, from one town to the next, you do not have to register again every time you move. But if you move to another State, you will have to register in that new State. We think that this is going to help a great deal toward eliminating some of the fraud issues because people won't be able to jump around from one local jurisdiction to another local jurisdiction in the same State and vote in different places. And with high-technology, we will be able to monitor the process much more effectively.

These are the rights and responsibilities in this bill. The resources are \$3.8 billion over the next several years. The administration had already agreed, with Speaker HASTERT and others, to commit more than \$400 million in fiscal year 2002–2003. Obviously, as part of the supplemental, that money got vetoed by the President, but not because of election reform. We are very confident, based on conversations the House leadership has had and the discussions we have had here, that there

will be something in the neighborhood of \$750 million included right away, so antiquated equipment in the States with levers or punch-card systems can be replaced.

Now, do I have an absolute guarantee for all of that? Obviously, no, because we have to vote on the appropriations. Did I condition these requirements on it? No. Are there requirements here? Yes. But this is an authorization bill. Obviously, if you do not have it as a requirement that had to be met, and you left it to the vagaries of whether or not the appropriations would be made, then these requirements would only be voluntary, and all we would be doing is subsidizing the status quo.

For those who are concerned we have no ironclad commitment on this, that is difficult to get in any area of our budget. But I am convinced, given the bipartisan nature of the support for this bill, the bicameral support for it, knowing how strongly the State and local officials feel about it, that we will be able to achieve the necessary funding requirements in the coming years.

There are staggering provisions in the bill where various points become operative. If we had passed this bill a year ago, we might have been able to move up these dates. In light of the fact we are passing the bill in the very last days of the 107th Congress, it is going to be more difficult to effectuate some of these changes in the shorter term.

We all witnessed what happened recently in Florida with new equipment and new requirements down as a result of legislation passed at the State level. There was a lot of misinformation, a lot of confusion. We want to be careful not to do that here. We have new requirements. We have new responsibilities in this bill. We want to give people an adequate time to become familiar with them.

We have provisions that will assist communities to educate poll workers. We encourage young people to become involved as poll workers and poll watchers and to encourage their participation. We establish a permanent commission. For the first time, the Federal Government will have a place where people can comment on an ongoing basis on how we can improve the right to vote and to have the vote count. Despite the fact the Constitution speaks clearly about a Federal role and a State role in the conduct of elections, we have never done this before.

For most of the last 200 years, the Federal Government has honored its Constitutional commitment. Except for the Voting Rights Act in 1965, the Federal Government largely has stayed out of the States' role to conduct elections. We are not becoming overly intrusive. It is still a local matter. It is still a State matter. But we have become, with this legislation, a partner where we say to our local communities and States, in the conduct of Federal

elections, your government wants to help, wants to be involved through resources. By creating some requirements, by creating some responsibilities, we think we can vastly improve the process.

For 20 million Americans who are disabled, who are either blind or manually disabled, if we pass this legislation, for the first time there must be voting equipment mandated by law that will allow a blind person or a manually disabled person to cast a ballot privately and independently. Presently, there are no ballots written in braille, or an audio system—except for one jurisdiction.

If you go into any building in this city, there are requirements that an elevator be in braille so you know what floor you are going to. The day has arrived when a person, regardless of their ability to see or not, should be able to walk into a polling place and read a ballot in braille. This is not the 18th or 19th century. It is the 21st century. I am proud to say, on a strong bipartisan basis, with little or no debate or argument, we have included in these provisions a requirement that people who are disabled, particularly those who are blind, will for the first time be able to walk into a polling place and not have to rely on a stranger to go in and help them cast a ballot.

I have a sister who has been blind since birth. She is a teacher. I am very proud of her. She is a remarkable woman. I would like to know that my sister, as she reaches retirement age as a teacher, will, as a result of her brother's work on a bill, be able to cast a ballot without having to rely on someone telling her how to vote. So for millions of disabled Americans, this legislation is a major breakthrough for them as well.

I do not intend to go through all the details. If there are people here demanding perfection, I will have to disappoint them. If I could have written it myself, it would have been different. But, unfortunately, there are people who gather in a conference who have differing opinions. I wish they didn't, but they do. When they do, you have to compromise. That is not an ugly word. As long as you are not compromising your principles, that, in a legislative context of working out arrangements, where there are people who hold strong views, is the only way we get anything done.

I ask unanimous consent that a list of the staff people in my office and that of Senators BOND and MCCONNELL, Congressman HOYER, Congressman NEY, and others be printed in the RECORD. We don't give these people enough credit. They were up all night last night scrubbing through this bill. After we quit about 2:00 or 2:30 in the morning, they stayed at it all night. I wish the American people, when they talk about faceless bureaucrats, sometimes could peer down and see on how many nights and how many days, long after the Members have argued their points

in broad terms, these fine staff people of ours, who work on behalf of taxpayers, stay on countless nights, through weekends, to hammer out details, to see to it we produce the products we can. I am deeply grateful to all of them.

They include:

Kennie Gill, Ronnie Gillespie, and Shawn Maher.

Chairman Ney's staff: Paul Vinovich, Chet Kalis, Roman Buhler, Matt Peterson, and Pat Leahy.

Senator McConnell's staff: Brian Lewis and Leon Sequeira.

Senator Bond's staff: Julie Damann and Jack Bartling.

Senator Hoyer's staff: Bill Kable, Keith Abovchar, and Len Shanbon.

Senator Schumer's staff: Polly Trottenberg.

Senator Durbin's staff: Bill Weber.

Eddie Bernice Johnson's staff: Paul Braithwaite.

I thank Congressman NEY. I didn't know him very well before. He is from Ohio, worked in the State legislature of that State, and is chairman of the House Administration Committee. I have developed a strong affinity for him. He is a fine person, a fine man. He fought very hard for what he believed in, defended the other body's positions. Because of the many nights and weekends, we have gotten to know each other.

I thank Congressman STENY HOYER. Many of us know and served with him over the years, from Maryland, a remarkably fine individual who did a great job with Congressman NEY in producing the House bill. He has been the leader in the House on so many occasions dealing with disability issues. From his staff, Bill Cable, and others did a wonderful job. I thank him.

My colleagues over here, I mentioned Senator BOND and Senator MCCONNELL. I thank Senators SCHUMER and DURBIN, who worked very hard. BOB TORRICELLI worked on an early bill with Senator MCCONNELL, did a great job trying to bring this matter to our attention. There are so many people here. I am afraid I will leave people out.

I ask unanimous consent to include statements by Congresswoman EDDIE BERNICE JOHNSON, Congressman JOHN CONYERS, and Congresswoman CORRINE BROWN be printed in the RECORD.

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

STATEMENT BY CBC CHAIR EDDIE BERNICE JOHNSON ON THE PROPOSED ELECTION REFORM CONFERENCE COMMITTEE AGREEMENT (AS PREPARED)

Thank you. I am pleased to join Members of the Election Reform Conference Committee today as we announce this historic agreement.

Our democracy begins and ends with the fundamental right to vote. Truly, today we have taken an important step forward towards our goal of making sure every vote cast is counted.

It has now been six hundred and ninety six (696) days since the 2000 elections revealed a pattern of voter intimidation, inaccurate voter registration, arbitrary ballot counting standards and antiquated machinery that deprived millions of citizens of their right to vote.

We have certainly waited long enough for election reform legislation.

I must thank Representative Steny Hoyer, who has been battling every day since the 2000 elections to extend these important protections to our nation's voters. His leadership in getting us where we are today on this legislation has been limitless, and I thank him for everything that he has done.

In the same spirit, I must also thank Representative Bob Ney for his hard work in helping us bridge the differences between these two bills.

The CBC has had terrific support from our colleagues from the other chamber, and I would like to especially commend the efforts of Senator Christopher Dodd, who has worked alongside the Caucus and the civil rights community to ensure that the issues we care about most deeply are being addressed in the final bill.

I would also like to thank Senate Majority Leader Daschle for his leadership on bringing this bill to the Senate floor earlier this year.

Finally, I must thank the 38 Members of the Congressional Black Caucus, and in particular, the gentleman from Michigan, Representative John Conyers for working tirelessly. I'm so sorry that he could not be here today, but he is speaking to the NAACP in Florida, and I know that he will be bringing this important message to voters in the state who sparked this drive for election reform.

As many of you know following the 2000 elections, the Congressional Black Caucus pledged to make election reform our number one priority. We said that we would not rest until Congress enacted reform legislation that would protect the right to vote for all Americans. And I am proud to say that we are very closer to delivering on our word.

We all know that the conference agreement is likely to be far from perfect, but there is no such thing as perfect legislation. However, it is time that we take a FIRST step toward meaningful reform.

We must improve our elections system so that all Americans can register to vote, remain on the rolls once registered and vote free from harassment. We must act before another day has passed.

I call upon my colleagues to bring this legislation forward for debate, pass this bill, and we must sent it to the President for his signature before another day passes. We cannot wait another day. Thank you.

#### CONGRESSWOMAN BROWN ANNOUNCES ELECTION REFORM AGREEMENT!

WASHINGTON, DC.—Congresswoman Corrine Brown is elated to announce a monumental agreement made today in Washington on the election reform bill. This agreement will bring millions of dollars in federal assistance to the state of Florida for election reform.

Since the 2000 presidential election debacle, Congresswoman Brown has been a leading voice on the issue of election reform in Congress, and has worked arduously on the issue of election reform since the Supreme Court selected the President of the United States nearly two years ago.

With respect to the agreement, Congresswoman Brown made the following statement:

I am thrilled to see this agreement finally come to fruition. I have worked hours and hours with Members on both sides of the political aisle, in the House of Representatives, and the Senate. This agreement, which gives the states \$3.9 billion for election reform, and requires them to replace outdated punch-card voting machines, train poll workers, educate voters, upgrade voter lists, and make polling places more accessible for the disabled, and other logistical assistance measures, is long, long overdue.

Although Florida spent \$32 million to overhaul our voting system, the governor did not allow enough time to hold mock elections to educate voters and poll workers prior to the primaries to work out the inevitable kinks. Moreover, this \$32 million in funding is relatively low, given that Florida, with 16 million people, spent \$32 million, and Georgia, with only 8 million, spent \$54 million on election reform. This agreement however, will funnel more desperately needed federal funding into our state for future elections.

Even though this compromise will allow Congress to pass a bill before mid-term elections, I am disappointed that the provisions will not take place until the 2004 elections. The bill is however, perhaps the greatest accomplishment of the 107th Congress.

During the 2000 elections, in my district alone, Duval County, there were approximately 27,000 ballots that were tossed out. A disproportionately large percentage of these votes came from City Council Districts 7, 8, 9 and 10, primarily African American residential areas. Even more disturbing to me is that the Supervisor of Elections' office didn't release these figures to local officials until after the deadline had passed. As a result, we were unable to demand a recount.

Even more disturbing is the often unpublished fact that the Governor of Florida spent \$4 million dollars of taxpayer money to purge a list of suspected felons from the rolls across the state; but whether or not this list of felons was accurate was of little importance to the Governor. Apparently, it was the responsibility of the accused citizen to correct his or her status.

One of the worst problems that occurred during the 2000 election had to do with motor voter registration. As part of a grassroots effort to encourage voters, particularly minorities, to get out to the polls, I organize motor voter drives. However, during the last election, many voters, especially African Americans, were erroneously purged from registration lists, and many, who had signed up at state motor voter vehicle offices, never had their voter registration fully processed. As a result all of these voters became disenfranchised. It is for this reason that it is of utmost importance to include a provisional balloting provision (wherein if a voter has not re-registered after moving within the same county, he or she may cast a provisional ballot at the polling place of their current residence).

Although there are not any perfect election reform bills, I think this one is a good start. The agreement today gives the individual states millions of dollars over three years to upgrade voter equipment, improve the accuracy of voter registration lists, recruit and train poll workers and enhance accessibility to polling places for people with disabilities. It would also include a one-time payment of perhaps as much as \$850 million to states and counties to replace punch card voting systems, which were used by more than one-third of the voters last year. This bill sets out on the right foot towards guaranteeing voters their fundamental right: the right to vote and have it counted.

#### STATEMENT OF REPRESENTATIVE CONYERS

Nearly two years after the wholesale disenfranchisement of the elderly, people of color and individuals with disabilities, we have at last passed legislation which will help to place in the dustbin of history the butterfly ballots, punchcard voting machines and discriminatory practices of Florida. This bill bears name and gives tribute to his vision and dream of a world without barriers to the exercise of the most basic right of citizenship, the right to vote.

Because of this bill, every American will be closer to living in a democracy where

every vote that is cast is counted and where the legitimacy of our democracy is no longer placed in doubt. Because of this bill, voting machines will help voters instead of hindering them.

There were naysayers in the Congress and on some of the editorial pages who claimed that Senator Chris Dodd and I were unrealistic and that our vision of minimum federal voting rights standards for machines would never come to pass. The fact that it did is a tribute to our vision that voting rights should not be left to anyone's whims, and it is a tribute to Senator Dodd's tireless efforts to pass this bill and Majority Leader Daschle's rock solid faith in the legislation. My colleagues in the House, Steny Hoyer and Bob Ney deserve tremendous praise for their role in this agreement as well.

The Voter I.D. provisions contained in this bill is not a provision I would have wanted. That being said, its inclusion in this agreement cannot possibly overshadow the tremendous step forward the bill represents. We live in a democracy where the essence of accomplishment is compromise and yielding in part to different points of view.

At the end of the day and this long struggle, we have a bill that represents a tremendous advance of civil rights and for our democracy.

Mr. DODD. I also thank the leadership, Senator DASCHLE and Senator LOTT, for their support. When they asked me how long it would take to debate the election reform bill on the floor, I said I thought I could do it in 24 to 48 hours. About 12 days later, I was still here. Their patience was almost unlimited.

We were able to get it done, and I am proud we were able to do so. I know there were editorial comments over the last number of weeks and months, saying where are these people, why can't they get this done? We did something you are probably not supposed to do. We did it quietly. It was not quiet inside the room, but we didn't announce every day to the press what we were doing because I felt if we did, we would never get anything done. I have been up almost every night until 2 or 3 in the morning. I have spent almost every weekend involved in this legislation over the last several weeks and months.

I thank colleagues who managed to keep this relatively quiet so we could get the job done. Had we not done it, we would not be standing here recommending this product to our colleagues for their consideration, when the other body and the Senate votes on this bill.

I will have more to say about it when the bill comes to the floor. I wanted to bring my colleagues the good news that we were able to come to agreement on this election reform bill before this Congress, the 107th Congress, became a record of history.

Let me also say, since I am still in morning business, to my colleague from Virginia who was here, and my colleague and friend from West Virginia, on the matter before us, I have great respect for both of them. This is a weighty and important matter. I didn't want to take time away from that discussion today, but I would like to be heard on the subject matter at the appropriate time.



I know my colleague from West Virginia has some strong feelings. I want to say to him and in the presence of my good friend from Virginia, I have known these two individuals for many years. They have great reverence for this institution, great reverence for the legislative body. I carry very proudly in my pocket every single day of my life, 7 days a week, a copy of the United States Constitution. It was given to me years ago by the Senator I sit next to, ROBERT C. BYRD. I walk around with it on weekends, evenings, wherever I am. I carry it.

I hope in this discussion, not just this one but others, people will listen to what he has to say about this document and our obligations to it as a co-equal branch of government. The Founders did not envision this particular debate. Probably the name Iraq didn't exist at the time the Constitution was ratified or written. They envisioned circumstances like this. They wanted to make sure there would be a sense of weight and counterweight without giving one side an advantage, necessarily, but that we would deliberate very seriously about matters such as this, certainly the matter of going to war.

I have great reverence for this document and great reverence for people who embrace it and cherish it, knowing it is only as good as each generation's willingness to defend it, and that our obligation to coming generations is to give them the tools to appreciate what it means. It is a subtle document. This is not a document an ignorant nation would be willing to fight for and sustain. The right to say what you want and have people stand up even when they vehemently disagree with what you are saying takes an educated, sophisticated population to appreciate.

Certainly the rights of a Congress, a legislative branch to appropriate, the right to declare war, the right of a Commander in Chief to lead during difficult times, these are not notions that can be easily understood if you are not well educated and prepared. And it becomes incumbent upon us, in this particular moment, to serve not only as a source to resolve the matter before us, but to educate our constituents and the people of this country about why this document is important, particularly in moments like this, where none of us are ever asked to cast a more significant vote. It is not a vote on a Supreme Court justice, or not even amending the Constitution, but the decision is whether or not young men and women will go into battle and lay down their lives for us.

Both of these individuals understand this better than I—JOHN WARNER, particularly, because he has donned that uniform. I served in the military briefly, but I never had to face an enemy across the firing zone, and I respect somebody who has. Those who have engaged in battle seem far more cautious about committing this Nation to conflict. Those who have not, seem, on

many occasions, to fail to understand the significance of what we may be asking people to endure.

I will have more to say about this specific matter. I didn't want this moment to pass. I wanted to express my deep thanks to my colleagues. We have closed caucuses every week to discuss the matters before us, political and otherwise. I have watched over the last several weeks, and it is not well known—maybe there is a historic record kept somewhere, but I wish every person in America could have been at the caucus luncheons to listen to our colleague from West Virginia passionately defend the Constitution of the United States. There is no press release, and there is no television show afterwards. It is just one person standing up defending the very document that gave rise to this institution and the rights all of us enjoy as Americans. I thank him immensely for having the courage of his convictions, the strong legs, the good set of lungs, and the determination to be heard.

I thank my colleague from Virginia for all he does every day to see the ideals and values of the Constitution are carried out by his Members. He does that whenever I have been with him in the Chamber and in committees. He is a person who deeply cherishes this Constitution.

Mr. WARNER. Mr. President, I express my appreciation to my colleague, and I share his sentiments with regard to our magnificent colleague, Senator BYRD. We are privileged to have adjoining States, with a small boundary between them, that was inserted at one point in history during the historic Civil War period. But we cross that boundary together because we love those people—particularly the people of Appalachia.

I thank the Senator for his comments about me. I receive them with great humility. I served in uniform, but I was always a communications officer in Korea, the First Marines Airwings, and a staff officer. In the field of battle, I shared the bunks and tents with others, but I don't put myself in the combat arms category. I served with others who did. Yes, perhaps I have some thoughts and views emanating from those periods I was privileged to serve in uniform. But I think every Member of the Chamber has equal conscience and the strength of his or her own convictions to make the tough decisions we have to make in the days coming with regard to Iraq. I look forward to engaging the Senator from Connecticut. Yes, we have been good friends, but let me tell you, no Senator should ever think they have been tested in the field of oratory until they tangle with that Senator from Connecticut or the awesome Senator from West Virginia. There is just not as much of the great oratory that this Chamber has enjoyed in the 24 years I've been here. There seemed to be more when I came than we have now. My gracious, I was in awe of the senior

Members of this Chamber when I first came here and sat and listened intently. But I say to the Senator from Connecticut, I am ready for this debate he and I will have one day. I only wish it were this afternoon in the presence of our senior Member of this body. But if it is to be another day, I will await it. I hope he will some day debate me on the League of Nations. He is a student of American foreign policy as a senior Member of the committee, following in the footsteps of his proud father who served in this institution. Some day let us talk about the fate of the League of Nations. As our President challenges the U.N. today, I challenge the Senator to that debate some day.

Also, serving on the Rules Committee, we are very proud of what you have done, together with Senators BOND, MCCONNELL, and others, to bring about this bill—particularly as this Nation stands somewhat in awe—I am not going to take sides on what is happening in New Jersey regarding the complexity of the election laws, the problems encountered for a second time, most unfortunately, in Florida. Let us hope this legislation can improve that system and serve as a means to inspire more of our citizens to participate in the electoral process, whether it is for county commissioner, sheriff, or for the Presidency and the Members of Congress. All too often, less than half of the people who are eligible vote or take the trouble to exercise the right given to them under the Constitution, to which the Senator so reverently referred. I thank my colleague.

(Ms. STABENOW assumed the Chair.)

Mr. BYRD. Madam President, if the distinguished Senator will yield.

Mr. DODD. I am pleased to yield.

Mr. BYRD. Madam President, as a member of the Rules Committee on which sit the distinguished Senator from Virginia, Mr. WARNER, and our chairman, Mr. DODD from Connecticut, I have asked the chairman to yield to compliment him. I want to compliment him, and I do compliment the chairman for his patience, for his dogged determination, and for his far-seeing vision in pursuing and pressing on to the end this cause for which he has been studying, speaking, and fighting for so long. It has an importance that goes far beyond the surface. This, we often hear, is a democracy. It is a Republic. We say that clearly each time we "pledge allegiance to the Flag of the United States of America and to the Republic for which it stands." We have democratic principles under a republican form of government. There you are. It is a republican form of government.

The importance of encouraging and persuading and leading the citizens of the country to vote—what a great duty it is of each citizen to vote his or her sentiments. And what a sad commentary on this Republic, whose people have been so far blessed beyond the



peoples of any other nation, and then to think that so few, relatively speaking, of the American people bother—bother—to go to the polls and exercise their duty at the polls. It is a sad commentary on the American people. We take this duty loosely, and we take advantage of this right in a very cavalier fashion.

The Senator from Connecticut has performed an extremely important service to the people of this country today and to future generations, by his stick-to-itiveness, by his incessant application of his enormous talents to bring to fruition the completion of this work on which he has been engaged for so long. It is not the kind of work such as the work we do on some other measures. It is kind of a dry subject when one stops to think about it. It is kind of like the rules of the Senate. They are dry, there are no headlines in them, but how important the rules of the Senate are.

It is that way with this piece of legislation that our dear friend has so long labored in the vineyard to bring to fruition. I compliment him. I salute him. He has performed an immeasurable service to the people of this country; whatever we can do to bring about a greater focus and a greater application of the people's views when it is election time because, after all, that helps to mold the character of this country and to present the image of this country as a nation.

I wish it were possible to say that 80 or 85 or 90 percent of the people in this country turn out and vote. What a great victory that would be for this Republic and for the principles of democracy.

I not only salute this man, I say thank you to the distinguished senior Senator from Connecticut. He is my candidate for President. Throw your hat in the ring.

Mr. DODD. Madam President, I am going to leave now.

Mr. BYRD. Hold on a minute. Madam President, there has to be a little levity. Even the wisest will stop for a moment to smile, laugh a little, be a little jovial. But this is a tremendous victory; as a member of the committee on which this great man serves, I am proud to serve on that committee.

On another subject which has been injected here, no Senator should have to stand in a party caucus and defend this Constitution. No Senator should have to stand in a party caucus and refer to this document.

This is a time when we must return to the language and the spirit of this Constitution. All too often I hear the leaders of this Nation in both parties refer to this document or that document or what this person said or that person said, but very seldom do I hear on the television talk shows on Sundays and other days of the week, seldom, relatively speaking, do I hear them base their position on the Constitution of the United States.

As I have witnessed the tides that ebb and flow on the world stage over

these 50 years, all the more have I come to believe that the Constitution is the principal mast to which we should rope ourselves in order to put wax in our ears to the siren calls that will lead us astray from what the Constitution says.

The Constitution very clearly says in a nonambiguous sentence, the Congress shall have power to declare war. I am very pained to see a Congress, most of the leaders of which say we should pass this resolution, meaning S.J. Res. 46. We should pass it now, pass it here, get it behind us before the election. Get it behind us.

Madam President, if the Senator will further yield without losing his right to the floor, permit me to say we are not going to get this issue behind us. Say what you will. It is front and center. Why? Because the Bush administration has made this issue front and center in these last few days before the election.

Why did they not make homeland security front and center? Because that would not have shifted the national perspective and focus away from the domestic issues which also are important. But to turn the emphasis to Iraq shifts the emphasis of the debate away from homeland security, shifts the emphasis of debate away from domestic issues, shifts it to a foreign scene and a foreign stage and a foreign field of action. So our eyes have been averted from what we should be watching, and that is homeland security, the defense of this country. Homeland security, protecting this country right here against attack, subtle attacks—it may be individual attacks, it may come in the form of an attack by one person or two or a group of six, as we saw in New York recently when the FBI arrested a cell of six individuals who were from Yemen. They are American citizens, but they were originally from Yemen. The FBI arrested them. The FBI did not have to have any Department of Homeland Security to bring that about.

The people who are on the front line securing this country, securing you and me, securing the people of this country every day, every night, every hour of every day, every hour of every night are on the line now. They are out there on the borders. They are out there in the ports of entry. They are out there working day and night as we saw when the FBI did its work.

Here just before an election, our eyes taken away from the education needs of this country, away from the security needs of this country, away from the questions that involve the health of our citizens, away from the veterans of this country. This issue has been shifted away so that our eyes temporarily are distracted and we are looking in another direction.

Where are we looking? We are looking at Iraq. Yet, Madam President, there is nothing new in the evidence.

I have asked the Director of the CIA on two different occasions: What is dif-

ferent? Do not tell me anything about policy; we will make the policy. But tell me what there is by way of intelligence where you are the expert? What is there that is new today, that you know today that you did not know 3 months ago or 6 months ago? What is it that is so new, so compelling that all of a sudden, after we heard all this business to the effect there is no plan on the President's desk? I asked that question of the Secretary of State: What is it that is new? I have asked that question of the Secretary of Defense. What does he say? The thing that is new is September 11. That is not so new; that is over 365 days old. So what is there that is new that requires us to make this fateful, far-reaching decision before the election?

There is nothing new. They have known it for 3 months, 6 months. A lot of it they have known for years.

This is a fateful decision, and the decision ought to be made here, and this Congress ought not turn this fateful determination, this decision, over to any President, any one man, because, as James Madison said, the trust and the temptation are too great for any one man.

Oh, that Madison were here today. Oh, that Madison could speak today. We would hear him say: The trust and the temptation are too great for any one man. Hear his voice as it rolls across the decades of history.

Here we are today; we have rubber spines, rubber legs, and we do not have backbones. This branch of Government, under the Constitution, is the branch consisting of the immediately-elected representatives of the people, and under the Constitution it is to declare war.

The Framers were very wise when they determined that these two matters—the decision to go to war and the making of war—should be in two different places. The decision, the determination to declare war, should flow from this branch, the people's branch, and the matter of making war should be in the hands of a unified commander, the Commander in Chief.

What are we doing? In my view, if we accept this resolution as it is written, we are saying both of these vital functions would be placed in the hands of one man. And what did Madison say? He said: The trust and the temptation are too great for any one man.

So in closing, if the Senator will further yield—

Mr. DODD. I am happy to.

Mr. BYRD. I say to those people out there who are watching through the electric lenses, let the leadership of this Congress know, tell the leadership of this Congress, urge the leadership of this Congress, to put aside this fateful decision which may affect the blood and the lives of our sons and daughters, put it aside until after the election so that our representatives in both Houses can make a determination in an atmosphere that is not so supercharged with politics. Let them come back

after the election. They are getting paid for all the days of the year. Bring them back then. Let them make a decision when they are not distracted by politics, by an election. Tell the leadership of this Congress. Let them hear you.

You do not have to worry where I stand. I am telling you now. I am stating my position now. Tell the leadership of this country, both Houses: Hold up, wait, listen, ask questions, debate, and wait until politics can be shoved aside. Wait until after the election. Tell the leadership this affects your blood, your treasury, your son, your daughter, your grandson. Let them know in no uncertain terms. Tell them. They will hear you.

I am proud to say that our leader on this side of the aisle has not yet made a final determination, I do not think. He has not joined with the leadership in the other body that went like lambs to the slaughter following after the President.

I respect the President of the United States. We should work with him, and we should support him when we can. But remember what Madison said: The trust and the temptation are too great for any one man.

We elected representatives of the people are not supposed to follow any President, whether he is a Democrat or Republican, meekly and without question. I do not believe there is a Republican in this body who knows me well who would believe for a moment, if we had a Democratic President today, I would not be saying exactly what I am saying right now.

I took the position against our President on the line item veto. I did not go along with President Clinton because he supported the line item veto. Nor would I go with any President in this more fateful matter, this question of peace or war, if they were a Democrat. I am standing where the Constitution says I should stand.

There is no king in the American scheme of things. There is no place for kings in our constitutional system. But there is a place for men. When I say "men," of course, I am speaking of men and women, but when the Constitution was written it was only men.

There is no place for weakness. There is no place for wishy-washiness. There is only a place for steadfastness and a place for supreme dedication to the Constitution of the United States, for every word that is in it, and to stand by the spirit with which it speaks. We cannot stand by that spirit and just go along. The people want a political party that stands for something. They want men and women in office who stand for them. They do not want men and women in office who just go along because their party goes along or because the President goes along. They want men and women who think for themselves and who keep in mind that they are sent here by the people who cannot speak on this floor but who expect us to speak.

That is where I stand. That is where I am going to stand always and forever. As long as I live and have the privilege of representing the people of the State of West Virginia, that is exactly where I am going to be, regardless of where any President is. If I differ with him, I will say so, and I differ with this President on this issue.

I do not think there is any new evidence that compels us to vote on this resolution before we go home. Oh, they say we need to get it behind us. We cannot get this issue behind us. We can vote for this resolution, but that will not get the issue behind us. The President will have us back on that question every day until the election is over, and he can do that. He has the bully pulpit. Do not think for a moment this issue is going to be put behind us before this election is over.

Another thing we will not get behind us is the record of where we stand, the record of where I stand, the record of where he or she stands. We will not get that behind us. That will be there engraved in stone, in marble, and in bronze, until the Lord comes home. Until kingdom come, it will be there. You cannot efface it. You cannot erase it. It is there.

I intend to let my record stand. I do not intend to put a blemish on it by walking away from the Constitution in this fateful hour.

There are questions to be asked. What is going to happen to Israel? What is going to happen to the people of Israel? What is going to happen to the Palestinians? What are the ramifications of going to war in a preemptive strike, which this Constitution does not represent and does not allow? What are the ramifications around the globe? What is the image of the United States then going to be: A nation that is a rogue nation, that is determined to wipe out other nations with a preemptive strike? And what will happen if we deliver a preemptive strike? Will other nations be encouraged to do the same? What will be the cost? How many men and women do we expect will become casualties if this country goes to war in a preemptive strike against Iraq? What is going to be the cost in dollars?

The President's economic advisor says: Oh, \$100 billion or \$200 billion. He says that is nothing, \$100 billion. That is nothing. Even \$9 billion has been a stumbling block and a bone in the craw of this administration when it comes to appropriations bills. All that has kept us from having agreements on appropriations bills is \$9 billion.

What is going to be the price tag? What is it going to cost in terms of homeland security? Might we expect other terroristic acts if we launch a preemptive strike? How can we be sure we will not be subject to preemptive strikes of terrorists? What will be the cost? What is likely to happen on our borders? Are we going to have to maintain greater vigilance in our ports? What is going to happen to the needs of veterans? What is going to happen to

the needs of education? What is this going to do to the American pocket-book? What is it going to do to the deficits?

There are these and many more questions. They ought to be questioned. It is not unpatriotic to ask.

I thank the distinguished Senator for yielding. I thank the distinguished Senator from Virginia. I hope I have not tried the patience of these two Senators too much.

Mr. WARNER. Madam President, I have had the privilege of sharing these floor debates with my distinguished colleague from West Virginia many times. If he would allow me, I will make some observations about the comments just delivered by this esteemed Member of the Senate.

I fear no question that would be asked. I have the privilege of being designated by our Republican leader to be one of the managers of the debate today, tomorrow, and the days to come, since I am proud to have my name on this resolution which is before the Senate. I will be prepared, as best I can, to respond to my colleagues because I speak from my own personal convictions, which are equally as strong as those of my dear friend from West Virginia.

But the Senator said the President is not king, and the Senator is right. There is no one who understands this Constitution better. The king is not mentioned, as far as I can recall, in the Constitution anywhere. But what is in the Constitution is the President should be Commander in Chief of the Army and Navy and, indeed, the Air Force and the Marines.

At this very moment, while we are in this Chamber, Saddam Hussein is firing on our airplanes over Iraq, which have been operating for over a decade, trying to enforce at least one of the resolutions, 688, which precluded him from using force, such as poison gas and biological weapons against his own people.

Just in the month of September, 60 times have our airplanes and those of Great Britain and at one time France experienced that hostile fire against American and British aviators. Therein is the constitutional responsibility of our President to fire back.

A very good question which my good friend raises, What is new? I am urging the administration to try and share more information with the Congress this week and to perhaps declassify information, but I can only speak for myself as to what is new, and that is the biological weaponry. It is an open fact now.

It has been expressed by the chairman of the Joint Chiefs, Secretary Rumsfeld, that Saddam Hussein is manufacturing this biological agent by using trucks. Three or four trucks constitute a small industrial plant, and they can be moved around. It can be containerized. It could be put in a bottle or can of baby powder and smuggled into the United States. There are means, and all of us know how that

could be distributed in a harmful way against our people.

That is the new information that compels me to take the actions I am taking with others. I will, in the days to come, give other bits of information that compel me to take this position behind this resolution.

Mr. BYRD. Will the Senator yield?

Mr. WARNER. I am happy to yield.

Mr. BYRD. He speaks of biological weapons in the hands of Saddam Hussein as being something new. That is not new. That is not new.

This Nation itself helped to build, helped to create the building blocks of biological weaponry years ago when we sent to Saddam Hussein, this country made available to Iraq, back in the days when we thought that Saddam Hussein would be our friend. A few years later, after we provided Iraq help in making biological weapons, today we find he is our enemy.

This is the way it is. Yesterday's friend is today's enemy. We have known about the biological weapons for years. We helped Iraq to have the building blocks. Now we have claimed this is something new. This is not new. This is not a new pretext. We have known this all along. The Israelis knew these things. They knew what was happening in Iraq with respect to nuclear weapons. These things are not new, but they are new just before this election. That is what I am saying. Let us come back after the election and then debate, and then, who knows? I might join with the distinguished Senator in promoting a resolution to declare war, Congress declare war.

Mr. WARNER. If I might say to my good friend, I think it is helpful Senators engage as you and I are, and I hope throughout this debate there is a great deal of that, Senator to Senator, eye to eye, to talk about these issues.

But this biological weaponry, the ability to manufacture it and move those sites around to conceal his industrial base, the ability to package it in such a way that it now can be transported long distances, I think that is new technology, which is troublesome to me. We know full well of the willingness and capability of terrorists to hit us as they did on 9/11. We saw them attack the USS *Cole*. What is to prevent those biological weapons being placed into the hands of this growing network of terrorists, people who hate the United States, and bring it to our shores and distribute it?

Mr. BYRD. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. Madam President, it was not more than 6 weeks ago when this President, this administration, expressed concern at the "frenzy" that people were being wrapped into. This administration tried to cool it 6 weeks ago, talking about the frenzy.

We have heard this administration's Cabinet Members out on the trail say time and again, there is no plan, no plan on the President's desk. That is what Secretary of State Powell said to

me when I asked, What is new? What about these plans? Oh, there is no plan on the President's desk. Even the President himself has said there is no plan. Even as late as October 1, just a few days ago, 3 days ago, 4 days ago, the President himself said he has not made a decision to go to war.

So what is new? That is what I am saying to my distinguished friend. We knew about their packaging. Why didn't the CIA Director say it to me when I asked him twice, once up in 407 and once in my own office, What is there that is new from your standpoint of intelligence that we did not know 3 months ago, 6 months ago? He has not been able to come up with anything.

So I say to my distinguished friend from Virginia, yes, I am concerned about packaging and all that. But that is not new. That should not make it all-compelling that we vote on this matter of peace or war, or preemptive strike, before we go home. The people out there want us to come home. Let's go home to the people who send us here; let's talk with them in town meetings; let's tell them what we know. They have questions they want answered. Let's go to our people, our bosses, the people whom we represent. Let's go back to them before we make this fateful decision once and for all, which involves so much of the treasure and blood of the people who sent us here. Let's go back to them; let's get their feelings; and then we can come back and make this decision.

Mr. WARNER. Madam President, I will walk out of this Chamber after we complete our debate to go to my State, as others have gone to theirs, to listen to my citizens. But I say to them, the timing of the work we are doing on this resolution is important now, for many reasons. But I draw to the attention of my colleague that the United Nations is now deliberating, at this very moment, on the possibility of another resolution providing for yet another attempt for an inspection regime.

If we show our strength and we show our resolve as a unified Congress, behind the President, to the extent we do that, it is to that extent that resolution could be meaningful and have teeth in it and enforceability in such a way that we can avoid the conflict of war to resolve this question of weapons of mass destruction, about which I know my good friend may have a view different from mine.

We know now he possibly does not have an operative nuclear weapon, but he is doing everything he can to get the materials to construct one or the materials to incorporate in such technology as he has in place now.

Mr. BYRD. Madam President, will the Senator yield? Will the Senator yield?

Mr. WARNER. Oh, yes, of course, Madam President.

Mr. BYRD. Madam President, may I say to my friend, he is getting the cart—I say most respectfully, the distinguished Senator from Virginia, for

whom I have tremendous respect—he has been chairman of the Armed Services Committee on which I sit—is getting the cart before the horse. Let's let the United Nations, that forum of world opinion, speak. Let it make its decision; let's see where those people stand; let's see where those other nations stand, and then come back to this body and the body across the Capitol and let the Congress make its decision after the United Nations has taken a position; otherwise, we get the cart before the horse. Let's wait and see what that world opinion says. Let's wait and see where they stand, the United Nations, and then we will be in a better position to make our decision.

What we are doing here—if the distinguished Senator will yield further?

Mr. WARNER. Oh, yes.

Mr. BYRD. We are voting on this new Bush doctrine of preventive strikes—preemptive strikes. There is nothing in this Constitution about preemptive strikes. Yet in this rag here, this resolution, S.J. Res. 46, we are about to vote to put the imprimatur of the Congress on that doctrine. That is what the Bush administration wants us to do. They want Congress to put its stamp of approval on that Bush doctrine of preemptive strikes.

That is a mistake. That is a mistake. Are we going to present the face of America as the face of a bully that is ready to go out at high noon with both guns blazing or are we going to maintain the face of America as a country which believes in justice, the rule of law, freedom and liberty and the rights of all people to work out their ultimate destiny?

Mr. WARNER. Madam President, if I could turn to the reference to the United Nations and the timing, I wish I were the student of history that my good friend ROBERT BYRD is.

I remember when you took me, hand in hand, to Rome and we went to the very site of the Roman Senate. Do you remember that day? You stood there, amidst the falling rubble of that historic building—if only they would restore it to its original integrity as ever more a reminder of the strength of the Senate as a body, in State legislatures or wherever—but at any rate, what was the quote of a Frenchman who said one time: Oh, tell me in which direction the crowd is surging so I can run out and get in front and lead?

Do you remember that quote?

Mr. BYRD. No, but I remember Caesar, when he saw one of the Roman soldiers running away from the battle, he took that Roman soldier and turned him around. He said: You are running in the wrong direction.

That is what I am afraid we are doing. We are running in the wrong direction.

Mr. WARNER. No, but what I say is, what our President has done, to hope that the United Nations will move in the right direction, is to go there and speak to them and to lead, together with others—the Prime Minister of

Great Britain and others—lead, not wait and see in what direction they go. No, that is the reason for the timing of this resolution.

I would like to ask most respectfully—

Mr. BYRD. Madam President, will the Senator yield?

Mr. WARNER. Oh, yes.

Mr. BYRD. I think the President would be in a much better position with the United Nations to leave the case as he had made it. He made a fine case. He made a case in which there was no room for water or air. He placed it right in front of the United Nations, the fact that that body has been recalcitrant in its duty and its responsibility. It passed resolution after resolution after resolution, and has done very little.

I think the President is in a much better position, ultimately, if we let the United Nations speak first and not go to the United Nations and say: Now, we would love to hear what you have to say, but regardless of what you have to say, we have made up our minds, and if you don't do it, we are going to do it.

Well, why not let him do it?

I think this responsibility should be left clearly in the lap of the United Nations. We will make our decision later, when the President comes back to this institution which, under this Constitution, has the power—not any President—the power to declare war.

Mr. WARNER. Madam President, I draw to the attention of my colleague that it has been over a decade since hostilities were concluded in the signing of those documents in the desert by Saddam Hussein's Foreign Minister on April 6, 1991. Sixteen resolutions which have been passed by this body have been ignored. Only one of them is receiving any degree of enforcement through the bravery of our airmen.

I say, what is the record of the U.N., having sat there and let 16 resolutions be ignored, allowing the inspectors to be driven out? And President Clinton made his effort to get this Chamber to pass a resolution for regime change, to send the inspectors back. What fragment of knowledge do you have about the U.N. that I do not possess, that they have sat there 16 times and said do this—did not enforce it, allowed for a 4-year lapse in the inspection team to be there—and are now considering at this very moment sending another team back? What is it about this institution that instills in you the confidence that this, the 17th resolution, if they adopt it, will have more force and teeth and resolve and conviction than did the previous 16?

Mr. BYRD. Madam President, will the Senator yield?

Mr. WARNER. Yes, of course.

Mr. BYRD. Madam President, what were we doing in those 4 years? What were we doing? What were we failing to do that now comes to mind that makes us so determined and so hell-bent to vote on this rag, S.J. Res. 46, before this election? We knew all this for 4 years. Where were we?

Why did we wait until this particular moment?

That is one answer.

Mr. WARNER. Madam President, if I interject, we were flying those missions. Our airmen were risking their lives. That is what we did.

Mr. BYRD. We were doing that, but we ought to have been doing more. Why wait until an election and then come up all of a sudden and say, Oh, we have got to have this S.J. Res., we have got to put into the hands of one man the trust and the temptation, which Madison so well spoke against because it was too much, too great for any one man?

The gulf war, does the Senator remember the total cost of that war?

Mr. WARNER. No, I do not recall, but I know it was shared.

Mr. BYRD. It was \$61.1 billion.

Does the Senator recall how much the U.S. had to pay?

Mr. WARNER. Madam President, it seems to me a smaller fraction of it because our allies contributed a considerable number.

Mr. BYRD. That is right. We ended with the United States being left holding the bag for about \$7.5 billion.

Mr. WARNER. That is my recollection.

Mr. BYRD. That is a little over \$7 billion. That is what we ought to be doing now. We ought to get these other countries to belly up to the bar and help to bear the cost of this war. We are not doing that, though. We are having an administration that says, Give it to me, give me the authorization to go, and if you, the U.N., don't do it, I will.

Who is "I"? "I will." "We will." Who is "we"?

We are committing the American people, we are committing the blood and the treasure of the American people to do what the United Nations won't do. I say, do what the President has done thus far. Put it in the lap of the United Nations and expect them to give us an answer. Then come back to the people's representatives and let them make a determination as to whether or not at that point we should strike. Maybe we shouldn't.

Mr. WARNER. Madam President, let's stop and think. We are not in this alone. Great Britain—I know of no Senator who has a greater respect for England's participation as our ally in World War I, World War II. I have had the privilege of going with my good friend to Great Britain and sitting in the Houses of Parliament.

Mr. BYRD. That Anglo-Saxon blood flows through the veins of the Senator from Virginia.

Mr. WARNER. My mother's great-great-grandfather built Balmore Castle, which the Queen uses as her home.

But let us get back to this. Great Britain has helped us. I know Spain and Portugal expressed an interest.

I ask my good friend—I have seen him on this floor defending the courage

of Turkey and its leaders—am I not correct that Turkey has been a valiant partner in war in the area?

Mr. BYRD. Does the Senator know how many times Turkey has violated the U.N. Security Council resolutions? More than 40 times.

I am a friend of Turkey.

Mr. WARNER. I know the Senator is.

Mr. BYRD. I say to my dear friend, point to Iraq, for which I have no grievance, and talk about Iraq's violations of United Nations Security Council resolutions. Turkey has violated those resolutions; and that ain't all. Israel has violated those resolutions. Israel has violated those Security Council resolutions. So don't put it all on the basis of violations of Security Council resolutions.

I am simply saying—and the distinguished Senator can stay with me here until the Moon is up and full at midnight and until that Moon changes.

Mr. WARNER. I am prepared to do so.

Mr. BYRD. He can stay with me until the cows come home, and I will always lead him right back to this foundation, my rock on which I stand. And it says: Congress shall have the power to declare war.

The administration can say all it wants. It can bring all of its Cabinet heads up and have them on television on Sunday. It can bring Dr. Rice, it can bring Secretary Powell, it can bring the secretary of war, it can bring the Vice President of the United States, the President of this body, and they can say whatever they want until they are completely out of breath. And I guarantee you they will not once mention the Constitution of the United States. They haven't thus far. But they are going to be brought right back every time to face this Constitution which I hold in my hand, which says Congress shall have the power to declare war.

Mr. WARNER. Madam President, I wish to ask one more question. I see other colleagues seeking the floor. Could I wrap up on one point in my colloquy with the Senator?

Mr. BYRD. Yes. Will the Senator allow me one thing? Then he has the floor and he can wrap up.

Madam President, today—just today—I say this at 15 minutes until 3 p.m. on this day, the 4th day of October in the year of our Lord 2002—my office has received 1,400 telephone calls—just today. And almost every single caller has said: Wait. Slow down. Don't rush this through.

If the Senator will allow me 1 more minute, I plead with those people out there, I plead with the American people, let your voice be heard. You need to be heard. You have a right to be heard. You have questions that should be asked and answered. Let the leadership of this Congress know that you don't want this resolution rammed through this Congress before the election. The life of your son may depend upon it. The life of your daughter may

depend upon it. Get out there and let this leadership know that we should stay on our jobs—or that we should come home and talk with the people back home and put off this fateful decision which cannot be retracted except through another piece of legislation.

Let the people back there speak to us and then come back after the election and make this decision so we will not be hearing the television ads and reading the newspaper ads with respect to politics while we have to make this decision.

I hope the people will speak out. Let the hills and the mountains and the valleys reverberate with the sound of your voices. It is your country. Stand for it now. People out there, speak out, write, use the telephones, use the mail, and let the leadership of this Congress hear you. Tell them to wait.

I thank the distinguished Senator for his kindness.

Mr. WARNER. Madam President, if I could ask one further question of my good colleague, first, I join with the Senator in encouraging the people to speak out, write, and call. I welcome those who disagree with my views, or those who might wish to associate with my views and those of others who have written this resolution.

But I say to my good friend that it is always a learning experience to join him on this historic floor of this great Chamber of this Senate, which he has referred to with the deepest of affection for so many years as the greatest deliberative body on Earth.

The Senator mentioned Madison. By coincidence, my itinerary this weekend will take me to Madison County, VA, where there is a little museum that has some of the fragments and memorabilia of that great statement.

I ask this one last question: This document will rest on every Senator's desk. S.J. Res. 46 was introduced by our colleague who sits right here, JOSEPH LIEBERMAN, for himself and Mr. WARNER of Virginia, and others. I wrote the resolution with others in 1991. It was then the Warner-Lieberman resolution. Now I think, appropriately with the majority resting on that side, it is the Lieberman-Warner resolution.

But I ask my good friend: Is there a word in this resolution—and I hold myself responsible for the words in this resolution. Is there any word, is there any sentence, is there any paragraph that exceeds the authority given to the President of the United States in the Constitution which you love and defend so dearly?

Mr. BYRD. Absolutely. Absolutely. This whole piece, this great expenditure of paper, is nothing more than a blank check given to the President of the United States to use the forces of this country, the military forces, in whatever way he determines, whenever he determines, and where he determines to use those forces to “defend the national security interests of the United States against the threat posed by Iraq, and restore international peace and security in the region.”

Now, Madam President, you don't need all this paper. You have a vast waste of verbiage here. Just make it one sentence. Make it one sentence, may I say to my friend from Virginia, one sentence. If we are going to make it a blank check, let's make it a blank check right upfront, without all of these flowery figleaves of “whereas” clauses, and simply say that the President has this power. Give it to him and we will put up a sign on the top of this Capitol: “Out of business.” Gone home. “Gone fishing.” Put up a sign: “We are out of it. We are out of business. We, here in the Congress, are out of business,” may I say to my friend.

Now, I know his intentions are the best. I believe that. I respect him. I have served with him. He is a reasonable man. I consider it an honor to be a Member of the same body. He is always a man with whom one can debate, disagree, agree, and he does not carry it out of this Chamber. He is a good man at heart. He loves his country. He has served his country. He is loyal to his country, sometimes too loyal to his party, may I say, which cannot be said of this Senator from West Virginia. Party is important, but not all that important.

But I say, instead of just passing this resolution, why don't we say upfront: Let's give this man downtown a blank check. Leave it all to him. Give it to him lock, stock, and barrel. We'll go home. Put a sign on the Capitol: “Out of business until we are called back by the President under the Constitution.” We will go home. We will go fishing, play golf, study, read, write our memoirs—“out of business.”

Why don't we just do that, instead of going through this kind of blank check, and covering it over with figleaves and “whereases” that are flowery—flowery—beautiful? Oh, they are pretty figleaves, they are pretty “whereases.” But that is what this all amounts to: Nothing; a poison pill covered with sugar. That is all we are doing.

Mr. WARNER. Madam President, I say to my friend, the President of the United States, as I read the Constitution, has the authority, at this very moment, to employ the men and women of our Armed Forces in the defense of our Nation.

Mr. BYRD. No. That Constitution does not say that. No, no, no.

Mr. WARNER. I think it is implied in there.

Mr. BYRD. Oh, no, no.

Mr. WARNER. As Commander in Chief, if he believes an attack has been made on this country, or that an attack is imminent which he believes he has to preempt, he has the authority to use those forces, and we don't have to pass this.

Mr. BYRD. No. Wait a minute. The Senator is saying two different things now. I say that under this Constitution, this President—any President—as Commander in Chief of our country, and as the chief executive officer of

this country, has the inherent power to repel any sudden, unforeseen attack upon this Nation, its territories, its people. He has that because Congress may not even be in session. Congress may be out for the August recess.

Mr. WARNER. That is correct.

Mr. BYRD. The Framers foresaw there might be that situation where Congress might not be here and the President would have to take action. But this resolution is saying something far different. That is not what this resolution says.

Read it. It does not say that the President has the inherent power to repel an instant, an unforeseen attack on this Nation. It does not say that. Now, I go along with that. But I do not go along with this. This says:

The President is authorized—

We are handing it right over, right now, if we pass this. We are not saying come back tomorrow or next week or next month or next year.

The President is authorized—

That means here and now, as soon as he signs his name on this piece of paper.

The President is authorized to use all means that he determines—

He determines—

to be appropriate.

What “he determines to be appropriate.” The Senator from Virginia may not determine that to be appropriate. What “he determines to be appropriate, including force. . . .” That means the Army, the Navy, the airplanes, everything—“including force. . . .”

In order to do what?

in order to enforce the United Nations Security Council Resolutions referenced above—

Well, what is that: “referenced above”? You have to go through all these beautiful figleaves to find out what resolutions are referenced. And even some of those resolutions have long gone out of existence. They no longer exist. And yet are we going to raise from the dead, like Lazarus, U.N. resolutions that have long ago gone out of existence, that no longer have life in their bodies?

No. We say we are going to revive them. Like the Shulamite woman in the Bible, we are going to revive her son.

. . . referenced above—

“Referenced above”? They do not tell you specifically what resolutions.

defend the national security interests of the United States against the threat—

What threat? Is it a direct, immediate, imminent attack on this country? Then, that is one thing. But “against the threat posed by Iraq. . . .”

A threat determined by whom? Who determines what the threat is?

against the threat posed by Iraq, and restore international peace and security in the region.

What a broad grant of naked power. To whom? One person, the President of

the United States. This Constitution itself refutes—it refutes—this resolution right on its face.

Mr. WARNER. Madam President, if I could say to my dear friend, on the desk are two resolutions. The one that was originally introduced by Mr. DASCHLE and Mr. LOTT—

Mr. BYRD. All right.

Mr. WARNER. I say to you, sir, that is the one to which you referred.

Mr. BYRD. Let me look at that one.

Mr. WARNER. Fine.

Mr. BYRD. Let me read from it.

Mr. WARNER. But the one I drew your attention to, I say to my good friend, is the one drawn by Mr. LIEBERMAN and myself, which language is somewhat changed. This is the one that is presently the subject of this debate.

Mr. BYRD. Yes. Let me read it.

I am sorry Mr. LIEBERMAN has joined in this resolution, but he is a Senator, and he has the perfect right to join any resolution he wants to join.

But I think the American people want somebody who stands for something. They are tired of this wishy-washy going along and saying: We have to get it over, and we have to put it behind us.

We are not going to put this thing behind us. The President has chosen to make this the battlefield. Iraq: He has chosen to make that the battlefield. His administration has chosen to do that. His chief political adviser, Karl Rove, advised the Republican members of the National Committee in January to do that, make that the battlefield. So they have chosen to do it. And you will find a way to get away from it. You can't do it.

So let's fight that battle on that battlefield, and in so doing, let's draw attention to the shortcomings of this administration when it comes to the domestic issues and the problems facing this Nation: health issues, the issues of homeland security. That is where the battle ought to be fought. But if it were fought on that battleground, the eyes of the people would not be deflected during an election.

Well, here is what the verbiage says:

The President is authorized to use the Armed Forces of the United States as he determines—

"He." Madison said that was too much, too much trust, too much temptation, too great to be turned over to any one man. And that is precisely what we are doing here.

The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—

(1) defend the national security of the United States against the continuing threat posed by Iraq—

Why, Iraq has posed a threat for decades now. But how imminent and how much is it directed toward the heart of America?

He can do anything he wants and say: Well, Congress said I could defend the national security of the United States

against the continuing threat posed by Iraq, and Congress also included the language "and enforce all relevant U.N. Security Council resolutions regarding Iraq." How much looser can that be, "enforce all relevant"? What do we mean by "relevant U.N. Security Council resolutions"?

A resolution may have long ago expired, gone out of existence by virtue of the happening of some circumstance. Yet like Lazarus, we are going to say: Lazarus, come forth, and Lazarus came forth when Jesus called him to come forth. He came forth wrapped in his grave clothes. And Jesus said: Loose him and let him go.

We can't say that about U.N. Security Council resolutions. We can't say "resolutions come forth; come forth in your grave clothes. Loose that resolution and let it go." We can't say that. That is what we are saying here, "enforce all relevant United Nations Security Council resolutions regarding Iraq."

This is, plain and simple, a blank check given to the President of the United States. I won't touch it. With all respect to those Senators who believe in what they are doing, they believe in it as sincerely as I believe they are wrong, but they believe they are right. I don't say anything with respect to their integrity. I don't challenge their honor. I don't challenge for a moment their dedication to their country. I say it is wrong.

We are giving to the President of the United States a blank check, and Congress cannot do that. Congress should not do that. Where is the termination? Where is the deadline? Where is the sunset language that says after this happens, this resolution shall no longer exist, this resolution we are over and done with? There is nothing. This goes on to the next President of the United States.

Show me if I am wrong. It goes on to the next President of the United States, and the next one. We are going to have a Democratic President at some point in this country. Then where will my friends on the other side of the aisle be? I know where they will find me. They will find me right where I am now, if God lets me live. But that is what we are doing. We are unwittingly passing a blank check, not just to this President but to any future President, until such time as the Congress acts to repeal or amend this resolution.

I am not willing to do it. Put a sunset provision in it. That would help some.

Mr. WARNER. Madam President, I thank my colleague. I thank him for recognizing what he was reading from previously is separate from the resolution which I coauthored with Senator LIEBERMAN which he now has read. That is the subject. I say most respectfully to my colleague, I firmly say there is nothing in this resolution, of which I was privileged to be a coauthor with others, which in any way transcends the authority given to the

President of the United States by this Constitution. We have a disagreement on that.

Mr. BYRD. Will the Senator join his friend from across the mountains, across the Alleghenies, in putting language into this resolution which he advocates here, would he join me in putting language in here which indubitably states, unquestionably states the authority of the Constitution, which requires that Congress declare war, not be impinged upon by this resolution in any way?

Mr. WARNER. Madam President, that is a challenge. I will consider that. But let me just say, earlier today I recounted how this body has only used that power to declare war five times. Yet we have sent forward men and women of the Armed Forces into harm's way upwards of 200 times. I say to my friend, that is a challenge.

I assert very firmly, there is nothing in this resolution that goes beyond the authority the President has. This President, as well as any other President, could act tomorrow without the specific authority of Congress, if he felt it was necessary to use the troops to defend the security interests of this country.

Mr. BYRD. The Constitution does not say that. That is exactly what my friend is wanting to read into this Constitution. I don't mean just my friend, I mean the others who support his view.

Will the Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. He has said this Nation has issued a declaration of war but five times. That is right. There have been 12 major wars in which this country has participated. We have had five declarations of war by this Congress out of those 12 wars. But out of six of the remaining seven, the President acted on authorizations by statutes. They were not declarations of war as such, but they were statutes from which the authorization could be drawn. So that is 11 of the 12. The 12th was in Korea, and Congress did not declare war. Congress did not authorize the forces of this country being injected into that conflict. That was done by Harry Truman, and he is my favorite Democratic President during my career, not my favorite all-time Democratic President.

By the way, Eisenhower is my favorite Republican President during this time.

Back on the subject, there were 12 major wars. The distinguished Senator from Virginia has mentioned the number 200. He has said we have had military forces involved in over 200 conflicts. Yes, in over 200, but they were not major conflicts. They were minor skirmishes having to do with cattle rustlers, having to do with pirates, having to do with minor engagements. No, they were not major conflicts.

Mr. WARNER. Madam President, the war in Vietnam did not have a declaration. That was not minor, and you know that well. There were over 50,000



casualties. The war in Korea, in which I had a very modest role in the Marine Corps, was not modest. There were over 50,000 casualties.

Mr. BYRD. I said for the war in Korea, we did not have a declaration. Mr. Truman put our troops there, and we didn't have a declaration.

Let's go back to the war in Vietnam. I was here. I was one of the Senators who voted for the Gulf of Tonkin resolution. Yes, I voted for the Gulf of Tonkin resolution. I am sorry for that. I am guilty of doing that. I should have been one of the two, or at least I should have made it three, Senators who voted against that Gulf of Tonkin resolution. But I am not wanting to commit that sin twice, and that is exactly what we are doing here. This is another Gulf of Tonkin resolution. I am not going to vote for that this time. No. Don't count me in on that.

I see my friend, the Senator from Massachusetts. I join with the Senator from Virginia in wanting to hear what that Senator has to say. That is my answer to the Senator.

Mr. WARNER. I respect this. We just have strong differences. I think we have stated them.

I would like to read this bit of history. I was going to save this for next week. You have raised properly the classification of this current set of facts as presenting the preemptive issue. But let me read you—I will hand this to you, but it will be in the RECORD—use of the military forces of the United States in engagements which have the facts that could be judged as preemptive action by our Presidents: In 1901, in the Colombia-Panama engagement; 1904, 1914, and 1965, the Dominican Republic; 1912, Honduras; 1926, Nicaragua; 1958, Lebanon; 1962, naval quarantine of Cuba; 1983, Grenada; 1986, Libya; 1989, Panama, Just Cause; 1992, Somalia; 1998, Sudan; 1998, Iraq, Desert Fox, when President Clinton ordered that; 1999, Kosovo. You and I had that resolution together, brother Senators, on Kosovo. We did the right thing.

Mr. BYRD. We may have been brother Senators on the resolution which brought us out of Somalia.

Mr. WARNER. I remember that well.

Mr. BYRD. I thank the distinguished Senator. He has been very liberal—

Mr. WARNER. Not liberal but prepared.

Mr. BYRD. He was gracious in his yielding to me. The Senator from Massachusetts is going to address the Senate at 2:30.

Mr. WARNER. We will have more on this floor in the days to come.

I yield the floor.

THE PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I commend my two colleagues and friends for framing this issue as it has been framed over the period of these last hours, and I appreciate the nature of the discussion. I say to my friend from

West Virginia and my friend from Virginia, I hope over the period of these next several days as we contemplate this issue, going into next week, the American people will take the time to follow not only the debate here but to understand what is at stake with the various resolutions that are going to be coming before us.

I was going to inquire of the Senator from West Virginia. As I understand previous resolutions which have been considered by the Security Council, the only resolution that provided for the use of force was the 1990 resolution, and it was pursuant to that resolution that passed the Security Council where the President then came to the Congress and asked for the Congress' authorization to go to war. I believe when we are talking about resolutions, which was one of the many valid points the Senator was making, on that particular occasion the Security Council authorized the use of force, and then the President came to the Congress to ask for the authorization, and was able to gain the authorization, and the American forces were committed. But that is an entirely different situation, as the Senator pointed out during his exchange with my friend from Virginia.

Mr. President, I intend to oppose the Lieberman-Warner resolution authorizing the use of force against Iraq. America should not go to war against Iraq unless and until all other reasonable alternatives are exhausted.

Just a year ago, the American people and the Congress rallied behind the President and our Armed Forces as we went to war in Afghanistan. Al-Qaida posed a clear, present and continuing danger. The need to destroy al-Qaida was urgent and undeniable.

In the months that followed September 11, the Bush administration marshaled an impressive international coalition. Today, 90 countries are enlisted in the effort, from providing troops to providing law enforcement, intelligence, and other critical support.

I am concerned that going to war against Iraq before other means are tried will jeopardize the war against terrorism. One year into the battle against al-Qaida, the administration is shifting focus, resources, and energy to Iraq. The change in priority is coming before we have eliminated the threat from al-Qaida, before we know whether Osama bin Laden is dead or alive, and before we know whether the fragile post-Taliban government in Afghanistan will succeed.

No one disputes that America has lasting and important interests in the Persian Gulf, or that Iraq poses a significant challenge to U.S. interests. There is no doubt that Saddam Hussein's regime is a serious danger, that he is a tyrant, and that his pursuit of lethal weapons of mass destruction cannot be tolerated. He must be disarmed.

Our goal is to achieve this objective in a way that minimizes the risks to our country. We cannot ignore the dan-

ger to our young men and women in uniform, to our ally Israel, to regional stability, the international community, and victory against terrorism.

There is clearly a threat from Iraq, and there is clearly a danger, but the administration has not made a convincing case that we face such an imminent threat to our national security that a unilateral, pre-emptive American strike and an immediate war are necessary. Nor has the administration laid out the cost in blood and treasure of this operation.

With all the talk of war, the administration has not explicitly acknowledged, let alone explained to the American people, the immense post-war commitment that will be required to create a stable Iraq.

The President's challenge to the United Nations requires a renewed effort to enforce the will of the international community to disarm Saddam. Resorting to war is not America's only or best course at this juncture. There are realistic alternatives between doing nothing and declaring unilateral or immediate war. War should be a last resort, not the first response.

The Bush administration says America can fight a war in Iraq without undermining our most pressing national security priority—the war against al-Qaida. But I believe it is inevitable that a war in Iraq without serious international support will weaken our effort to ensure that al-Qaida terrorists can never, never, never threaten American lives again.

Unfortunately, the threat from al-Qaida is still imminent. The Nation's armed forces and law enforcement are on constant high alert. America may have broken up the network in Afghanistan and scattered its operatives across many lands. But we have not broken its will to kill Americans. We know that al-Qaida is still there, and still here in America—and will do all it can to strike at America's heart and heartland again. But we don't know when, where, or how this may happen.

On March 12, CIA Director Tenet testified before the Senate Armed Services Committee that al-Qaida remains "the most immediate and serious threat" to our country, "despite the progress we have made in Afghanistan and in disrupting the network elsewhere."

Even with the Taliban out of power, Afghanistan remains fragile. Security remains tenuous. Warlords still dominate many regions, and 17 people were recently killed in fighting between rival warlords in the northern mountains.

Our reconstruction efforts, which is vital to long-term stability and security, is in doubt and is cause for continuing concern. Some al-Qaida operatives—no one knows how many—have faded into the general population.

Terrorist attacks are on the rise. A bomb exploded near the U.S. Embassy in Kabul last week. A car bomb took 26 lives in that city earlier in September.



The U.S. military base in Bagram is under periodic fire.

President Karzai, who has already survived one assassination attempt, is still struggling to solidify his hold on power. And although neighboring Pakistan has been our ally, its stability is far from certain.

It is an open secret in Washington that the Nation's uniformed military leadership is skeptical about the wisdom of war with Iraq. They share the concern that it may adversely affect the ongoing war against al-Qaida and the continuing effort in Afghanistan by draining resources and armed forces already stretched so thin that many Reservists have been called for a second year of duty, and record numbers of service members have been kept on active duty beyond their obligated service.

To succeed in our global war against al-Qaida and terrorism, the United States depends on military, law enforcement, and intelligence support from many other nations. We depend on Russia and countries in the former Soviet Union that border Afghanistan for military cooperation. We depend on countries from Portugal to Pakistan to the Philippines for information about al-Qaida's plans and intentions.

Because of these relationships, terrorist plots are being foiled and al-Qaida operatives are being arrested. It is far from clear that these essential relationships will be able to survive the strain of a war with Iraq that comes before the alternatives are tried—or comes without the support of an international coalition.

A largely unilateral American war that is widely perceived in the Muslim world as untimely or unjust could worsen, not lessen, the threat of terrorism. It could strengthen the ranks of al-Qaida sympathizers and trigger an escalation in terrorist acts. As General Wesley Clark, the former Supreme Allied Commander in Europe, told the Senate Armed Services Committee, that kind of war against Iraq, would “super-charge recruiting for al-Qaida.”

In a September 10 article, General Clark wrote:

Unilateral U.S. action today would disrupt the war against al-Qaida.

We ignore such wisdom and advice from many of the best of our military at our own peril.

General Joseph Hoar, the former Commander of the Central Command, advised the Armed Services Committee on September 23 that America's first and primary effort should be to defeat al-Qaida.

We have known for many years that Saddam Hussein is seeking and developing weapons of mass destruction. Our intelligence community is also deeply concerned about the acquisition of such weapons by Iran, North Korea, Libya, Syria and other nations. But information from the intelligence community over the past 6 months does not point to Iraq as an imminent threat to the United States or a major

proliferator of weapons of mass destruction.

In public hearings before the Senate Armed Services Committee in March, CIA Director George Tenet described Iraq as a threat but not as proliferator, saying that Saddam Hussein “is determined to thwart U.N. sanctions, press ahead with weapons of mass destruction, and resurrect the military force he had before the Gulf War.” That is unacceptable, but it is also possible that it could be stopped short of war.

In recent weeks, in briefings and in hearings in the Armed Services Committee, I have seen no persuasive evidence that Saddam could not be deterred from attacking U.S. interests by America's overwhelming military superiority.

I have heard no persuasive evidence that Saddam is on the threshold of acquiring the nuclear weapons he has sought for more than 20 years.

The administration has offered no persuasive evidence that Saddam would transfer chemical or biological weapons of mass destruction to al-Qaida or any other terrorist organization. As General Hoar told the members of the Armed Services Committee, a case has not been made to connect al-Qaida and Iraq.

To the contrary, there is no clear and convincing pattern of Iraqi relations with either al-Qaida or the Taliban.

General Clark testified before the Armed Services Committee on September 23 that Iran has had closer ties to terrorism than Iraq. Iran has a nuclear weapons development program, and it already has a missile that can reach Israel.

In August, former National Security Advisor Brent Scowcroft wrote that there is “scant evidence” linking Saddam Hussein to terrorist organizations, and “even less to the September 11 attacks.” He concluded that Saddam would not regard it as in his interest to risk his country or his investment in weapons of mass destruction by transferring them to terrorists who would use them and “leave Baghdad as the return address.”

At the present time, we do face a pressing risk of proliferation—from Russia's stockpile of weapons of mass destruction. America spends only \$1 billion a year to safeguard those weapons. Yet the administration is preparing to spend between \$100 billion and \$200 billion on a war with Iraq.

I do not accept the idea that trying other alternatives is either futile or perilous—that the risks of waiting are greater than the risks of war. Indeed, by launching a war against Iraq now, before other alternatives are tried in good faith, the United States may well precipitate the very threat that we are intent on preventing—weapons of mass destruction in the hands of terrorists. If Saddam's regime and his very survival are threatened, then his view of his interests may be profoundly altered. He may decide he has nothing to lose by using weapons of mass destruc-

tion himself or by sharing them with terrorists.

Such a war would also pose great risks to our armed forces. Some who advocate military action against Iraq assert that air strikes will do the job quickly and decisively, and that the operation will be complete in 72 hours. But there is no persuasive evidence that air strikes alone over the course of several days will incapacitate Saddam and destroy his weapons of mass destruction. Experts have informed us that we do not have sufficient intelligence about military targets in Iraq. Saddam may well hide his most lethal weapons in mosques, schools and hospitals. If our forces attempt to strike such targets, untold number of Iraqi civilians could be killed.

In the gulf war, many of Saddam's soldiers quickly retreated because they did not believe the invasion of Kuwait was justified. But when Iraq's survival is at stake, it is more likely that they will fight to the end. Saddam and his military may well abandon the desert, retreat to Baghdad, and engage in urban, guerrilla warfare.

In our September 23 hearing, General Clark told the Armed Services Committee that we would need a large military force and a plan for urban warfare. General Hoar said that our military would have to be prepared to fight block by block in Baghdad, and that we could lose a battalion of soldiers a day in casualties. Urban fighting would, he said, look like the last brutal 15 minutes of the movie “Saving Private Ryan.”

Mr. BYRD. Will the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. BYRD. I have listened with great interest to what he is saying. Does the Senator know—he is on the Armed Services Committee of the Senate as I am—does he know of any plan the administration has in readiness to deal with any one of these several possible contingencies in which we may find ourselves if we attempt to launch a unilateral strike, a unilateral invasion? Does he know of any plan that the administration has?

I have heard time and again the administration's surrogates say that the President has no plan on his desk. The distinguished Senator has made reference to a plan. Does he know of any plan that the administration has ready today and, if so, does he not believe the American people ought to know something about that plan? Does he believe the Congress ought to be informed of that plan?

Mr. KENNEDY. The Senator has asked the right question. The answer is that the best information we have is the President has been given alternatives, but the Armed Services Committee has not been given those alternatives, those estimates, the different possibilities that might occur should forces be engaged. No one is looking at a particular kind of military operation, but people want to gather information

of the totality of what might be necessary and what might be expected. That certainly has not been shared with the Armed Services Committee.

I repeat, no one has been asking for the details of a military operation. We would not expect it. But the type of issues—the magnitude, what can be expected within the country, what will be expected from our allies, what will be the reaction from many of those countries that are on the front line of helping the United States in the fight against terrorism and deal with the challenges of al-Qaida—we have not seen any of those estimates, nor have we seen what the burden would be on the United States in a postwar situation.

We know of the difficulties and challenges in Afghanistan.

We see the tenuousness of that whole regime, the difficulties that we are facing in terms of Pakistan, in terms of its various challenges economic-wise, but we have not received any kind of information about what would be the burden upon the Americans in terms of a postwar period. That is something that should certainly be explained, other than the general figure that it will cost somewhere between \$100 billion and \$200 billion.

Mr. WARNER. Mr. President, could I just add a fact here? In August, I became so concerned about the national dialogue on this issue that I took it upon myself to write the chairman of the Armed Services Committee, Senator LEVIN, urging that promptly upon the Congress returning from its August recess period we initiate hearings.

Senator LEVIN and I worked together on the scheduling of hearings. We talked before the August recess and in due course a hearing schedule was put together. Regrettably, the timing of those hearings has been such that our committee apparently will not have its hearing with the four Chiefs of Services who were to come before the Armed Services Committee.

A second hearing we had tentatively agreed on was having General Franks, the commander in chief of the particular area of operation that is involved, to come before the committee.

So I say to my friend, regrettably, we have not had the opportunity—I tried in August to get these started, but we just did not complete that hearing schedule.

Mr. KENNEDY. I thank the Senator for his comments, which I think make the point that Senator BYRD and I would make, and that is that we ought to have those hearings prior to the time we give the authorization to go to war. I cannot believe that Senator LEVIN would not welcome the opportunity to have those hearings mentioned by the Senator before the time we would have the vote on it. The Senator from Virginia makes an excellent point. This Congress has not heard from those who are in the authority. It certainly is not because Senator LEVIN, who has had a series of hearings, is not

willing to have them. I would welcome the fact that we have those hearings, and I am going to suggest it to the chairman of that committee that we do that prior to the time we vote.

Mr. WARNER. Mr. President, we were to have the hearing on General Franks today. Now, the reason it was not held, I leave that to my colleague from Massachusetts to consult with the chairman.

Mr. KENNEDY. We do not need the hearing to have the administration spell out to the American people what will be involved in this whole undertaking. The President can do this. The Secretary of Defense can do it. The general can do it at any time. We do not need the hearing.

These are the questions that the Senator from West Virginia and others have asked on this. We still have not gotten it. The American people have not gotten it. We do not need the hearings just to satisfy ourselves. The American people are entitled to this information certainly if we are going to be going to war.

Mr. BYRD. Mr. President, will the distinguished Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. BYRD. Mr. President, I understand it is possible the United States could be lucky if the United States made a unilateral decision to invade Iraq. We could be lucky, but we might not be.

Does the Senator have any idea, based on his having information from the administration, what is the likelihood we might find ourselves bogged down in the hot sands of the Middle East and our men and women may have to fight a house-to-house, apartment-to-apartment battle in any one of the cities of Iraq? What would be the cost in terms of human life, not only of Iraqis but of our own men and women, if we were faced with a war in which we have to go street by street, avenue by avenue, house by house, floor to floor, to root out the snipers? What would be the cost in American lives?

The distinguished Senator has stated that in this war, Saddam may believe he has nothing to lose by pushing the button and going the final mile, the last way, and making whatever expenditure in human life that flows from that decision. I wonder if the administration, in its planning, has determined at any point that we may be faced with that kind of situation.

I wonder this further, if the Senator will allow me: Have the American people been asked to face up to that possibility? And, no, the administration will not make its military officers available for one reason or another to accommodate the Senate Armed Forces hearings, but why then do we have to rush in and make a decision before an election that is only 30 days away? Why should the leadership of this Congress not say we are going to go home, we are going to talk to the people, we are going to listen to what they have to

say? After all, they are the ones who are going to have to pay the price. We will go home and we will await this fateful, momentous, all-important, vital decision until after the election, and we will come back.

When I was the majority leader of this Senate, I, from time to time, included in the adjournment resolution a provision that allowed me to call the Senate back after discussing it with the minority leader. I was able to call it back. Why should we go home? What is there about this that says we need to make this decision now and go home? I have only heard the feeble excuse: Oh, we have to put it behind us.

Does the Senator believe, with me, that we are not going to put this behind us, even though we vote on this resolution? If we are weak enough to support this resolution, with all due respect to the authors thereof, this is a blank check to the President of the United States, dressed up in the glittering figleaves of "whereases," beautifully flowered whereases. They are pretty, but this is nothing but a blank check. There could be a saving in paper if we wrote it in one sentence, just turn it over lock, stock, and barrel, give it to the President of the United States—not only this one but also the next one. It is so broad in scope and there is no end to it. It is just open ended.

May I ask my friend from Massachusetts, why shouldn't the leadership of this Congress say that the concerns are so great, the potential is so weighty, that we, the people's representatives, ought to go back and talk to the American people about this? Let's hear from them before we make this final decision.

Why should we have to have our thoughts cluttered up with an election, with the supercharged politics of this atmosphere in which we vote? Why should we be forced to make this decision now? Does the Senator agree with me?

Mr. KENNEDY. The Senator is quite correct in terms of his whole analysis, I believe, of the underlying resolutions that are before the Senate and the fact that we were effectively yielding the decisionmaking power of making war or peace—effectively unilaterally turning that over just to the decision of the President of the United States, as the Senator pointed out.

The Gephardt-Lieberman-Warner language says they can take unilateral action without a Security Council mandate to defend against a threat posed by Iraq. It talks about the test to defend against the continuing threat from Iraq.

The Senator, in his earlier exchange, points out that language is certainly not even implied in terms of whatever authority the President has to provide for the security of the United States. It would have to be an imminent threat. The Senator had a very strong exchange and made that case effectively.

The test in the Gephardt-Lieberman-Warner Resolution says to defend

against the continuing threat from Iraq—that is the operative word. And in Biden-Lugar it talks about dealing with the threat of Iraq is “so grave” that force should be used. New words, “so grave.” The President already said it was a grave situation.

In effect, if that was to be accepted—the President already said it was a grave situation. It would, in effect, grant unilaterally, without any involvement in the international community, any effort whatsoever to try and bring allies into this, give the authority for the President to go ahead with war, as the President has indicated he may very well do.

Back to the Senator's other question about what the general said September 23. General McInerney believed that 72 hours of bombing would effectively break the spirit and the military capability of Iraq. I will let him speak in his own words, and I ask unanimous consent to have pertinent statements printed after my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. The conclusion I drew was it would be basically a clean-up operation.

That was not what GEN Wesley Clark or General Hoar stated. Wesley Clark, the general in Kosovo, and General Hoar, the distinguished marine and central commander in Europe, two very prominent, distinguished, extraordinary military officials worth listening to—General Clark on that day told the Armed Services Committee that we would need a large military force and a plan for urban warfare.

Those are not my words, not my conclusions. That is what General Clark said would be his estimate of what would be needed. General Hoar said our military would have to be prepared to fight block by block in Baghdad, and we could lose a battalion of soldiers a day in casualties. That is the testimony of General Hoar before the Armed Services Committee. He concluded: The urban fighting would look like the last brutal 15 minutes of the movie “Saving Private Ryan.”

One of my colleagues said you can find generals who will say just about anything you want. That is certainly an insult to two of the finest military leaders we have had in recent times, one in the Marine Corps, and the other a very distinguished Army officer.

I agree with what the Senator said. Maybe we will get lucky. If this goes ahead we hope that is the outcome. But the Senator reminds us there are too many instances in the past we have not been lucky; the events went against us and we experienced the loss of enormous numbers of young Americans. We ought to be cautious and guarded, as the Senator has spelled out.

I have a few more minutes, and I will conclude.

A decade ago, before the Gulf War in 1991, Secretary of State James Baker met with the Iraqis and threatened

Hussein with catastrophe if he used weapons of mass destruction. In that war, although Saddam launched 39 Scud missiles at Israel, he did not use the chemical or biological weapons he had.

If Saddam's regime and survival are threatened today, he will have nothing to lose, and may use everything at his disposal. Israeli Prime Minister Ariel Sharon has announced that instead of its forbearance in the 1991 Gulf War, this time Israel will respond if attacked. If weapons of mass destruction land on Israeli soil, killing innocent civilians, the experts I have consulted believe Israel will retaliate, and possibly with nuclear weapons.

This escalation, spiraling out of control, could draw the Arab world into a regional war in which our Arab allies side with Iraq, against the United States and against Israel. And that would represent a fundamental threat to Israel, to the region, and to the world community.

Nor can we rule out the possibility that Saddam would assault American forces with chemical or biological weapons. Despite advances in protecting our troops, we do not yet have the capability to safeguard all of them.

The members of our armed forces are serving our country with great distinction. Nearly 70,000 Reservists and National Guardsmen have been mobilized for the war against terrorism. The Pentagon has also been forced to retain 22,000 service members involuntarily, due to critical shortages of pilots, intelligence specialists, and security personnel. This number is almost as high as in the Gulf War, in which 29,000 service members were involuntarily retained.

In the Gulf War, no service members were recalled for longer than a year. Today, an additional 11,000 Reservists have been mobilized for a second year—that is today.

If we embark upon a premature or unilateral military campaign against Iraq, or a campaign only with Britain, our forces will have to serve in even greater numbers, for longer periods, and with graver risks. Our forces will be stretched even thinner.

War should be the last resort. If in the end we have to take that course, the burden should be shared with allies—and that is less likely if war becomes an immediate response.

Even with the major technological gains demonstrated in Afghanistan, the logistics of such a war would be extraordinarily challenging if we could not marshal a genuine coalition of regional and international allies.

President Bush made the right decision on September 12 when he expressed America's willingness to work with the United Nations to prevent Iraq from using chemical, biological or nuclear weapons. The President's address to the General Assembly challenging the United Nations to enforce its long list of Security Council resolutions on Iraq was powerful—and for many of us, it was persuasive.

But to maintain the credibility he built when he went to the U.N., the President must follow the logic of his own argument.

Before we go to war, we should give the international community a credible opportunity to meet the President's challenge—to renew its resolve to disarm Saddam Hussein completely and effectively. This makes the resumption of inspections more imperative and perhaps more likely than at any time since they ended in 1998.

So this should be the first aim of our policy—to get U.N. inspectors back into Iraq without conditions. I hope the Security Council will approve a new resolution requiring the Government of Iraq to accept unlimited and unconditional inspections and the destruction of any weapons of mass destruction.

The Security Council resolution should set a short timetable for the resumption of inspections. It should also require the head of the UN inspection team to report to the Security Council at frequent intervals. No delaying tactics should be tolerated—and if they occur, Saddam should know that he will lose his last chance to avoid war.

The Security Council Resolution should authorize the use of force, if the inspection process is unsatisfactory. And there should be no doubt in Baghdad that the United States Congress will strongly support the determination of the international community and President Bush to disarm Saddam.

The return of inspectors with unfettered access and the ability to destroy what they find not only could remove any weapons of mass destruction from Saddam's arsenal. They could also be more effective than an immediate or unilateral war in ensuring that these deadly weapons would not fall into the hands of terrorists.

The 7 years of inspections that took place until 1998 succeeded in virtually eliminating Saddam's ability to develop a nuclear weapon in Iraq during that period. Even with Iraq's obstructions, those inspections resulted in the demolition of large quantities of chemical and biological weapons. By the time the inspectors were forced out of the country in 1998, they had accomplished far more disarmament than the Gulf War achieved. Before going to war again, we should do all we can, to resume the inspections now—and set a non-negotiable demand of no obstruction, no delay, no more weapons of mass destruction in Iraq.

What can be gained here is success—and in the event of failure, greater credibility for an armed response, greater international support, and the prospect of victory with less loss of American life.

So what is to be lost by pursuing this policy before Congress authorizes sending young Americans into another and in this case perhaps unnecessary war?

Even the case against Saddam is, in important respects, a case against immediate or unilateral war. If Prime

Minister Blair is correct in saying that Iraq can launch chemical or biological warheads in 45 minutes, what kind of sense does it make to put our soldiers in the path of that danger without exhausting every reasonable means to disarm Iraq through the United Nations?

Clearly, we must halt Saddam Hussein's quest for weapons of mass destruction. Yes, we may reach the point where our only choice is conflict—with like-minded allies at our side, if not, in a multilateral action authorized by the Security Council. But we are not there yet.

The stakes are too high if we do the wrong thing. We have the opportunity now, in Congress, to do the right thing, and it is our responsibility to do it.

I yield the floor.

#### EXHIBIT 1

##### URBAN WARFARE

"In urban warfare, you could run through battalions a day at a time. All our advantages of command and control, technology, mobility . . . are in part given up and you are working with corporals and sergeants and young men fighting street to street. It looks like the last 15 minutes of Saving Private Ryan."—General Joseph P. Hoar, USMC (Ret.), Former Commander in Chief, United States Central Command, September 23, 2002.

"I think if it gets to urban warfare, and the likelihood is certainly great that it could, just like the likelihood is very good that he could use weapons of mass destruction, it could get very messy. The collateral damage could be very great. And our own casualties could increase significantly."—General John M. Shalikashvili, USA (Ret.), Former Chairman, Joints Chiefs of Staff, September 23, 2002.

##### WEAPONS OF MASS DESTRUCTION USE

"The United States could certainly defeat the Iraqi military and destroy Saddam's regime. But it would not be a cakewalk. In fact, Saddam would be likely to conclude he had nothing left to lose, leading him to unleash whatever weapons of mass destruction he possesses."—Brent Scowcroft, Former National Security Advisor, August 15, 2002.

##### NO CONVINCING AL QAEDA LINK

"To my knowledge . . . there has not been a case made to connect Iraq and al Qaeda."—General Joseph P. Hoar, USMC (Ret.), Former Commander in Chief, United States Central Command, September 23, 2002.

"There is scant evidence to tie Saddam to terrorist organizations, and even less to the September 11 attacks . . . He is unlikely to risk his investment in weapons of mass destruction, much less his country, by handing such weapons to terrorist who would use them for their own purposes and leave Baghdad as the return address."—Brent Scowcroft, Former National Security Advisor, August 15, 2002.

##### AL QAEDA THREAT

"Last year I told you that the Osama bin Laden and the al Qaeda network were the most immediate and serious threat this country faced. This remains true despite the progress we have made in Afghanistan and in disrupting the network elsewhere."—CIA Director George Tenet, February 6, 2002.

"It seems as we came upon the 11th of September, 2002, with ground-to-air missiles ringing the Capitol and uncertain about where and when we might be attacked again by terrorists, that we need to continue, as our primary effort, to defeat al Qaeda."—General Joseph P. Hoar, USMC (Ret.),

Former Commander in Chief, United States Central Command, September 23, 2002.

##### COST OF UNILATERAL USE OF FORCE

"We should try our best not to have to go it alone . . . The costs in all areas will be much greater, as will the political risks, both domestic and international, if we end up going it alone or with only one or two other countries."—James A. Baker, III, Former Secretary of State, August 25, 2002.

"This is not the time to risk the loss of support from so many countries shocked by the attacks of 11 September last year who have offered to help us and, indeed, provide it on a daily basis."—General Joseph P. Hoar, USMC (Ret.), Former Commander in Chief, United States Central Command, September 23, 2002.

"If we go in unilaterally or without the full weight of the international organizations behind us—if we go in with a very sparse number of allies, . . . we're liable to super-charge recruiting for al Qaeda."—General Wesley K. Clark, USA (Ret.), Former Supreme Allied Commander, Europe, September 23, 2002.

Mr. WARNER. Mr. President, may I ask my distinguished colleague and very good friend of many, many years just a question or two? I listened very carefully to his remarks. I just wish to observe that, on the point about—

The PRESIDING OFFICER. Does the Senator yield?

Mr. KENNEDY. Yes, I yielded the floor.

Mr. WARNER. I think he yielded, and I asked if I could engage in a colloquy.

The Senator mentioned the case has not been made to connect al-Qaida to Iraq, but I think the Senator is aware of the fact that the Secretary of Defense has now revealed what was intelligence prior thereto, the fact that al-Qaida has now established some training camps, and so forth, within the sovereign boundaries of Iraq. That, to me, is a very important bit of intelligence that has come to the forefront.

Senator BYRD keeps saying, What is new? To me, that is very new. It is now out in the open.

While I am not suggesting there has been an absolute, airtight, direct connection between 9/11, 2001, it is clear that Iraq sponsors and shelters terrorists, including al-Qaida.

On the point about the generals who appeared before the Armed Services Committee, the Senator referred to portions of their testimony. But I have the very clear recollection—I sat with Chairman LEVIN throughout every minute of that hearing. These generals also, when pressed by myself and others, said there are times when the U.S. has to act alone, if necessary, to defend ourselves and protect our national interests.

That is the point, time and time again, that I debated with our distinguished colleague, Senator BYRD, in which we have, I suppose, from his perspective, different opinions.

The Senator in his remarks just now indirectly suggests that we should wait on the U.N. Perhaps there will be a new inspection regime. I know Secretary of State Powell has brilliantly and courageously worked up there to develop a

strong United Nations resolution. We will have to await judgment until that resolution is forthcoming. But I think we cannot leave in the minds of the American people that, in any way, our Nation must relinquish the authority, under the Constitution, to protect our own national interests—relinquish it in any way or predicate it on action of the United Nations. We cannot do that. We cannot let the United Nations think in any way they could veto the authority of this President or the ability of this Nation to defend itself. I hope the Senator was not suggesting that in any way by his remarks.

Mr. KENNEDY. Mr. President, General Scowcroft, who is a distinguished retired general and arms control expert, the head of a Presidential intelligence board, was the one who indicated that he did not believe there had been a connection; that you might have had contact, but by definition, as the Senator has pointed out, the connection with al-Qaida did not in any way reflect on September 11. And Secretary Powell indicated that as well. The Director of the FBI said that this summer.

Mr. WARNER. Mr. President, I agree with that.

Mr. KENNEDY. If I could just finish now, I was at the last intelligence briefing. I will not characterize it as to what new information came out as a result of interviewing detainees in the past few days or weeks, but, very clearly, the statements that I said in characterizing the contacts between al-Qaida and Iraq, by Mr. Scowcroft, by Secretary Powell, by Director Mueller, would indicate that this had not been a contact that was meaningful and significant in terms of a threat to the United States.

They also pointed out that, in terms of a country that was providing aid and assistance to terrorists such as Hamas and Hezbollah, it was much higher in terms of Iran than it was in terms of Iraq.

Those references—I included two in my statement. I will include the third.

The other point I mention is, as the Senator remembers, Secretary of Defense Rumsfeld and Chairman of the Joint Chiefs of Staff, Richard Myers, testified before the committee on September 19, 2002 that they would not talk about planning, would not talk about casualties, would not talk about operational issues. Even in the closed session, Secretary Rumsfeld refused to address the issues.

So I think it is important to understand that type of information, as was raised, has been denied both to the members of the committee and, most importantly, to the public.

Again, I say no one is asking for the military operations, but what we are asking for is basic assessments in terms of the numbers of personnel, their best estimates in terms of the length and what would be involved, in terms of the conflict.

Mr. WARNER. Mr. President, I say to my colleague, it had been my hope—

and there was planning in place—that our committee, the Armed Services Committee, was to have had hearings this week with the Joint Chiefs of Staff, and most specifically with General Franks, who has been entrusted with much of the planning. I leave it to our chairman to give the responses to why that did not occur, but that is a fact that we had planned to do it.

Secretary Rumsfeld declassified information recently and said that al-Qaida has camps existing now within the sovereign boundaries of Iraq, and senior al-Qaida leaders have had sanctuaries in Iraq. While the link, as I pointed out, between 9/11 has yet to be established, there is information of the linkage.

I am more concerned with the question I posed to the Senator. In any way does his remark suggest we should abrogate our right to act when it is in our security interest because of action or inaction, as the case may be, of the United Nations on the resolution now being formed while our Secretary of State and others are working to establish the framework in such a way that it would meet the concerns that this Nation has, and I believe Great Britain? It may not. And if it does not meet them, does that action to put out a new inspection regime which falls below the standards and requirements and goals that we think are necessary, does that mean we do nothing? Does that mean our President's hands and the hands of the Prime Minister of Great Britain are tied?

What are we to do? Allow another ineffective inspection regime to take place, which would possibly obviate the possibility of engaging Iraq more forcibly, if it were necessary to stop the spread of weapons of mass destruction?

Would you clarify the position you have taken?

Mr. KENNEDY. I certainly will. If there is a clear and present danger to the United States and an immediate threat, obviously the President has the right to act and should act. But that is not what we have here. That is not the case that has been made by the Secretary of Defense or the President or the Senator from Virginia, that there is a clear and present danger to the security of the American people, and that it is imminent. That case has not been made. When that case has been made, put me down in terms of being in favor of taking immediate action.

If the President of the United States makes that determination, fine. But we have been asking: Where is this evidence? In 1962, President Kennedy took it to the United Nations and showed the world what was out there. Every American understood what was at risk. Do you have the information or don't you have the information? Is the information different today than it was a year ago when we never had this proposal? If it is, let's see it. Let's hear about it. We have not seen it in the Armed Services Committee. I haven't attended all the meetings, but I have

attended just about all of them, the recent ones that we have had on Iraq. If there is any information there, I would welcome the Senator from Virginia telling me, pointing that out. But we haven't got it.

The Secretary of Defense says he does not have to make the case anymore. We ought to know that Saddam is a tyrant. We all agree.

The best question is: How are we going to best defend the security of the United States? I maintain that the security of the United States today is threatened as much by al-Qaida as by anything that is immediate now in terms of Iraq. We do not hear anything more about al-Qaida. We don't understand what the threat is. That was all we heard about.

The Senator hasn't said anything about that. Yet we find an unsettled situation in Afghanistan with the blowing up of cars, the warlords coming back, and the fact that they are trying to get a 60,000- or 70,000-man army and they have 1,600 recruits. They want a national army. They have virtually nothing there.

We have to ask ourselves: If this doesn't go away—as General McNerney says—in 72 hours, what is going to happen in terms of all of those countries that are helping the United States deal with al-Qaida that was a threat to the United States, and, according to the head of the Central Intelligence Agency, continued to be the principal threat to the security of the United States just 4 months ago? You wouldn't know that. I do not know what has changed. Neither do the American people. That is what they want to hear. They hope they will hear that during this debate. But we haven't.

Mr. WARNER. Mr. President, in reply to my colleague's observations, in no way has this Nation lessened the intensity or commitment to the war on international terrorism in Afghanistan or elsewhere. It may not be the featured article in the press today, but I assure the Senator that the men and women of our Armed Forces, together with those of many other nations, are pressing unrelentingly against the spread of terrorism, be it in Afghanistan or elsewhere in this world.

Again, I bring my colleague back to this question of the United Nations. A quote appears in today's newspaper.

I ask unanimous consent to have printed in the RECORD following our colloquy an article from today's Washington Post.

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

(See exhibit 1.)

Mr. WARNER. Mr. President, it quotes our distinguished colleague, Senator EDWARD KENNEDY, as saying: I am waiting for the final recommendation of the Security Council before I am going to say how I am going to vote.

I would like to give the Senator an opportunity to clarify.

Mr. KENNEDY. I called him and asked him for the context. We have not received that yet.

Mr. WARNER. Certainly, Mr. President, I in no way attack authenticity, and I am glad that the Senator has clarified that.

Mr. KENNEDY. It is quite clear what I have said; that is, I think it is a mistake for us to go it alone, unless there is the kind of threat that I have just described—a clear and present danger and an imminent threat to the United States. Then we have to take action. That power is reserved for the President. We had that discussion earlier in the afternoon between the Senator from West Virginia and the Senator from Virginia. That happens to be the case. But that has not been the case, and the case has not been made.

It seems to me that we are much better off going internationally and not saying that our first choice ought to be war, the first choice ought to be battle, and the first choice ought to be conflict. I think we ought to try to build a coalition of the United Nations and take concerted action with an inspection regime that does authorize force, that does permit unfettered inspections, that includes the reporting back to the Security Council of the progress that has been made.

I outlined that in my speech. That is our position. That is what I thought the President was saying when he went to the United Nations initially. That is what I thought he was saying. That is the course of action that we ought follow, and we ought to hear certainly from the United Nations Security Council on that recommendation and on that challenge.

Mr. WARNER. Mr. President, let us be clear. I assure my colleague that I agree that our President states almost daily when he addresses this issue, as he did on the steps of the White House just a day or two ago when I was right there, that his first priority is to pursue a coalition. His first priority is to pursue in the United Nations the enforcement of the resolutions passed and perhaps one in the future. He has repeatedly said war is the last—I repeat—the last option. He is fulfilling, in my judgment, his responsibility as President under our Constitution. And I commend him for doing so.

Mr. KENNEDY. Mr. President, I hope he will go to the United Nations and that he will go to the Security Council. Then, if he finds out they will not take the steps, and that we have a clear, present, and immediate danger to the United States, I hope he will come back and that we can debate and pass a resolution so we can take the steps necessary to secure this country.

But that isn't what the resolution says. We have been through that. Basically, it doesn't deal with the Security Council of the United Nations. It doesn't deal with that. It says it permits unilateral action without the Security Council taking any steps at all.

We want to follow what the Senator from Virginia says. The President has gone to the Security Council. Challenge it, get an international coalition,

go for that and challenge with inspections. If that is not successful, come back here to the Senate. And I bet you that Senator BYRD will be the first name that will be on a resolution to take the action and mine will be the second. But that is not where we are now. That isn't what this resolution is all about. It effectively is granting the President the authority to go to war unilaterally if he concludes there is a continuing threat from Iraq—not an immediate, not a clear and present danger—if there is a continuing threat from Iraq. I think he has concluded that today.

If you pass this resolution, you are saying, Why even bother with the Security Council? If I were a member of the Security Council, I would say, Why are you even taking the time to talk to us? You have already made up your mind. You are going to war.

That is effectively what that resolution says. That is the problem some of us have with the construct and why we are here.

I thank the Senator. I appreciate it very much. I am sure we will have more opportunity to talk.

Mr. WARNER. Mr. President, the Senator from Massachusetts made reference to the Cuban missile crisis and the extraordinary courage that his brother, the late President, showed in his leadership. There again, as the Senator points out, there was clear evidence of a threat—the “smoking gun,” as someone said—that famous picture of the missile. But I say to my good friend, in the days to come on this debate I will go into greater detail on the changes in technology since 1961. And here we are in 2002 with changes in technology which present a whole new framework of threats that this Nation has never experienced before—to use the words of Secretary Kissinger in his testimony to the Foreign Relations Committee—“modern technology in the service of terror gives no warning.”

Those are the words that say to me the doctrine of preemption, which I recited, and which has been followed for many years by this country in times of need, is one that bears careful reexamination in the light of the technology possessed by Saddam Hussein. He has far more weapons than were ever presented by Adolf Hitler—far more weapons in terms of weapons of mass destruction and the technology that exists today that didn't exist in 1961 and that didn't exist in 1941.

Mr. KENNEDY. Mr. President, I, for one, am not prepared to sign up for the change in foreign policy where we have one person making a decision to go to war. Today, it is Iraq because we have Saddam Hussein. Khomeini was in Iran. We were going to that country as well. What about Qadhafi? I heard from families in my State of Massachusetts who lost members of their family. Sixty-seven members of the Armed Forces lost their lives in the war against Qadhafi. Why aren't we going after Qadhafi?

What about North Korea? They may have murdered millions of their own people. They may have nuclear weapons.

Where are we stopping on this? The idea that you had a great deal more time—in the Cuban missile crisis, had the weapons come from Cuba, we had about 11 minutes. You are saying there is no more of a dangerous time now than we had with 11 minutes?

I am not prepared to say we are going to turn over to a single individual in our democracy the authority to go to war at any time when a President believes there is a “continuing threat” from—you fill in the name of the country. You fill in the name of the country. A “continuing threat” from where?—fill in the name of the country—authorizing the President to go to war.

That is not, I think, what our Founding Fathers intended.

Mr. WARNER. Mr. President, I thank my colleague.

We will conclude this debate. Indeed, policies of containment have worked in the past, but with the spread of modern technology, and the clear documentation that this particular evil dictator, Saddam Hussein, has used these weapons against his own people and his adversaries, it is clear and convincing proof to this Senator that there is a threat that must be dealt with now—not tomorrow, now.

Hopefully, the United Nations will devise a resolution and live up to its responsibilities. But if it does not, let there be no doubt in the minds of anyone that our Nation will act in its own interests to protect its own people and, hopefully, will act with a coalition of allies.

[From the Washington Post]

THE MYTH OF U.N. SUPPORT

(By Charles Krauthammer)

“This nation is prepared to present its case against the Soviet threat to peace, and our own proposals for a peaceful world, at any time and in any forum—in the Organization of American States, in the United Nations, of in any other meeting that could be useful—*without limiting our freedom of action.*”—President John F. Kennedy, Cuban missile crisis, address to the nation, Oct. 22, 1962

“I'm waiting for the final recommendation of the Security Council before I'm going to say how I'm going to vote.”—Sen. Edward M. Kennedy, Iraq crisis, address to the Johns Hopkins School of Advanced International Studies, Sept. 27, 2002

How far the Democrats have come. Forty years ago to the month, President Kennedy asserts his willingness to present his case to the United Nations, but also his determination not to allow the United Nations to constrain America's freedom of action. Today his brother, a leader of the same party, awaits the guidance of the United Nations before he will declare himself on how America should respond to another nation threatening the United States with weapons of mass destruction.

Ted Kennedy is not alone. Much of the leadership of the Democratic Party is in the thrall of the United Nations. War and peace hang in the balance. The world awaits to see what the American people, in Congress assembled, will say. These Democrats say:

wait, we must find out what the United Nations says first.

The chairman of the Senate Armed Services Committee, Carl Levin, would enshrine such lunacy in legislation, no less. He would not even authorize the use of force without prior U.N. approval. Why? What exactly does U.N. approval mean?

It cannot mean the U.N. General Assembly, which is an empty debatable society. It means the Security Council. Now, the Security Council has five permanent members and 10 rotating member. Among the rotating members is Syria. How can any senator stand up and tell the American people that before deciding whether America goes to war against a rogue state as Iraq, it needs to hear the “final recommendation” of Syria, a regime on the State Department's official terrorist list?

Or maybe these senators are awaiting the wisdom of some of the other nonpermanent members. Cameroon? Mauritius? Guinea? Certainly Kennedy and Levin cannot be saying that we must not decide whether to go to war until we have heard the considered opinion of countries that none of their colleagues can find on a map.

Okay. So we are not talking about these dots on the map. We must be talking about the five permanent members. The United States is one. Another is Britain, which supports us. That leaves three. So when you hear senators grandly demand the support of the “international community,” this is what they mean: France, Russia and China.

As I recently asked in this space, by what logic does the blessing of these countries bestow moral legitimacy on American action? China's leaders are the butchers of Tiananmen Square. France and Russia will decide the Iraq question based on the coldest calculation of their own national interest, meaning money and oil.

Everyone in the Senate wants a new and tough inspection regime in Iraq: anytime, anywhere, unannounced. Yet these three countries, whose approval the Democrats crave, are responsible for the hopelessly diluted and useless inspection regime that now exists.

They spent the 1990s doing everything they could to dismantle the Gulf War mandate to disarm Saddam Hussein. The Clinton administration helplessly acquiesced, finally approving a new Security Council resolution in 1999 that gave us the current toothless inspections regime. France, Russia and China, mind you, refused to support even that resolution; they all abstained because it did not make yet more concessions to Saddam Hussein.

After a decade of acting as Saddam Hussein's lawyers on the Security Council, these countries are now to be the arbiters of America's new and deadly serious effort to ensure Iraqi disarmament.

So insist leading Democrats. Why? It has no moral logic. It has no strategic logic. Forty years ago, we had a Democratic president who declared that he would not allow the United Nations or any others to tell the United States how it would defend itself. Would that JFK's party had an ounce of his confidence in the wisdom and judgment of America, deciding its own fate by its own lights, regardless of the wishes of France.

Or Cameroon.

Mr. WARNER. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.



The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent that following my remarks, Senator MURKOWSKI be recognized to speak and that Senator STABENOW be recognized after Senator MURKOWSKI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I rise today not in opposition to the resolutions before us but, rather, to ask my colleagues to carefully consider our national priorities as we debate our course of action against Saddam Hussein's regime in Iraq.

Congress is preparing to consider a series of resolutions authorizing the President to initiate options against Iraq, including the use of force. If there is one matter upon which there would be unanimity of agreement, it is that Saddam Hussein is an evil man, an evil man in a region of evil men. He is a tyrant who has used chemical and biological weapons on his own people. He has flouted U.N. resolutions calling for inspections of his arms capabilities. His forces regularly fire on American and British jet pilots who are enforcing the no-fly zones in the north and south of his country, and he has the potential to develop and deploy nuclear weapons, a potential we need to monitor closely.

The resolutions before us mean we as Members of Congress, acting on behalf of the American people, are investing our collective trust in the judgment of the President of the United States, because it will be his decision as to whether, when, and under what ultimate circumstances to utilize whatever authority we might grant.

We are in a very similar position to where we were immediately after September 11, 2001, when the President asked for an authorization, and we gave him the power to launch a war against al-Qaida and the Taliban regime in Afghanistan.

The latest White House draft of the resolution before us today attempts to link two challenges to our Nation's security: terrorism and Saddam Hussein. I am not certain it does so in the most coherent and effective way. Frankly, I fear elevating Saddam Hussein to our Nation's No. 1 enemy poses risks that have not been fully considered.

In the constellation of threats to the American homeland, as well as to our interests abroad, in my judgment, terrorism represents the greatest and most urgent security threat to the American people. Saddam Hussein cannot be viewed in isolation. The region of the Middle East to Central Asia is a very tough neighborhood, and we have many threats and commitments in that neighborhood. We have commenced a war against terror in Afghanistan—not yet complete. We know that, as we leave Afghanistan, there will be other chapters in the war on terror, and it is quite probable that

those future chapters will be more difficult than the one we have already experienced in Afghanistan.

In addition to that, we have a tense, continuing standoff between India and Pakistan, two nuclear powers at virtual sword's point. We have a continuing conflict between Israel and the Palestinians, and we have other countries in the region that have a substantial—in several instances greater capacity for weapons of mass destruction than does Iraq. So we must decide what our priorities are.

In my opinion, our first priority must be the successful completion of the war on terrorism. When President Bush spoke before a joint session of Congress on September 20, 2001, just 9 days after the attacks, he declared:

Our war on terror begins with al-Qaida, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped, and defeated.

That is the challenge the United States of America undertook in the war on terror. In his State of the Union speech on January 29, 2002, President Bush again, standing in the House Chamber before a joint session of Congress, set this agenda:

Our Nation will continue to be steadfast and patient and persistent in the pursuit of two great objectives: First, we will shut down terrorist camps, disrupt terrorist plans, and bring terrorists to justice. Second, we must prevent the terrorists and regimes who seek chemical, biological, or nuclear weapons from threatening the United States and the world.

Mr. President, I concur with President Bush's ranking of our priority targets: First, to shut down terrorist camps, disrupt terrorist plans, and to bring terrorists to justice; and, second, to go after regimes that seek chemical, biological, or nuclear weapons.

Clearly, terrorists pose the most immediate threat to America. They have, as their avowed goal, to kill Americans. They have the capability of recruiting and training in the skills of terrorism, in those training camps to which the President referred, waves of terrorists. And they have the capability to strike within our homeland, as was demonstrated again today by the arrest of six alleged terrorist cell members, four of whom were in Oregon and one in Michigan.

There is no question that our national security paradigm changed with the events of September 11. We used to think about national security in terms such as "balance of power"—particularly, the United States and the Soviet Union. Our concerns centered on big-picture questions, such as whether an adversary had the capability to launch nuclear missiles that could reach our homeland or how a dispute in a far-off region, in Southeast Asia, or the Persian Gulf, might affect our interests. We did not have to worry much about whether an adversary had the ability to execute a terrorist attack against Americans here at home.

That changed on September 11. Our most dangerous adversaries are no

longer nation-states but shadowy organizations with operations scattered around the world. They are not interested in the traditional prizes of power, such as geography or wealth. They are not deterred by the traditional means by which nations are constrained to operate within their borders and within some set of international standards. Their ambition is to win a trip to paradise by killing infidels—killing Americans.

On September 11, we learned how little these new adversaries need to launch a terrorist strike within our homeland. A terrorist organization requires only the ability to recruit people motivated by zealotry, generally religious fervor. They need someone trained in the particular skills of a specific method of attack, such as detonating a truck bomb or hijacking a commercial jetliner. They need a relatively small amount of financial support from internal or external sources. They need the ability to place operatives around the world, including in the United States of America. And they need a command-and-control system capable of developing the plot and then sending the signal for its initiation.

Our efforts against al-Qaida and the Taliban in Afghanistan have been exemplary. But the United States today faces more deadly battles in the future as we move to the next phase of the war on terror. For the last month, we have been debating—and I hope it will shortly pass—legislation to create a new Department of Homeland Security. That is a good thing. But the creation of that new Department will not guarantee the security of the American people.

The most effective defense against terrorism is not to be found on the defense, as we attempt to protect our vulnerabilities but, rather, an aggressive offense against terrorist organizations abroad, taking the fight to them where they live. We must chop the head off the snake before it has a chance to strike us.

As we move beyond al-Qaida and the Taliban, the terrorist organizations that we must target are more mature, better organized, and more competent. The most prominent example is Hezbollah, the Party of God. Hezbollah has been described as the A-team of international terrorists—more dangerous than even al-Qaida.

Prior to September 11, Hezbollah, through its terrorist wing, the Islamic Jihad Organization, had killed more Americans, by far, than any other terrorist organization in the world. The bombing of U.S. Marine Corps barracks in Beirut, the bombing of the U.S. Embassy in Beirut, the hijacking of TWA flight 847, numerous other brutal kidnappings and murders of Americans, all were the work of Hezbollah's Islamic Jihad Organization, as were other acts of terrorism where the link to Hezbollah remains classified.

On July 4 of this year, with Senators DEWINE and BAYH, I stood on the front



lawn of the U.S. Embassy in Beirut. We laid a wreath on a newly constructed plat. That plat contained the names of hundreds of Americans who have died in Lebanon at the hands of Hezbollah.

Hezbollah is vehemently opposed to United States policy in the Middle East, and it is allied with the most extreme anti-American elements in Iran and Syria. Iran and Syria provide support, training, and weapons to Hezbollah, and both of these countries have weapons of mass destruction that they could provide to Hezbollah.

Hezbollah also operates terrorist training camps in Iran, Syria, and Syrian-controlled parts of Lebanon that are preparing the next generation of terrorists.

If there is one lesson we have learned from Afghanistan, it is the grave mistake we committed in allowing Osama bin Laden's terrorist training camps to operate for years, preparing thousands of terrorists, many of whom carried out the attacks against Americans, including the tragedy of September 11.

What is it going to take to achieve victory in the war on terrorism? It is going to require a united and sustained effort that is based on a realistic understanding of the scale and capability of our terrorist adversaries such as Hezbollah. It is going to require the active support, or at least the avoidance of active hostility, in those countries in which the war is going to be waged.

Just as we needed Pakistan's cooperation to fight al-Qaida and the Taliban in Afghanistan, we will need the assistance of other nations, many of them predominantly Muslim nations, as we move against these additional targets. And it is going to take action by Congress, action to authorize the President to use all necessary force against international terrorists.

One might ask: Haven't we already done that? Didn't we do that on September 18, 2001? We did, in fact, pass a joint resolution that day. We gave the President this authority:

... to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.

That is the authority that we have granted to the President. What we have not granted to the President is the full authority which he sought on September 18, which was the authority to go not only after those organizations, nations, and persons who had been directly linked to the events of September 11, but also against other international terrorist groups which, in his words, "required action to deter and preempt any future acts of terrorism or aggression against the United States."

In my judgment—and I am pleased to say I am joined by Senator ROCKEFELLER in this determination—now is the time to extend the authority of the President to go after all terrorist

groups, those that were linked specifically to the actions of September 11, such as al-Qaida, and those that, in my judgment, represent an equally or possibly greater threat to the United States, such as Hezbollah, which were not involved in the events of September 11.

The State Department has identified 34 groups on its list of foreign terrorist organizations. Two-thirds of those 34 groups have their headquarters in the Middle East or central Asia. The State Department has also listed seven countries as state sponsors of terrorism. Five of those seven—Iraq, Iran, Libya, Sudan, and Syria—are in this same region.

What the President is proposing today might be called an Iraq-first policy. I am concerned that a war with Saddam Hussein would be waged to the exclusion of or possibly to the detriment of the war on terrorism. There are indications that there has been a shift of focus already occurring.

There have been reports of reduction in our intensity of efforts in Afghanistan as intelligence and military resources, particularly the attention of the leadership of the intelligence community and the Defense Department, have turned to Iraq.

A Washington Post story in late August has an anecdote on this and quoted Chief Warrant Officer Mike Smith complaining of inactivity in Afghanistan:

It's so boring. We're trying to figure out what we're still doing here.

A second concern is that as a consequence of the threat to take unilateral action against Iraq, we have seen a hardening of anti-American sentiment in the Middle East, which puts U.S. persons and interests in the region at greater jeopardy.

Finally, with the significant capacity that groups such as Hezbollah have within our country, within our borders, war with Iraq increases the chances that they will strike in our homeland. Like al-Qaida, Hezbollah has active cells within our borders, only more so. I cannot discuss the numbers and locations, but I can tell you, Mr. President, they have significant numbers and substantial capabilities. Therefore, we need to prepare not just for a war with Iraq, but for a broader war on international terrorism.

Let me be clear, the proposal that Senator ROCKEFELLER and I will offer next week at the appropriate time is not a reduction of the President's authority. To the contrary. It represents an expansion. It will authorize all necessary action against those international terrorist organizations which represent a threat to kill Americans. This is what the President had requested on September 12, 2001. This, in my judgment, is what we should give to the President. It will then be the judgment of the President to determine which of the authorities he will utilize—the resolution of September 18 that gave him the authority to move

with necessary force against those responsible for September 11; the resolution that I hope we will adopt through this amendment to extend that to other international terrorist groups which threaten the people of the United States but were not part of the September 11 plot; as well as whatever resolution we may adopt—and I am confident we will adopt one—relative to Iraq.

Then it will be the responsibility of the President to exercise his judgment as to which of these authorities he wishes to use, in what sequence, in what relative level of commitment, and he will be accountable for his judgment.

At a minimum, we need the President to initiate actions that prepare us to respond to those who would use a war with Iraq as a justification to escalate their attacks on Americans here at home and abroad.

As the President begins to exercise his judgment with these expanded authorities, I want him to have the capability to wage war as he sees most appropriate to give to the American people the greatest degree of protection that they can have in these days of threat.

Of all the terrorist organizations and their sponsors, as well as the regime that now controls Iraq, there should be a single message: America is resolute; America is united; America is prepared to do what is required to assure the safety and security of its people. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. I wish the occupant of the Chair a good afternoon.

Mr. President, I wish to call my colleagues' attention to a situation associated with our increasing dependence on Iraq. Let me share with you a picture of Saddam Hussein, who is no stranger to this body. The title is: "Oil as a Weapon."

As we address the disposition of the resolution which the President has sent up to this body for action, we should recognize a few hard realities, and that is oil is funding terrorism, oil is funding the economy of Iraq, in spite of the efforts through the United Nations to try and control that funding, and the inconsistency of our policy where we are increasing our dependence on Iraqi oil, even at a time when we are contemplating going to war with Iraq, is indeed an inconsistency of a magnitude to which I think more Members should relate.

If one reflects on the number of sorties we have flown over a period of time starting in 2000, even though we have been enforcing the no-fly zone since about 1992, Iraqi forces fired at Allied forces 642 engagements in 2000; 647 in 2001; and 480 times so far this year.

What is happening is we are enforcing the no-fly zone. Allied forces returned fire 46 times so far this year. In the last weekend alone, Iraqi forces

shot at allied forces 14 times. Iraqi forces have fired anti-aircraft artillery over 1,100 times, 600-some-odd rockets, fired nearly 60 surface-to-air missiles. This is not a game we are playing. We are basically in a limited war.

To administer the no-fly zone, more than 6,400 personnel and almost 200 aircraft from the United States and Great Britain are involved in Operation Northern and Southern Watch. As Secretary of Defense Rumsfeld said, with each missile launched at our aircrews, Iraq expresses its contempt for the U.N. resolutions, a fact that must be kept in mind as their latest inspection offers are evaluated.

I cannot begin to reflect on how many times we have heard the promise from the Iraqis and Saddam that he was going to allow inspectors to come in. Prior to the Persian Gulf war, I was over there with a number of Senators. Senator Dole was with us. We had an opportunity to have a short meeting with Saddam Hussein. It was clear then that he was a very ruthless, unpredictable, dangerous individual. At that time, he was attempting to ship in a very large cannon from the docks of London into Iraq with the capability of launching a long-range projectile.

In the meeting, he dismissed that. He said it was parts for his refineries. The triggering mechanism was dismissed.

I recall Senator Metzenbaum was talking to him about some of the human rights issues going on in Iraq. He took us out on the balcony and said: There are five of you and there are five helicopters. Go anywhere you want in Iraq. We happened to be up in Mousala at that time. Obviously, we declined.

We have been dealing with this despot for an extended period of time. In the meantime, he has been developing weapons of mass destruction, as evidenced by another chart. It indicates the manner in which he generates this cashflow because without the cashflow, we all know his country cannot exist. This is the importation from Iraq during the first half of the year 2002, 600,000 barrels a day. That is an average price of \$20. We know he is getting nearly \$28 now.

The point is, the U.S. is spending about \$12.5 million each day by buying Iraqi oil; total U.S. dollars on oil from Iraq is \$2.3 billion. Those reflect, on the average price, a little over \$20. The source of this is from the Energy Information Administration.

The occupant of the chair and I have some knowledge of finance. Cut off the cashflow of a country or an individual and you bring them to their knees. When you continue to buy their product, why obviously they continue to prosper.

There is another chart that shows basically how American families are counting on energy from Saddam Hussein. This is a list of the Persian Gulf countries that are producing oil. Iraq's production is a little over 1 million barrels a day, but it is the fastest growing source, at least it has been up

until a short time ago, of U.S. oil imports.

The reason I go into some length on this is to again draw the attention of the inconsistency while we enforce no-fly zones, we buy his oil. We take the oil and put it in our airplanes. We bomb his targets. My colleagues have heard me time and again draw this comparison. He takes our money that we pay him for the oil, develops weapons of mass destruction, chemical weapons, biological weapons, nuclear capabilities, that he is developing obviously, and he is spending funds on developing a delivery capability that aims at our ally, Israel. That is an oversimplification, perhaps, but nevertheless one can draw that general conclusion.

Today, we are beginning a very important debate on a resolution that we give our President whatever means are necessary to combat this threat to world peace and bring terrorists to their knees. I think there are going to be a couple of proposals that we are going to evaluate, but I am personally quite satisfied with the President's proposal.

As we address this growing threat, we have to recognize we are dealing with an individual who simply cannot afford to step down voluntarily and depart the scene. We are dealing with an individual who has been around for a while. He is tough. He has taken out his family. He has taken out his own people. One can almost conclude that to some extent he is prepared to continue what was started on September 11 in this country.

Now, we can wait. We can react after the fact. Had we known what al-Qaida was up to, clearly we would have initiated an action prior to the tragic event of the Twin Towers, the Pentagon, and the tragedy in Pennsylvania. We would have initiated an action. We did not know. We did not have the intelligence. Now we are reflecting on what is going to cause us to act. Is it going to be a recognition that he is a threat, that he does train the al-Qaida, that he does fund the terrorists?

At a certain point in time we have to face the reality: How would we feel leaving this session of the Congress without an action, and then find that he initiated an action and took lives? We would feel we had been derelict in our obligation.

I think we have learned that Saddam has developed more capabilities. He has pilotless drones capable of spreading chemical weapons. We have learned that Saddam sends young men and women, as young as 13, to boot camp to learn to be soldiers under the guise of a program to keep the kids supposedly off the streets.

Now, if we look back, In June of 1981, and this is going to be said many times on this floor, Israel's Prime Minister Begin observed Saddam building a military reactor with the help of the French. It was called the Osiraq reactor, a reactor capable of producing nu-

clear weapons. Four Israeli aircraft launched a surprise, preemptive attack, destroying the reactor and obviously setting back the Iraqi weapons program for many years.

There was criticism from the world, but a decade later, during the gulf war, allied forces did not face a nuclear weapon capability from Iraq.

The ways of addressing Saddam Hussein, I think, are the firmness of the President in his communication that we demand unlimited access throughout Iraq to our total satisfaction. I do not think Saddam Hussein is going to give it to us. On the other hand, I do not think Saddam Hussein is going to step down.

We can try to develop an area of insecurity surrounding Saddam Hussein, but we have tried that time and again and he has been quite responsive in taking out those who he believed are not responsive to his whims or his demands.

I suggest one of the first things we should do is not only initiate this particular action that has been set up by our President, but we should simply cut off the purchase of oil from Saddam Hussein. Some will argue that means somebody else is going to buy Saddam Hussein's oil and we are going to have to buy somebody else's, but there is a principle.

I have an amendment that is part of the energy bill which I think should be passed by this body and that is simply to terminate oil imports into the United States from Saddam Hussein.

Where does this oil go? This chart shows, Washington, California, Texas; a fair smattering of the country. It moves around because there is a market for it. No one cares whose oil is in their furnace or whose oil is refined into gasoline and propels their automobile. It is not much of a concern. Minnesota, New Jersey, name it, those are particular States that are getting oil from Iraq.

As we address a situation relative to what we know about Saddam Hussein today, we have to develop from this knowledge a certain recognition that if he is not going to use the capabilities he has developed, then why is he developing them? Who is at risk from the standpoint of the 22,500 gallons of anthrax? We have had experience with anthrax around here. Or 100,000 gallons of toxin that causes botulism. Or 200 tons of VX nerve gas. Or 350 tons of sarin gas. Or 800 tons of mustard gas. Those are weapons of mass destruction. They are weapons of terror. They cause agonizing death.

Are these the weapons a country would use to defend itself? Are these the weapons of an aggressor that would go to whatever means is necessary to prevail or fund the developing aspects of world terrorism? The answer is very clear. Saddam Hussein is our enemy. The world must isolate him, cut him off, and hopefully coax his regime to an end.

The battlefield is one option. Diplomacy is another. We have had experience with both. We should be setting an example. The first thing we should do as the United States—the world leader everyone is looking toward to accomplish a regime change in Saddam Hussein and resolve our concern over the development of his weapons of mass destruction—is to cut off his cash flow. The fact we continue to engage in the importation of oil from Iraq is a grave mistake. It is a great inconsistency of foreign policy. I hope as we address the disposition of the energy bill, the first thing we will do will be to terminate our purchases from Saddam Hussein.

## ENERGY

Mr. MURKOWSKI. Mr. President, I will make a few remarks on the status of the energy bill. As we know, our President earlier stated one of his priorities was Congress should pass an energy bill. The House of Representatives has done its job. It passed a bill. The bill has been sent over to the Senate. We have been to conference, and had a number of meetings associated with the items in that bill. Many of those items are contentious. On the other hand, that is what a conference is all about: Solving, compromising, whether it is electricity or renewable portfolio standards, climate change, producing more oil from my State of Alaska by opening up ANWR, or whether it is stimulating the agricultural industry and the farm industry of this State through the ethanol. We need a substantial mandate to increase the use of ethanol.

It is important to recognize one specific offer that was made. That I will go into some detail. It reflects as much of an inconsistency regarding our dependence on imported oil and an opportunity we have in the United States to develop a significant potential of oil on U.S. land known as ANWR.

This chart shows in some detail a couple of realities. One is the large area called the Arctic National Wildlife Refuge. That is the ANWR area. It is 19 million acres, about the size of the State of South Carolina. There is ANWR in relationship to the State of Alaska. On the left is the TransAlaska pipeline, 800 miles long, from Prudhoe Bay to Valdez, carrying about 17 to 20 to 23 percent of the total crude oil produced in this Nation for the last roughly 23 years. That pipeline was designed to flow at about 2 million barrels a day. It is flowing a little over 1 million barrels a day. So there is additional capacity.

In the green area, the area that is proposed for any development, which is called the coastal plain, the estimated reserves there are somewhere between 5.6 and 16 billion barrels. If it were half that, if it were 10 billion barrels, it would be equal to what we import currently from Iraq in a period of 40 years, or equal to what we import from Saudi Arabia in 30 years. We do not know if it is there. But this is Federal land, and

we have an opportunity to make a decision because there is an offer that has been made by the House to the Senate. The offer has been specifically to take the whole area colored in the buff and put it into a wilderness. This would be the largest wilderness ever created in the United States. Currently, the area of wilderness colored light buff on the chart is approximately 9 million acres. The area colored darker buff is a refuge. The proposal is to take that refuge of 10 million acres, add it to the wilderness, and then there will be a wilderness area of almost 17 million acres. That would again be the largest wilderness area in the United States.

It is hard to make a comparison. We currently have 57 million acres of wilderness in our State, and we would be adding another 10 million acres of wilderness.

The point is this is an offer that is pending. I cannot help but reflect on periodicals addressing what else is going on in the energy world. A release indicates our Department of Energy and the President issued a special Presidential permit for energy plants powered by natural gas piped from Texas, cooled with Mexican sewage, and linked to California's energy grid next year. The plants will be built in Mexico.

A New York Times article called "Japan Looks to Eastern Russia for Relief of Oil." The last paragraph says there is expended a commitment to expend about \$13 billion that ordinarily would go into Alaska.

With about \$2 billion scheduled to be spent on development on this island every year until the end of the decade, Sakhalin's 591,000 residents are bracing for a major boom.

"Come next summer, and we are going to hit a logjam of—cargo, airplanes, hotels, you name it," predicted James R. Sexton, an American business consultant who has worked here for the last decade.

It's exciting times, just like Alaska was decades ago."

As one of the settlers of Alaska, I have a particular sensitivity to that because what the American oil industry is doing is simply moving offshore. If we have the infrastructure but we can't open the area, clearly we will go offshore.

The irony here—and it is very apparent—is just what constitutes this offer and why there is a lack of consideration for the merits of the offer. This would create the largest wilderness area in the United States. The amendment by the House, sent to the Senate conferees, would increase the total wilderness in ANWR to 17.4 million acres, the largest in the United States. The designated area is in the southern portion of the refuge, which actually has more species than the Coastal Plain, and the area is not as barren as the Coastal Plain.

Basically, the proponents argue that for a couple of thousand acres of surface disturbance, the Greenies, so to speak, are getting 10.2 million acres of additional wilderness. This is an offer

of 10.2 million acres for 2,000 acres because that is the footprint allowed in the House bill. The House bill says, out of that green area of 1.5 million acres, there can only be 2,000 acres dedicated to the footprint of developing the oil.

So what the tradeoff is, is 10.2 million acres of additional wilderness, this whole thing, for the authority to go in and initiate an exploration in ANWR. It would have a mandate of only 2,000 acres. That is a pretty good trade, if you are trading acres for acres.

On the other hand, it is my understanding the environmental community is not buying. Why are they not buying? Some might say they have an issue. Some might say that once they concede to this offer, it would show that their effort to stop any development in the Arctic would be terminated and development could go ahead. But if you recognize in exchange for 2,000 acres of surface disturbance you are adding 10.2 million acres to the wilderness areas—this happens to be the Mollie Beattie Wilderness Area in the Arctic National Wildlife Reserve—clearly you have to look at just what you are getting for that.

This area is distinctly different from the area along the barren coastal plains, with high mountains, with headwaters, valleys, glaciers. There is more of an abundance of species—moose, caribou, snow geese, ducks, woodpeckers, all kinds of activities given the various species.

From a strictly regional point of view, in 1980, when they divided up Alaska's lands and designated Federal land areas, Congress established at that time 13 new national parks, 16 wildlife refuges, and 2 national forests in Alaska as part of the 56 million acres of wilderness that was designated. As a matter of fact, the State of Alaska has currently 16 percent of the landmass of our State as a wilderness. This is well over half of the Nation's entire wilderness area, we are talking about, if they accept the offer of that 810 million acres. We already have the largest park, 9.7 million acres.

But here we are today, talking about war with Iraq, war over oil. We are talking about sending our corporations to Russia, to Sakhalin, to Mexico, to develop the oil we need. And right here at home we have an opportunity to stimulate the economy with U.S. jobs, somewhere between 200,000 and 500,000 jobs according to the unions, building 19 new supertankers in U.S. shipyards that employ U.S. trades and U.S. skills, because the carriage of this oil has to move in U.S. flag vessels as it moves down from Alaska to the west coast of the United States.

I am deeply disappointed that the Senate conferees, the majority on the other side, are not taking this offer seriously, of 10.2 million acres of additional wilderness for the rights to go in and initiate a drilling program to see if, indeed, there is oil of the abundance there would have to be there to go over and fill that pipeline that is already there.

I want to walk you briefly through a couple of things that a lot of people do not understand; that is, the implication of what refuges are. Refuges, as evidenced by the charts we have here, indicate activity. These are refuges in Alabama, California, Louisiana, Oklahoma. These are areas in national wildlife refuges, in wetland management districts where oil and gas are currently being produced.

In North Dakota, Montana, California, and specifically this map shows the States and the number of refuges where oil production takes place: California, Texas—we have one in Alaska, I might add.

The point is, what we have in ANWR is a refuge. Congress has the authority to open it, just like it is opened in other areas. So we are not breaking any commitments here or setting any new precedents. It is simply a matter about which the House has made a proposal.

I might add, there are other limitations in the authorization that would require that the Secretary can close down any exploration if, indeed, there is any disturbance associated with the calving of the caribou. The development activity would occur only in the wintertime. And the safeguards that are taken in the authorization proposed by the House are more stringent than exist in any other part of the world.

I am going to go through a few other charts. I want to give you some idea of what we have done to this country and, in effect, to our national security.

If you look at the west coast—Washington, Oregon, California, that gray area—that is estimated to hold 21 trillion cubic feet of gas offshore. We have taken this and put it off limits. We have taken the east coast, from Maine to Florida, 31 trillion cubic feet as evidenced by the dark blue, and said no oil and gas activity off the east coast.

In the Gulf of Florida, we have taken that away on the lease sale. In the overthrust belt of Montana, Wyoming, Colorado, we have taken that out because we require roadless areas in the parks.

Where is the energy going to come from? Is it going to come from the Midwest where they have what we cannot have in this country, and that is a cartel? What do you think OPEC is? Most Members recognize it is a cartel. A cartel sets a price; they set a floor and set a ceiling; it is \$22 to \$28; today it is a little over \$28. Our antitrust laws would not allow it.

But what is the largest consumer of oil in the world? The United States. And we import most of it from the OPEC countries, and, as a consequence, we are becoming more and more beholden to them. We are currently importing about 55, 56 percent of our oil from overseas. Yet we have the opportunity to develop that right here at home.

There are some people who assume this area in ANWR is an untouched

area. There is the picture of the community that is there. That is a picture of Kaktovik. It is a very small Native community, Eskimo community, on the shores of the Arctic Ocean. You can see the ice out there. There are a couple of radar towers, a school, small stores. There is a landing facility. Real people live there. There are some of the kids. This is one of the community halls. They have the same dreams and aspirations. They are on a snow machine. There are a couple of kids going to school.

My point is to suggest that somehow this is a untapped, unspoiled area—it is an extraordinarily hostile area. Joe is going to take a chart and turn it around and show you what it looks like in the wintertime. This is what it looks like in the wintertime. I am not exaggerating, it could be 40 or 50 below and you have what you call a whiteout condition. This is what it looks like.

Here is some of the harsh tundra in the wintertime. It is tough—tough. Temperatures are 40 or 50 below zero.

Let me show you the technology that has been developed by the industry in this particular area of North America.

There is an oil exploration program going on. You notice there are no gravel pits. There are no ordinary roads going in because what we have is technology that has been developed particularly for the Arctic where we can directionally drill. You don't just drill one hole with a rig like that. This was in the science portion of the New York Times. We directionally drill. We have 3-d seismics that allow us to make visual cuts, if you will, through a technology to see these small pockets. You see these directional drills coming down in the black pockets. In ordinary times, you would drill straight down and hope to hit something.

This technology has been compared to drilling a well here on the Capitol grounds and come up at gate 7 at Reagan National Airport. That kind of technology is what is used.

I want to show you some more pictures of the Arctic and the ice roads. This is an ice road. An ice road is simply a situation where the snow is removed from the surface, and water is put down to make a hard-packed road.

I cite that because this is the kind of activity that we are seeing move from the United States and move over to the Soviet Union. There is no reason why, since we have the likelihood of these discoveries being made here in the United States—for the life of me—we shouldn't consider the merits offered by the conferees of the House of Representatives.

There are a couple of others that I want to show you. This one shows another resource that we have a great abundance of; that is, corn. The reference to corn and energy is ethanol. It takes roughly 2,000 acres of a corn-producing farm to produce the equivalent of 25 barrels of oil a day. If we look at the footprint, we are talking about a significant footprint. Two-thousand

acres of ANWR can produce a million barrels of oil in a day. I just offer that comparison.

I am going to conclude with some charts that we have seen from time to time because people are concerned about the wildlife in the area. This happens to be Prudhoe Bay. There is a rig. You see the caribou. They are not stuffed. They are real. They are there because they are not threatened. They are not harmed or run down with snow machines. As long as they have that security from any predators—which are, of course, naturally the wolves—they feel quite comfortable in their native surroundings as they pass through in a migratory manner.

Here are a few pictures we have seen from time to time. These are three bears walking on the pipeline because it is much better than walking in the snow.

It is beyond my comprehension why we are allowing ourselves to simply pass over what the House of Representatives has proposed; that is, a 2,000-acre limitation proposed in allowing exploration in ANWR.

In addition, there is a proposal to add 10 million acres to the wilderness. It has received virtually no consideration by America's environmental community. They evidently aren't interested in more wilderness. They only seem to be interested in killing an opportunity to develop this reserve which would reduce our dependence on imported energy.

Some say, well, it is going to take several years. I remind my colleagues that in 1995 this body passed out a bill in the Omnibus Act that authorized the opening of ANWR. It was vetoed by our President at that time. We would know today. We would have production today. When we talk about a time-frame, it is all relative to when you start.

The fact that we have the infrastructure in the pipeline, and the pipeline is half full, and we have the prospects here of a major discovery, we could stimulate the American economy with new jobs more than any other single action that could be contemplated because this is a big jobs issues. It is steel, it is valves, and it is the things that are produced all over the United States. It takes the technical skill of U.S. labor and U.S. knowhow to do it. The industry stands ready. Only Congress can make the decision. The time to make that decision is clearly now while we have the opportunity. There is no logical reason to suggest that this isn't a good proposal and it shouldn't be considered. I am just fearful that it will be ignored. That would, indeed, be tragic.

I encourage my colleagues and those listening to this debate to reflect a little bit on this opportunity. If we go out of session and don't take advantage of this opportunity and continue to import oil from Iraq at a time when we are contemplating going into a conflict with Iraq, I think future historians will

regard this as a very irresponsible action by the Senate—because, someday, we all know we will go in there. It is just a question of time. Clearly, this is an appropriate time when we are contemplating action.

I remind my colleagues, in conclusion, of one thought that I think captures the realization that we are going to continue to use a great abundance of oil. While we have other means of power generation, whether it be nuclear, hydro, natural gas, or coal, the world moves on oil. We don't move in and out of here on hot air. Something has to go in there to fuel the trucks and to fuel the trains. It is just not the growth in the United States. It is the growth of the world and the Third World nations. As they become more and more advanced, they are going to use more and more oil.

We are cutting ourselves short from the standpoint of our national security, if, indeed, we pass up this opportunity to add an additional 10 million acres to the wilderness associated with ANWR with the tradeoff. We are only opening 2,000 acres. I think any one of us could take this on a bet. But for some reason or another, there is not enough pressure on America's environmental community to consider this proposal on the merits.

I hope that our friends in the Israeli lobby will reflect a little bit on this because the threat to Israel is directly related to the cashflow associated with oil production from the OPEC nations, and particularly Iraq.

I thank the President for his attention. I wish him a very pleasant weekend.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first, I would like to say at the end of a long day on a Friday that I thank the Chair. I know he has been doing double duty today. My good friend is someone who I know has been very diligent in his responsibilities. We appreciate the fact that the Senator from Minnesota has been willing to serve his duty today; and to all of the staff. I appreciate your attention at the end of a long day.

Mr. President, I rise to address the issue of importance of the day—I think it is important to all of us and to our country—the issue of taking military action against Iraq.

As Members of Congress, the most important vote that we cast is one that will place American troops in harm's way. The issue of war and peace is a burden of responsibility that lies heavy upon me, as well as each and every one of my esteemed colleagues.

This is a vote of conscience, and also a vote of historic consequence because what we debate and decide here will not only significantly affect this great Nation but will immediately influence global events for years to come.

No matter how difficult the decision may be, it is one that each of us must

make for the sake of our country. We have an obligation and duty to carefully weigh the demands and the consequences of a preemptive attack. Before we engage in war, we must understand the results of war are irrevocable, and peaceful solutions should always be our first choice.

I have carefully listened to the President and key members of his administration. I have asked many questions. I have read extensive information and listened to the people in my own great State of Michigan.

Just as important, I have had many conversations with men and women of our armed services who, as we speak, are gallantly serving to protect and defend our American way of life.

The issue before the Senate is not whether the regime of Saddam Hussein is good or evil. We know, in fact, that he is a despicable dictator. He has gassed and poisoned thousands of his own people. He rules not by choice but by decree, backed by brutal force, and he blatantly defies United Nations resolutions by his continual development of weapons of mass destruction. I strongly oppose his regime. He is a growing threat to the United States and our allies, and his policies have devastated the lives of his own Iraqi people.

I am convinced that the United States and the world would be safer if this regime were replaced with a democratic form of government that would work in a constructive manner with the world community and focus on bringing peace and prosperity to millions of Iraqi citizens.

The question—the question—before the Senate is not whether or not we support or trust the regime of the Iraqi President, Saddam Hussein, but how the United States will counter the threat, how we will counter the threat of Saddam Hussein to our citizens and the citizens of his own country.

The questions that must be asked are: Does the Congress stand ready to alter the historic precedents that have guided our Nation for over 200 years? Is it in our national interest to change our policy of deterrence and arms control to a policy that accepts a preemptive strike on another country as a legitimate way to defend ourselves against regimes suspected of having weapons of mass destruction? And, under what circumstances should such a preemptive strike against another country be authorized?

These are serious, grave questions.

In mapping out our course of action against Iraq, it is essential that we draw on lessons and successes of the past.

Our response to the September 11 attacks united our Nation. We achieved the support of our allies and the backing of the United Nations in our retaliatory attacks on al-Qaida forces and the Taliban. In a short time, our Armed Forces, working with our allies, toppled the Taliban and sent al-Qaida fleeing from their training camps.

Iraq, in many ways, is different. Nonetheless, it serves as an important model for proceeding with effective military action when it is required.

Before we invaded Afghanistan, we put together a worldwide effort to effectively prosecute the war on terrorism.

Consider all that we were able to do to put together a partnership against terrorism.

Mr. President, 136 countries offered the United States a range of military assistance. The U.N. has received 46 multilateral declarations of support from organizations. The U.N. General Assembly and Security Council condemned the attacks on September 12, just the day after. NATO, OAS, and ANZUS—the Australian, New Zealand, and U.S. coalitions—quickly invoked their treaty obligations to support the United States. Our NATO allies are assisting directly in the defense of American territory. Also, 142 countries have issued orders freezing the assets of suspected terrorists and organizations. Mr. President, 89 countries have granted overflight authority for U.S. military aircraft. In addition, 76 countries have granted landing rights for U.S. military aircraft. And 23 countries have agreed to host U.S. forces involved in offensive operations.

This is impressive work. I congratulate President Bush and his administration for their efforts in putting together this impressive coalition.

In addition to this most recent success in Afghanistan, any planned action against Iraq has an excellent model in the alliance we formed against Saddam Hussein after his invasion of Kuwait in 1990.

In the Persian Gulf war, former President Bush worked arduously to assemble a large coalition of countries to support our efforts to oust the Iraqi army from Kuwait. Consider all of the countries which supported us in 1990 and 1991: Afghanistan, Argentina, Australia, Bahrain, Bangladesh, Belgium, Canada, Czechoslovakia, Denmark, Egypt, France, Germany, Greece, Hungary, Honduras, Italy, Kuwait, Morocco, the Netherlands, New Zealand, Niger, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Saudi Arabia, Senegal, South Korea, Spain, Syria, Turkey, the United Arab Emirates, and the United Kingdom.

A myriad of nations, each different in their own way, separated by religion, political system, economics and culture, but united in common cause at the same time. This coalition was critical to our success. The ground war was over in 3 days. Our coalition stayed together after the gulf war to try to keep a check on Saddam Hussein, and the United Nations passed resolutions prohibiting him from developing weapons of mass destruction, oppressing his own people, and beginning another military and terrorist buildup.

Unfortunately, Saddam Hussein did not adhere to these resolutions, and the inspectors left Iraq 4 years ago.

However, we have contained him, which is no small achievement.

Now we must confront his failure to live up to these U.N. resolutions. I congratulate President Bush for going to the United Nations and speaking out on September 12. As a result, the U.N. and negotiators are now working on a new resolution, a stronger resolution, to enforce the existing U.N. resolutions against Iraq.

We should adopt the same approach for dealing with the threats of Saddam Hussein's evil regime as we did during the Persian Gulf war and the war on terrorism, which is still ongoing. It worked, and we need to do it again. It only makes sense to build upon the successes learned during past military campaigns. There are many nations that equally revile Saddam Hussein's regime and all he represents.

I firmly believe the United States has ample will and strength to form a similar coalition. Unfortunately, the administration seems to be headed in the exact opposite direction. President Bush has expressed his desire to take unilateral, preemptive action against Iraq, in sharp contrast to the manner in which his father led us into the Persian Gulf war.

The President proposes to change a policy that has been in place since the founding of our country, that we do not invade sovereign countries without direct provocation. I have grave concern the administration's resolution authorizes the use of preemptive, unilateral U.S. force without the participation of partners in the war against terrorism. If we do authorize preemptive, unilateral force, there could be grave consequences for our actions.

First, we could lose much, if not all, of the support of our partners in the war against terrorism. We could lose access to military facilities in and around Afghanistan. We could lose the support of Pakistan, which recently helped us arrest some leaders of al-Qaida. In all, Pakistani authorities have detained 402 al-Qaida members. We are also receiving military and intelligence support in the war on terrorism from many other Muslim countries. Obviously, a unilateral attack on Iraq could sour, if not ruin, all of these relationships and undermine our efforts in the war on terrorism.

Furthermore, such an attack would likely reenergize al-Qaida sympathizers across the globe. According to former NATO General Wesley Clark, a military strike of this nature would "supercharge recruiting for al-Qaida."

In more ways than one, a unilateral attack could weaken our chances to continue to dismantle al-Qaida's network and bring Osama bin Laden to justice. There are many other critical questions that need to be answered. Given the widely supported belief that Saddam Hussein has biological and chemical weapons, how do we assure he will not use them against us when we attack him first?

There is also more than a great possibility this would have to be a ground

war. Would our soldiers be attacked with these weapons? Would Israel be attacked with chemical weapons? Would Saddam give his stockpile to terrorists? Will an attack by the United States against Iraq prevent Saddam from using weapons of mass destruction, or will it ultimately become a self-fulfilling prophecy?

In other words, if we attack Saddam, and he is headed for certain death, he will have nothing to lose. What will stop him from launching a chemical or biological attack against Americans or against Israel?

A unilateral, preemptive invasion of Iraq could set a dangerous long-term precedent for us and the rest of the world. If we take such an action against Iraq for trying to develop nuclear weapons, should not other countries also have the same right against any other hostile country that is exploring nuclear weapons or already has them? Would this justify a preemptive strike by Pakistan against India or vice versa? Heaven help us.

Furthermore, if we attack unilaterally, who would help us keep the peace in Iraq while trying to set up a democratic government to replace Saddam Hussein?

Let me be clear, if the United States is in imminent danger of being attacked by Saddam Hussein, we should take immediate, unilateral military action. However, it seems clear he does not have this capacity at this time. I don't believe the administration has made the case. I have listened very closely and seriously. They have not made the case for a preemptive, unilateral strike against Iraq that would justify the risks to our people or such a historic change in American policy. We have time to build the coalitions. We need to be effective and minimize our own risks.

Another serious question: Is the President going to ask Congress to support the same unilateral action against other countries, such as Iran, which has ballistic missiles and close ties to terrorist groups? Why aren't they proposing action there, where the threat is much more imminent and real?

We should not be reluctant to use military force when there is a serious threat to the American people, but we should only go to war as a last resort. Peace should always be our goal.

I believe we should work with our partners in the war against terrorism and get the U.N. inspectors back into Iraq as soon as possible. We should give Saddam Hussein real deadlines. And if they are not met satisfactorily, then we should use force in partnership along with our allies, appropriate force in partnership along with our allies.

I am not the only one who believes this is the best way to proceed toward Iraq. Brent Scowcroft, President George H.W. Bush's national security adviser, wrote in the *Wall Street Journal*:

Don't attack Saddam. An attack on Iraq at this time would seriously jeopardize, if not

destroy, the global counterterrorist campaign we have undertaken. . . . Ignoring that clear [world] sentiment [against an attack] would result in a serious degradation in international cooperation with us against terrorism. And make no mistake, we simply cannot win that war without enthusiastic international cooperation, especially on intelligence.

We also must remember any war comes with a terrible price. In a war with Iraq, many of our own service men and women will be wounded or killed. Many innocent civilians will die. We should remember what the distinguished Senator from Hawaii, Mr. INOUE, recently said on this floor. He reminded us when he served in the armed services, as my father did, only 5 percent of the soldiers had spouses and children. Today over 77 percent of our service members have spouses and children. If we go to war, there will be a lot of empty chairs at kitchen tables all across America, a lot of children growing up without their parents. The possibility of this alone should force us to make sure we have exhausted all diplomatic efforts first before we go to war.

We should not have any illusion this war will be easy. It will not be an anti-septic war. It will not be won through air power alone. Military commanders have told us this will be an urban war with thousands of troops engaged in vicious house-to-house fighting. Knowing Saddam Hussein's tactics, he will likely hide his weapons in mosques and schools and hospitals, making it more difficult for us to get to them, and guaranteeing more loss of life.

In closing, I want to make sure my voice and my view are not distorted. I believe we, the American people, have the right to defend ourselves from an imminent attack. If we are seriously threatened, we don't need the permission of the United Nations or even our NATO allies to attack Iraq or any other nation, for that matter.

In this case, I believe the United Nations and our allies can be helpful in our part. Every attempt should be made to work with our partners in the war against terrorism. If we have to use military force, our battle against Saddam Hussein's weapons of mass destruction will be more effective.

Clearly, the United States must once again take the leadership role. We must insist that renewed inspections take place immediately, without delay or obfuscation. And it must be made clear to Iraq that enforcement by a unified world coalition is not a threat but a promise.

I believe the President's approach takes us down the path that poses the most risk for the people of our country and the world. I truly believe that a better approach is the alternative I am supporting authored by my colleague from Michigan, CARL LEVIN.

The President's approach is entirely too broad. This resolution says that the Congress authorizes force, including unilateral, preemptive strikes, for broad national security reasons and for



the enforcement of a broad range of U.N. resolutions that may have nothing to do with weapons of mass destruction. For the reasons I have mentioned, I will oppose this resolution.

In contrast, the Levin resolution strikes the right balance. This approach focuses on what matters most—destroying Saddam Hussein's weapons of mass destruction. And it calls on us to work with our allies to effectively accomplish this task. It gets us behind the U.N.'s efforts to get the weapons inspectors back into Iraq to do their job as soon as possible.

It also authorizes the use of force, with our allies, to get rid of Saddam Hussein's weapons of mass destruction if all diplomatic efforts fail.

Senator LEVIN's approach will also shake up the U.N. and force our allies to participate in a coalition to rid Saddam Hussein of his weapons of mass destruction. If we do not engage the U.N. and we decide to go it alone, the U.N. and our other key allies will likely sit on the sidelines while we confront Saddam Hussein and try to build a new country on our own. This is not in our best interest.

Finally, the Levin approach specifically affirms our right to self-defense. There is nothing in this approach that takes away our right to self-defense and to attack Iraq unilaterally to do so.

Therefore, no one should be confused about the Levin proposal. It does not take away our right to make our own decisions about our own actions or to defend ourselves. I believe this is the proper approach.

If we do this right, Mr. President, we will truly make the world safer for our families. If we choose the wrong approach, I am deeply concerned that we will start down a road that could ultimately create a more unstable and a more dangerous world for our children and our grandchildren.

There is no doubt that we can defeat Saddam Hussein in battle. The test of our strength is not in our ability to marshal our Armed Forces but our willingness to adhere to that which has made us great.

We are a strong and powerful nation, made that way by our willingness to go that extra mile in the name of liberty and peace. The time is now for us to work together in the name of the American people and get it right.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, are we in a period for morning business now?

The ACTING PRESIDENT pro tempore. We are not.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE CONFIRMATION OF THE 80TH JUDICIAL NOMINEE OF THIS CONGRESS

Mr. LEAHY. Mr. President, this week Republican critics, for whom we expedited hearings and committee votes on a number of judicial nominees in their home States, spoke on the floor about their frustration that not all the President's judicial nominees have yet been confirmed. They complain about a handful of judicial nominees. The fact is that the hearing I will chair next week will include the 100th judicial nominee to receive a hearing since the Democrats became the majority party in the Senate less than 15 months ago. Had the Senate been more productive in 1999 and 2000 and the first months of 2001, when a Republican majority was not holding hearings and votes on judicial nominees, we would be farther along. Since the shift in majority, we have been proceeding dramatically faster than the Republicans. It took Republicans 33 months, almost 3 full years, to hold hearings for 100 of President Clinton's judicial nominees when they were in the majority, we will exceed that mark next week, in less than 15 months.

Republican critics who now come to the floor of the Senate expressing outrage that a handful of judicial nominees have not had a hearing in the past year, were deafeningly silent when scores of President Clinton's judicial nominees never received hearings after many months and years. For example, Judge Helene White of Michigan, nominated to the Sixth Circuit, waited in vain for over 4 years, 1,454 days, for a hearing and never had a hearing or a vote. James Beaty of North Carolina, nominated to the Fourth Circuit, waited in vain for almost 3 years, 1,033 days, and never got a hearing. H. Alston Johnson of Louisiana, nominated to the Fifth Circuit, waited in vain for over 600 days and never got a hearing. Others, such as Allen Snyder and Bonnie Campbell who were nominated to the D.C. Circuit and Eighth Circuit, received hearings but no committee vote. Likewise, Clarence Sundram, nominated to the Northern District of New York, waited 19 months for a hearing and then languished in committee without the committee vote for 18 months before his nomination was returned, after pending before the Senate for 1,119 days. There were others, too many others, who waited in vain for a hearing or after a hearing for committee consideration.

In addition, it often took months and sometimes years for those who were ultimately confirmed to be acted upon by the Republican-controlled Senate. For example, Judge Richard Paez, nominated to the 9th Circuit, was finally confirmed after four years, 1,520 days; Judge William Fletcher, also nominated to the 9th Circuit, was finally confirmed after 1,264 days; Judge Hilda Tagle, nominated to the District Court in Texas, waited 943 days to be confirmed; Judge Susan Molloway, nominated to the District Court in Hawaii, waited 913 days to be confirmed; Judge Ann Aiken, nominated to the District Court in Oregon, waited 791 days to be confirmed; Judge Timothy Dyk, nominated to the Federal Circuit, waited 785 days to be confirmed; Judge Marsha Berzon, nominated to the 9th Circuit, waited 772 days to be confirmed; Ronald Gould, nominated to the 9th Circuit, waited 739 days to be confirmed; Margaret McKeown, nominated to the 9th Circuit, waited 728 days to be confirmed; and Margaret Morrow, nominated to the California District Court, waited almost 2 years to be confirmed. Many others took more than 1 year.

I understand how difficult the confirmation process can be. During the 6½ years Republicans controlled the Senate only 39 judicial nominees, including seven circuit court nominees, were confirmed per year on average. In contrast, in less than 15 months, the Democratic majority has already confirmed 80 judicial nominees.

The confirmation process can be frustrating at times, but it is also important work by which we implement our constitutionally-mandated advise and consent role for these lifetime appointments. It is a role that I do not take lightly and the other Members of the Senate Judiciary Committee do not take lightly. Accordingly, it is distressing to hear unintentionally inaccurate portrayals of the progress we have made in the less 15 months of Democratic control of the Senate. It is true that we have not been able to confirm every single judicial nominee proposed by this President, but we have worked at a historically fast pace to address the vacancy crisis by moving consensus nominees first and working our way through the more controversial and divisive nominees.

Since the summer of 2001, we have held more hearings for more judicial nominees and more hearings for circuit court nominees than in any comparable 15-month period of the 6½ years in which Republicans last controlled the committee. With our hearing last week, the Democratic-led Judiciary Committee has now held 25 hearings for 96 district and circuit court nominees. This is twice the pace at which the Republican majority considered President Clinton's judicial nominees. The Judiciary Committee has likewise voted on more judicial nominees, 83, and on more circuit court nominees, 17, than in any comparable 15-month period of prior Republican

control. In fact, Democrats have given votes to more judicial nominees than in 1996 and 1997 combined as well as in 1999 and 2000 combined.

During their 6½ years of control, Republicans allowed only 39 judicial nominees to be confirmed per year, on average, 39, and only seven circuit court nominees to be confirmed per year on average. In contrast, in little more than a year, Democrats have already confirmed 80 of this Republican President's judicial nominees, including 14 circuit court nominees. We have done twice as much as their average, and yet they still complain.

Rather than compare the improvements we are making over the way they treated the judicial nominees of the last President when they were recently in the Senate majority, they would pick other times when the Senate and executive branch were headed by those of the same party. This reveals how embarrassed they must be about their own record. That must be why they ignore their own record and refuse to acknowledge the improvements we have made, the hard work we have done, and all that we have accomplished.

This past week, Republicans reiterated their claim that other Presidents had 80 or 90 percent of their circuit court nominees confirmed. This ignores entirely the efforts of these same Republicans to block President Clinton's circuit court nominees. For example, in 1996, Republicans allowed none, zero percent and the absolute number of zero circuit court nominees to be confirmed. In 1997, Republicans allowed only 7 of President Clinton's 21 circuit court nominees to be confirmed, about one-third. Only 5 of President Clinton's first 11 circuit court nominees that year were confirmed that same year. In 1998, Republicans allowed 13 of the 23 pending circuit court nominees to be confirmed, which was 56 percent for the year, their best year for circuit court confirmations in their 6½ years of control of the Senate. In 1999, Republicans were back down to 28 percent, when they allowed only seven of the 25 circuit court nominations made to be confirmed, or about one of every four. Four of President Clinton's first 11 circuit court nominees that year were not confirmed. In 2000, Republicans allowed only 8 of the 26 circuit court nominees pending to be confirmed, or 31 percent. All but one of the circuit court candidates initially nominated that year, were returned to President Clinton without confirmation.

Republicans simply have no standing to complain that 100 percent of President George W. Bush's circuit court nominees have not been confirmed. Recent history makes their complaints on this point ring hollow. Democrats have been better by far to this President's judicial nominees than Republicans were to the last President's. For example, at the most recent judicial nominations hearing held last week, Democrats had already given hearings to 96

of the 105 eligible judicial nominees with complete files, the remaining two dozen nominees did not have completed files. Thus, 91 percent of judicial nominees who had completed files were given a hearing. This remarkable achievement is irrefutable evidence that we are not blocking this administration's judicial nominees.

I am certain that President Clinton would have been overcome with gratitude if the Republicans ever gave 91 percent of his judicial nominees hearings in the years Republicans controlled the confirmation process during his administration. They never did. Instead, almost half the time his judicial nominees never got hearings or votes. Indeed, only 49 percent of President Clinton's circuit court nominations were confirmed, 46 out of 93 nominations during the period of Republican control. How dare they complain that 100 percent or 90 percent of President Bush's circuit court or district court nominees have not been confirmed in our first 14½ months of control.

The real reason there are so many circuit vacancies is because Republicans blocked so many of President Clinton's judicial nominees. During the 6½ years of Republican control, the number of circuit vacancies more than doubled from 16 to 33, and the total number of vacancies increased from 65 to 110 by the time of the reorganization of the committee in the summer of 2001. If Republicans had not blocked the confirmation of almost two dozen, 22, circuit court nominees and many more district court nominees, Democrats on the Judiciary Committee would have begun with 11 circuit court vacancies, instead of the 33 we inherited. With the 10 new circuit court vacancies that arose over these past 14½ months, there would have been a total of 22 circuit court vacancies for this President to fill. At the Democratic pace of considering circuit court nominees, almost all of them would have had hearings by now, and 14 of them would have already been confirmed, with our pace of confirmation. That would have left only 6 vacancies on the circuit courts today. That is what might have been, but for the determined, strategic blocking of so many circuit court nominees during the 6½ years of Republican control of the Senate.

Instead, even after 14 circuit confirmations, there are 27 circuit court vacancies. This number is still fewer than at the start of this Congress and fewer than the 33 vacancies we inherited. We have outstripped attrition and are making progress. We cannot undo the damage done between 1995 and 2001 overnight, but we have held hearings for 96 of this President's judicial nominees, which is more circuit and district court nominees in less than 15 months than they held when they first took over the Senate or in their subsequent years. It is more in raw numbers and in percentages. We have made real progress to fix the problems that we in-

herited from the period of Republican control of the process.

The Judiciary Committee has focused on consensus nominees. This prioritization will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible. Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation. The Senate should not and will not rubber stamp nominees who would undermine the independence and fairness of our federal courts. It is our responsibility to preserve a fair, impartial and independent judiciary for all Americans, of all races, all religions, whether rich or poor, whether Democrat or Republican.

The committee continues to try to accommodate Senators from both sides of the aisle. Virtually all of the Court of Appeals nominees included at hearings so far this year have been at the request of Republican Senators, including Senator GRASSLEY, Senator LOTT, Senator SPECTER, Senator ENZI, Senator SMITH, and Senator THOMPSON, Republican Senators who each sought a prompt hearing on a Court of Appeals nominee and who was accommodated.

However, the whipsawing by Republicans has been truly remarkable. When we proceed on nominees that they support and on whom they seek action, we are criticized for not acting on others. When we direct our effort to trying to solve problems in one Circuit, they complain that we are not acting in another. Since these multiple problems arose on their watch while they were in the majority, it is a bit like the arsonist who complains that the local fire department is not responding fast enough to all of his destructive antics.

This week the Senate confirmed its 79th and 80th judicial nominees since the change in Senate majority and reorganization of the Judiciary Committee less than 15 months ago. In so doing, we have confirmed more judicial nominees than were confirmed in the first 15 months of any of the past three Presidents and more judicial nominees than were confirmed in the last 30 months that a Republican majority controlled the Senate. Simply put, we have done more in half the time. We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated. Partisan critics of these accomplishments ignore the facts. The facts are that we are confirming President Bush's nominees at a faster pace

than the nominees of prior presidents, including those who worked closely with a Senate majority of the same political party.

At this important time in our Nation's history we can all appreciate the need for a sound judiciary. Under the Democratic majority, we will continue to review nominees' files expeditiously and grant hearings regularly to candidates with complete paperwork and home State consent. Our record breaking efforts in the past 14½ months have left us with few remaining nominees who are ready to appear before the Committee. Of the circuit court nominees who have not yet received a hearing, half of them, 6, are without home State consent. Only 3 remain from the initial 11 circuit court nominees who have not had a hearing and have home State Senator support. Of the 17 district court nominees who have not yet received a hearing, more than half of them 9 have incomplete paperwork, including six of them without home State consent. Moreover, 9 out of 17 district court nominees are without ABA ratings.

Despite the partisan din about blockades and obstructionism, Democrats are actually achieving almost twice as much as our Republican counterparts did to staff the Federal courts. The Democratic Senate has shown its resolve to work in a bipartisan way to fill judicial vacancies. That is what the confirmation of 80 judges in less than 15 months demonstrates.

But let me be clear. Our judiciary would be in even better shape if so many judicial nominees of the prior administration had not been purposely blocked and defeated, if we received more timely reviews from the ABA, and even a little cooperation from this administration by nominating more moderate, mainstream judicial nominees. I, again, invite the President and all Republicans to join with us and work with us to fill the remaining judicial vacancies as quickly as possible with qualified, consensus nominees chosen from the mainstream and not for their ideological orientation, nominees who will be fair and impartial judges and will ensure that an independent judiciary is the people's bulwark against a loss of their freedoms and rights.

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**SENATOR STROM THURMOND:  
STATESMAN, PATRIOT, LEADER**

Mr. HELMS. Mr. President, last week, several Senators spoke during morning business one day about our distinguished colleague from South Carolina, Senator THURMOND. Long before I came to the Senate, I myself spoke many times on television editorials commending Senator THURMOND.

He was then, and is today, even more of a genuine American patriot than when I was in Raleigh never dreaming that I would one day be a colleague to Senator THURMOND in the Senate.

Trying to capture the essence of STROM THURMOND in a relatively few words of tribute is impossible. Who can adequately describe his firm handshake, his unmistakable South Carolina cadence, or his almost superhuman capacity for work? How to convey the explosive energy STROM THURMOND has carried anytime he walks into a room?

The sheer breadth of experience STROM THURMOND brings to the Senate boggles the mind: Born in 1902, he served South Carolina as State Senator, as a Circuit Judge, as Governor and as U.S. Senator.

He voted for Franklin Delano Roosevelt in 1932, and more than fifty years later, voted for Ronald Reagan in 1984. He ran for President against Harry Truman in 1948 and actively participated in Bill Clinton's impeachment trial in 1999.

When the Army told him he was too old to fight in World War II, he managed to obtain an age waiver, an age waiver, to participate in the fighting. Then, in typical STROM THURMOND fashion, he landed with the 82nd Airborne Division in Normandy on D-Day. Small wonder that Fort Bragg recently honored him by christening its newest building the Major General Strom Thurmond Strategic Deployment Facility.

My simple references to STROM THURMOND's accomplishments fail to convey the historic legacy he will leave in the Senate. In 1997, STROM became the longest serving Senator in the history of the institution, but he was the quintessential Senator long before he officially assumed that honor.

Senator THURMOND had great influence on my decision in 1972 to become a candidate for the Senate from North Carolina. He came to Raleigh many times urging me to run, and countless others to support me.

Every time he came, he told me again that if I would just run for the Senate, he would come to North Carolina frequently to campaign for me.

I decided to run because thanks to Senator THURMOND, there were many urging me to do it. And, sure enough, there he came, down from Washington to Raleigh, to help me. Again and again he came.

He was a fellow Southerner, and like me, he was a Democrat who had converted to the Republican Party. In those days, there were not a lot of Republicans in North and South Carolina, but STROM was determined to change that. And I might add, parenthetically, that no single individual, with the possible exception of Ronald Reagan, has done more to build the Republican Party in the South than STROM THURMOND.

Senator THURMOND knows how much I admire and respect him. He knows how grateful I am for his enormously helpful trips to North Carolina where we stood together, day after day, night after night, urging the people of North Carolina to send Helms to Washington to help STROM THURMOND.

I am proud to say, that STROM THURMOND became one of the best friends I have ever had, and one of the finest men I have ever known. He tutored me in the intricacies of the Senate and its traditions, the personal dedication the job requires, and the genuine commitment Senators owe to their constituents.

Some years ago, STROM paid me the ultimate honor of asking me to serve as godfather to his newborn daughter. Today, Julie Thurmond Whitmer is a beautiful young woman, and the pride I take in her is exceeded only by her father.

One final note, I owe Senator THURMOND my eternal gratitude for a favor he did for me.

When I arrived in the Senate, I was searching for young people to help me with my Senate responsibilities. Senator THURMOND referred a wonderfully smart, principled, and competent young lady for my staff.

After 30 years of working with, and for, the irreplaceable Mrs. Pat Devine, I can genuinely say that her presence among the "Helms Senate Family" is the finest helping hand STROM THURMOND could possibly extend to me.

Senator THURMOND watched over her protectively, and he often jokingly needed me about how I had "stolen away his red-head".

The Senate simply will never be the same without Senator THURMOND sitting tall and straight at his desk, serving the people of South Carolina and the country he loves.

He is a true friend, a great statesman, and a blessing to all who cherish the strength of statesmen like J. STROM THURMOND. He is a great patriot. He is my friend and I am his. This is a stronger and greater country because of his service and his dedication to the principles that made America great from the beginning.

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**WHEN MEN MURDER WOMEN: AN  
ANALYSIS OF 2000 HOMICIDE DATA**

Mr. LEVIN. Mr. President, earlier this week the Violence Policy Center released its annual review examining the role of firearms in murders involving one female victim and one male offender. The analysis found that in 2000, the most recent data available, a majority of women who were murdered were killed with firearms. Seventy-six percent of all firearm homicides of women were committed with handguns. The report is sobering in demonstrating how easily a domestic violence dispute can turn into domestic homicide.

According to the VPC's review, in 2000, there were 1,805 women murdered by males in single victim/single offender incidents reported to the FBI. Of the more 1,800 women murdered, 963 of the victims were wives or intimate acquaintances of their killers and 331 were murdered during the course of an argument. In my home State of Michigan, 82 women were murdered. For

homicides in which police could identify the weapon, 41 were shot and killed with guns. Of these, 22 victims were killed with handguns.

In 1996, Congress passed legislation to deny firearms purchases to individuals who were under a domestic violence restraining order or convicted of a domestic violence misdemeanor. Despite the passage of this law, many people are slipping through the system. I supported that legislation because of evidence that people who had committed acts of domestic violence were buying guns and using them. I also support closing the gun show loophole, which requires background checks for people who purchase guns at gun shows. The lack of background checks at gun shows leaves battered women and their children more vulnerable to violence.

October is Domestic Violence Awareness Month. The VPC's report highlights how much we still have to do to protect women from becoming victims of domestic violence, and I urge my colleagues to support sensible gun safety legislation.

#### TAX RELIEF FOR MEMBERS OF THE ARMED FORCES

Mr. GRAHAM. Mr. President, I would like to thank Senators BAUCUS and GRASSLEY for introducing the Armed Forces Tax Fairness Act, and for including a very important provision within it. I, along with Senators LINCOLN and MCCAIN, am proud to cosponsor a specific provision that provides tax relief for members of the military and foreign service officers serving on assignment abroad. This provision provides tax relief on the profit generated by the sale of a primary residence—allowing those who serve our country the ability to exclude their time living abroad from the calculation of total years living in their primary residence.

This provision does not create a new tax benefit, it merely modifies current law. The Taxpayer Relief Act of 1997 gave taxpayers who sell their principal residence a much-needed tax break. Prior to the 1997 act, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to live in the residence for two of the five years preceding the sale and be at least 55 years old. This policy provided no tax relief to younger taxpayers and their families.

The 1997 act corrected this flaw. Now, a taxpayer who sells his or her principal residence is not taxed on the first \$250,000 of profit from the sale. Joint filers are not taxed on their first \$500,000 of profit. To qualify for this tax relief, the taxpayer must meet two requirements: No. 1, they must own the home for at least two of the five years preceding the sale; and No. 2, they must live in the home as their primary residence for at least two of the last five years.

Unfortunately, this second requirement unintentionally and unfairly pro-

hibits men and women in the armed services and foreign service from qualifying for this beneficial tax relief when their service mandates that they live abroad for longer periods of time.

The bill being considered today remedies the inequality in the Taxpayer Relief Act of 1997. While military and foreign service professionals working abroad would still be required to own and live in their home for at least 2 years, the Internal Revenue Code would be amended to suspend the five-year determination period—when members of the military and foreign service are away from home.

The 1997 home sale provision was bad fiscal policy because as it unintentionally discouraged government personnel from owning their own homes. We all know that home ownership has numerous benefits. It provides Americans with a valuable sense of community. It adds stability to our Nation's neighborhoods, and generates valuable property taxes for our Nation's communities. Home ownership should be commended and encouraged, and members of the military and foreign service should not be penalized with higher taxes simply because they are on extended assignment abroad. Enacting this remedy will grant equal and fair tax relief to those U.S. citizens who serve our country away from home.

Ms. LANDRIEU. Mr. President, I want to commend the chairman and ranking member of the Finance Committee for bringing the Armed Forces Tax Fairness Act of 2002 to the floor and winning Senate passage of this important legislation. This bill contains some valuable tax benefits for the men and women who defend our country, fighting the war against terrorism.

I am very pleased that this bill contains provisions based on a bill I introduced, S. 2807, to clarify that dependent care benefits paid to our armed forces are excluded from their gross incomes. S. 2807 fixes what I believe was an oversight in the Tax Reform Act of 1986. That Act consolidated the laws regarding the tax treatment of certain military benefits. The conference report to the 1986 Act contained a long list of benefits to be excluded from the gross incomes of military personnel. According to the report, this list was to be exhaustive. The problem was that dependent and child care benefits were not included on the list.

The Treasury Secretary does have the authority to expand the list of benefits in the 1986 Act, but so far no Treasury Secretary has chosen to expand the list. As a matter of practice, we do not tax these benefits, but the Department of Defense is concerned that this may change without greater clarification. The Defense Department came to us to clarify the tax treatment of dependent and child care benefits once and for all. I was proud to help them. I thank Senator BAUCUS, the chairman of the Finance Committee and the ranking member, Senator GRASSLEY, for including my legislation in this package.

Throughout our history, in times of war and in times of peace we have worked to make sure that our armed forces have everything they need and we have spared no expense in this regard. The Armed Forces Tax Fairness Act of 2002 is another symbol of this support. I hope the House of Representatives will pass this bill as well and move it on to the President's desk for passage into law before we adjourn this session of Congress. The men and women of our armed forces and their families deserve this legislation.

Mrs. CARNAHAN. Mr. President, last night the Senate acted to demonstrate our support and gratitude for those brave men and women who are fighting to protect our freedom and our Nation's interests abroad. I am proud to be an original cosponsor of the Armed Forces Tax Fairness Act. These common sense tax cuts rectify injustices in our tax code that punish those who serve in our military.

Even in times of peace, extraordinary demands are placed on our troops. They are separated from their families. They endure physically grueling training. And most important, they commit to put their own lives at risk for the sake of this country. Since last year's attacks, we have become even more dependent on the dedication of our armed forces.

This reality makes it all the more important that we ensure our tax laws are fair to those who serve in our military. In August, I introduced the Honoring Our Heroes Act. Under my bill, families of soldiers who lose their lives while serving their country do not have to pay income taxes on the death benefit payment the federal government provides. Under current law the government provides \$6,000 to families of servicemen and women who die. However, families are required to pay income tax on half of that benefit. My legislation enables a family to use the entire death benefit to cover funeral or other expenses they face after losing their loved one.

The bill passed by the Senate last night includes my bill, and other improvements to our tax code. Reservists and members of the National Guard will be pleased to know that this bill enables them to deduct their service-related travel expenses even if they do not itemize their tax deductions. This bill also ensures that service members will not be penalized when they sell their houses after a period of service away from home. In addition, this legislation provides automatic filing extensions to military personnel who are assigned to contingency operations and would naturally have trouble meeting the regular IRS deadlines.

These and other tax cuts for our service members are paid for by closing a horrible loophole in our tax code. Currently wealthy individuals can escape paying taxes by renouncing their U.S. citizenship. This is unconscionable. Citizens who have benefited from the freedom and opportunity provided by

this country should not be allowed to avoid paying income tax by renouncing their citizenship. I believe we owe it to those fighting for our country's freedom to close this loophole.

I am pleased to work with my colleagues on both sides of the aisle to make our tax code more fair. The United States is extremely grateful for the hard work and dedication of our armed forces. And the bill we passed last night will ensure that our tax code reflects this gratitude.

#### TIMOTHY WHITE

Mr. LEAHY. Mr. President, Monday in Boston and Tuesday in New York there will be tribute concerts in memory of Timothy White, the editor of *Billboard Magazine* who recently died at the young age of 50. Tim is survived by his wife Judy Garlan and twin sons Christopher and Alexander. I understand that these concerts includes performances by some of my favorite musicians, performers, and recording artists, including Sheryl Crow, Don Henley, John Mellencamp, Sting, Billy Joel, James Taylor, Jimmy Buffett, and Roger Waters. These are people with big hearts as well as talent.

Tim White loved his family and he loved music. He wrote:

Music entered my world on a summer morning in 1956, in the tough mill town of Paterson, N.J., when a band of Italian street musicians ambled down East 27th Street and paused in front of my family's tiny Cape Cod-style house. . . . What still moves me most about musicians—about all creative people who disclose the depths of their better selves—is that same thing that touched me on that otherwise torpid August afternoon—that these people would be willing to trust another stranger with the open expression of such inner truths.

He was an editor, a writer, an observer and a person of conviction and commitment. In addition to his family and friends, those who care about music will miss him.

#### VOTE EXPLANATION

Mr. HATCH. Mr. President, I regret that a family emergency in Utah kept me from the Senate yesterday. Had I been present, I would have voted in favor of the motion to proceed on S.J. Res. 45, the resolution authorizing the use of force in Iraq.

The President and his administration have been actively consulting with the Congress on the language of this resolution over the past days and weeks. Our committees have heard many testimonies from the administration and other experts. And, for many years now, we have been apprised of the threat of Saddam Hussein and his outlaw regime. It is time for the Congress to come together, to hold a public debate, and to vote on a critical request made by this Administration.

This administration has worked closely, and will continue to work closely, with our allies and the United Nations. The challenge posed to the

U.N. by President Bush in his historic speech before the General Assembly last month demonstrated the dedication that the U.S. wishes to keep the U.N. relevant, while plainly stating that our national interest cannot and will not be subjugated to Saddam's willful deceptions and manipulations before that body.

The world is looking to the United States to see our resolve. It is time for the world to see the American Congress debate whether we will support our Administration. I believe that we will show the world that this Congress, and the American people, overwhelmingly supports our President.

It is not preordained the resolve we will show the world will lead to war. I believe that the resolve we show will demonstrate the U.S. will unite to confront the dangers that lie ahead.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in November 2000 in Shawano, WI. Two men tried to run an Asian couple off a road with a pickup truck. The men pulled up behind the victims' car at a high speed and forced the couple's car to swerve onto the shoulder. They then continued to chase the couple and buzzed close to the vehicle. The driver, Grant Heim, 19, used racial slurs when referring to the victims and was charged with a hate crime in connection to the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### FALLEN FIREFIGHTERS FOUNDATION MEMORIAL WEEKEND 2002

Mr. LEVIN. Mr. President, this weekend firefighters from across the country are coming to Washington, DC, to honor the lives of their family, friends, and colleagues during the 2002 Fallen Firefighters Foundation Memorial Weekend. Since 1981, the names of America's fallen fire heroes have been memorialized at the official National Fallen Firefighters Memorial. Sadly, this year the names of 446 brave and heroic men and women of the fire service will be added to the Roll of Honor in Emmitsburg, MD.

Last year, 442 firefighters from 34 States lost their lives while serving their communities. 2001 was the dead-

liest year in the history of America's fire service. New York leads the list with 359 firefighters killed, including the 347 World Trade Center heroes. Also, four firefighters who died before 2001 but whose names had not been included on the national memorial will be added. Three individuals from my home State of Michigan will also be added to Roll of Honor.

James Pelton joined the City of Mason Volunteer Fire Department in May of 1964. He received his training the old fashioned way, on the job. Jim worked his way up through the ranks from First Lieutenant to Chief of the department. He always looked for ways to educate people about the importance of fire safety. Jim helped implement a variety of training programs, including ice rescue, hazardous materials handling, and vehicle extrication training.

In April 1972, James Rupkey became a charter member of Station Five of the Troy Fire Department. He served the department for more than 30 years. As Troy's volunteer assistant fire chief, he designed software to help the fire department respond run more efficiently. According to his colleagues, no matter what rank he held, he was always a leader at the fire department. In 2000, the department named him Firefighter of the Year.

Christopher Towne, Engine Company 5 of the Detroit Fire Department, joined the fire department in 1972. Christopher was a courageous fireman, in 1991, he received a department citation for helping save another firefighter from being overcome by smoke when the firefighter's equipment malfunctioned. Christopher's job often took him out of the firehouse to the Children's Hospital Burn Unit where he worked as a fundraiser activist.

These are just three of the 442 firefighters that lost their lives last year. The Fallen Firefighters Foundation Memorial offers family, friends, and loved ones an opportunity to grieve, honor, and bring closure to the loss of their loved ones. However, I hope that over the coming weekend, people across the country will take a moment to thank and honor their firefighters for their service, and I know my colleagues will join me in honoring the lives of these courageous public servants.

#### CONGRATULATION LEE C. BOLLINGER

Mr. GREGG. Mr. President, I rise today to congratulate Lee C. Bollinger on becoming the 19th president of Columbia University.

President Bollinger comes to this highly esteemed post superbly qualified, having previously served as a exceptional teacher and world renowned scholar. After serving as law clerk for Judge Wilfred Feinberg on the U.S. Court of Appeals for the 2nd Circuit and the Chief Justice Warren Burger on the U.S. Supreme Court, he joined the

faculty of the University of Michigan Law School in 1973. In 1987 he was named Dean of the Law School, position he held for 7 years. He became Provost of Dartmouth College and Professor of Government in July 1994 and was named twelfth president of the University of Michigan in 1996.

President Bollinger's primary teacher and scholarly interests are focused on free speech and first amendment issues, and he has published numerous books, articles and essays in academic journals on these and other subjects. Bollinger is well known also for his commitment to students and will be teaching a class on first amendment issues to Columbia College students this year.

As an alum, I am proud to welcome this distinguished and committee scholar to the presidency of Columbia University. I wish him all the best.

#### ADDITIONAL STATEMENTS

#### RECOGNITION OF CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS' 40,000TH CFP CERTIFICANT

• Mr. ALLARD. Mr. President, at a time when many Americans have witnessed the loss of their life savings and millions of others face difficult decisions regarding their personal finances, the need for competent, ethical financial planning is greater than ever. It is with great pride that I rise today to recognize Certified Financial Planner Board of Standards Inc. As of today, CFP Board has announced that 40,000 financial planners now hold the CFP® certification.

This outstanding, Colorado-based, nonprofit regulatory organization has been working since 1985 to foster professional standards so that the public values, has access to, and benefits from, competent, ethical financial planning. The organization also works closely with 17 affiliates of the International CFP Council, whose nearly 31,000 additional certificants are helping to elevate standards for the financial planning professional globally.

The CFP certification is based on the 4 E's: Education, Examination, Experience and Ethics. CFP Board has registered 234 education programs at 151 accredited U.S. colleges and universities to help CFP certification candidates develop competency in financial planning. CFP Board administers a comprehensive, 2-day, 10-hour examination and requires certificants to meet rigorous standards for continuing education developed by its subsidiary board of examiners. Every candidate must demonstrate at least three years of relevant experience. Those individuals who then qualify for certification must agree to abide by CFP Board's Code of Ethics and Professional Responsibility, as well as the Financial Planning Practice Standards. Among the many provisions contained in these

documents is the overriding principle of placing the client's interests first. CFP Board's subsidiary Board of Professional Review strictly enforces ethical compliance.

To fulfill its mission to the public, CFP Board publishes extensive printed and online materials to educate consumers regarding topics such as the financial planning process, selecting financial planning professionals and the rights of financial planning clients. Several of these publications have been reviewed by the Securities and Exchange Commission and are available through the Federal Consumer Information Center. Through the Web site [www.CFP.net](http://www.CFP.net), consumers can quickly and easily determine whether financial planners hold the CFP certification and have been subject to public disciplinary action by CFP Board.

Earlier this year, CFP Board completed implementation of the Financial Planning Practice Standards, establishing what clients are reasonably entitled to expect during financial planning engagements and providing a blueprint for recently deregulated and other financial services firms that wish to offer their clients comprehensive financial planning. CFP Board continues to proactively address public concerns such as disclosure of compensation and possible conflicts of interest on the part of financial planners. CFP Board's continued efforts to protect and educate our nation's citizens should not go unnoticed. For that, we owe CFP Board our recognition, gratitude, and congratulations. I urge my colleagues to join me in paying special tribute to Certified Financial Planner Board of Standards Inc. for 17 years of protecting the public.●

#### COMMEMORATION OF JAMES MARTIN

• Mr. HOLLINGS. Mr. President, I rise today to express my sorrow at the untimely and tragic death of a talented and dedicated public servant, James Martin. On the evening of Wednesday, October 2, Jim Martin became the first homicide victim in this week's violent and senseless string of shootings in suburban Maryland.

Jim was an outstanding civilian employee of the National Oceanic and Atmospheric Administration, NOAA, Office of Marine and Aviation Operations, OMAO, the branch of NOAA that operates the agency's scientific ocean research vessels and the famous P-3 "Hurricane Hunter" aircraft. Jim served as a program analyst in the Resource Management Division of OMAO.

For 16 years, first with the Office of the Comptroller, then with OMAO, Jim used his talents as a program analyst to advance NOAA's mission and core values. Jim was credited with single-handedly orchestrating and implementing OMAO's program to improve NOAA employee satisfaction, and with becoming a Diversity Coordinator not because he was asked to, but because

he believed in the principles and in improving representation of diversity in the sciences. Jim began his commitment to diversity issues long ago, when he worked here in the U.S. Senate on Native American affairs as a legislative assistant for Senator Lee Metcalf of Montana.

At NOAA, Jim also was instrumental in OMAO's adoption of a Washington, DC, elementary school and worked to get NOAA pilots and ship captains to talk to youth about our sea and skies. When the school needed computers, Jim quickly came up with 10 surplus ones for students. He was in the process of arranging a "tour" for the kids on a NOAA research vessel. Jim's demonstrated commitment to inspire minority youth to become future scientists sets a standard for us all to follow.

Jim's colleagues say that he was always a gentleman, that he listened first, and talked second. With his subtle sense of humor, and ready willingness to help, Jim is already sorely missed by his colleagues throughout the NOAA community. Our deep condolences go out to Jim's wife Billie and their 11-year old son Ben in this very difficult time.●

#### HONORING BILL HOLMBERG FOR HIS CONTRIBUTIONS TO ENERGY AND THE ENVIRONMENT

• Mr. NELSON of Nebraska. Mr. President, today it is my privilege to share with my colleagues the accomplishments of a distinguished citizen and entrepreneur, Mr. William C. Holmberg.

Mr. Holmberg, a former member of my staff, has recently been appointed to the New Uses Council. Founded in 1990, the council is dedicated to expanding the development and commercialization of new industrial, energy, and nonfood consumer uses of renewable agricultural, forestry, livestock, and marine products. I am certain that Mr. Holmberg will provide exceptional leadership and ingenuity in his new post.

I am also pleased to share that Mr. Holmberg has been awarded the Department of Energy's 2002 Biomass Energy Program Distinguished Service Award. This annual award is presented to individuals exemplifying superior achievement in establishing, promoting, and implementing projects that exhibit the efficient use of biomass energy resources and technologies.

In pursuit of developing renewable resources, Mr. Holmberg established Global Biorefineries, Inc., a nonprofit organization dedicated to the development of sustainable bioenergy initiatives. Since its inception, Global Biorefineries has promoted the production of renewable domestic fuels to advance our Nation toward energy independence.

As these examples illustrate, Mr. Holmberg's dedicated to the creation of



efficient alternative energy sources is essential in developing a plan for our Nation's environmental and energy future. His tireless effort to ensure the promotion of renewable agricultural products has helped our country's environmental conservation efforts, and Mr. Holmberg's commitment to solving our Nation's energy challenges will ensure that new and innovative resources and technologies will continue to flourish.●

#### SHANNON ROVERS IRISH PIPE BAND: 75 YEARS OF ENTERTAINMENT

● Mr. DURBIN. Mr. President, I am pleased to recognize the Shannon Rovers Irish Pipe Band for providing 75 years of entertainment. More than 500 individuals have played the pipes and drums of the Shannon Rovers Band. Currently, the band is made up of over 75 pipers, drummers and color guard members, and includes a student program with over 20 individuals actively learning the pipes and drums.

The band was organized in 1926 by a group of Irish immigrants, and was originally named the Shannon Rovers Fife and Drum Corps. The group was directed by Dan Hennessy and played for every Irish gathering in Chicago during the late 1920's and early 1930's. In 1932 the decision was made to switch from fife and drums to the "Irish Warpipe" or bagpipe. Thus, the Shannon Rovers Irish Pipe Band was introduced.

In the 1930's the band performed for Presidential candidate Franklin Delano Roosevelt and has continued to play for Presidents and distinguished guests to this day, including Presidents Harry S. Truman, John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Pope John Paul II.

The band's popularity has grown immensely over the years. The demand for them to play continues to grow in the Chicago land area, as well as across the Nation, and around the world. The Rovers continue to excite Chicagoans with performances at halftime of Bears games, leading the pre-race ceremonies at Chicago Motor Speedway, performing at the Celtic Fest, and at the Irish Heritage Center. They make an annual trip to Springfield, IL, for the Illinois State Fair and they also perform at countless rallies and dinners. The members of this group freely volunteer their time for all types of civic and charitable events.

Internationally, the band is a perennial contender in Ireland's Fleadh Cheoil, a world-class traditional Irish music event. The Rovers have placed first, second, and third in this prestigious competition.

The Shannon Rovers Irish Pipe Band has accomplished much in the 75 years since its founding. It is my pleasure to extend my congratulations and thanks to this group for their decades of service and dedication to their music and to the people of Illinois.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-9221. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of a violation of the Antideficiency Act relative to Section 514 grant program during Fiscal Years 1999 and 2001; to the Committee on Appropriations.

EC-9222. A communication from the Chief of Staff, Trade and Development Agency, transmitting, pursuant to law, a report relative to Serbia; to the Committee on Appropriations.

EC-9223. A communication from the Deputy General Counsel, Board of Veterans' Appeals, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Rules of Practice - Attorney Fee Matters; Notice of Disagreement Requirement" (RIN2900-AL25) received on September 30, 2002; to the Committee on Veterans' Affairs.

EC-9224. A communication from the Director, Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Chairman, National Indian Gaming Commission, received on September 30, 2002; to the Committee on Indian Affairs.

EC-9225. A communication from the Director, Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Special Trustee for American Indians, received on September 30, 2002; to the Committee on Indian Affairs.

EC-9226. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC-9227. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, transmitting, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Germany and Russia; to the Committee on Foreign Relations.

EC-9228. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to

law, the Annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological, and Chemical Weapons for the period December 1, 2000 through December 31, 2001; to the Committee on Foreign Relations.

EC-9229. A communication from the Assistant Secretary for Land and Minerals Management, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Rights-of-Ways Under the Mineral Leasing Act; Timing of Approval" (RIN1004-AD55) received on September 30, 2002; to the Committee on Energy and Natural Resources.

EC-9230. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, transmitting, pursuant to law, the report of a rule entitled "Permits for Recreation on Public Lands" (RIN1004-AD25) received on September 30, 2002; to the Committee on Energy and Natural Resources.

EC-9231. A communication from the Director, Cooperative and State Programs, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Changes to State Plans (revised)" (RIN1218-AB91) received on September 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9232. A communication from the Deputy General Counsel, National Science Foundation, transmitting, pursuant to law, the report of a rule entitled "Antarctic Conservation Act of 1978, Civil Monetary Penalties" (45 CFR Part 672) received on September 30, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9233. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Removal of Quarantined Areas" (Doc. No. 01-080-3) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9234. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Host Material from Canada; Removal of Infested Areas in British Columbia, Canada" (Doc. No. 01-132-2) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9235. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Denmark Because of Exotic Newcastle Disease" (Doc. No. 02-089-1) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9236. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Texas (Splenic) Fever in Cattle; Incorporation by Reference" (Doc. No. 01-110-2) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9237. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant; Approved Treatments" (Doc. No. 01-115-2) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9238. A communication from the Congressional Review Coordinator, Animal and

Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pink Bollworm Regulated Areas; Removal of Oklahoma" (Doc. No. 02-031-2) received on September 30, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9239. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-9240. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to mental health counselors demonstration project; to the Committee on Armed Services.

EC-9241. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, a report relative to a multi-service (Army/Navy) multiyear procurement (MYP) for UH-60 and MH-60 aircraft for Fiscal Year 2002 through 2006; to the Committee on Armed Services.

EC-9242. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, reports relative to the Ready Reserve of the Armed Forces; to the Committee on Armed Services.

EC-9243. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-9244. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-9245. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Change in Flood Elevation Determinations" (Doc. No. FEMA-D-7527) received on September 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9246. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on September 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9247. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 67) received on September 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9248. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Exception Payment Standard to Offset Increase in Utility Costs in the Housing Choice Voucher Program" (RIN2577-AC29) received on September 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9249. A communication from the Chairman of the Federal Reserve System, transmitting, pursuant to law, a report on credit availability for small business; to the Committee on Banking, Housing, and Urban Affairs.

EC-9250. A communication from the Senior Paralegal, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Alternative Mortgage Transaction Parity Act; Preemption" (RIN1550-AB51) received September 25, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9251. A communication from the Assistant Administrator for a Procurement, Na-

tional Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Rewrite of Section D—Cooperative Agreements with Commercial Firms and Implementation of Section 319 of Public Law 106-391, Buy American Encouragement" (RIN2700-AC44) received on September 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9252. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting pursuant to law, the report of a rule entitled "Missile Technology Production Equipment and Facilities" (RIN0694-AC51) received on September 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9253. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Issuance of Revised Model Administrative Order on Consent for Removal Actions"; to the Committee on Environment and Public Works.

EC-9254. A communication from the Director, Office of Congressional Affairs, Office of the Chief Financial Officer, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision to Salary Offset Procedures" (RIN3150-AG96) received on September 27, 2002; to the Committee on Environment and Public Works.

EC-9255. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Status of the State Small Business Stationary Source Technical and Environmental Compliance Programs (SBTCPs)" for calendar year 2000; to the Committee on Environment and Public Works.

EC-9256. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Louisiana; Baton Rouge Nonattainment Area; Ozone; 1-Hour Ozone Attainment Demonstration; Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification" (FRL7387-5) received on September 26, 2002; to the Committee on Environment and Public Works.

EC-9257. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plan; Ohio" (FRL7386-9) received on September 26, 2002; to the Committee on Environment and Public Works.

EC-9258. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fining of Failure to Submit State Implementation Plan Revisions for Ozone (1-hour Standard), California—San Joaquin Valley" (FRL7387-9) received on September 26, 2002; to the Committee on Environment and Public Works.

EC-9259. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Retroactive Accident and Health Benefits" (Rev. Rul. 2002-58) received on September 30, 2002; to the Committee on Finance.

EC-9260. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled "Archer MSA Counter 2002" (Ann. 2002-90) received on September 30, 2002; to the Committee on Finance.

EC-9261. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Railroad Track Maintenance Costs—Class II and III Railroads" (Rev. Proc. 2002-65) received on September 30, 2002; to the Committee on Finance.

EC-9262. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2003 Per Diem Rates" (Rev. Proc. 2002-63) received on September 30, 2002; to the Committee on Finance.

EC-9263. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Import Restrictions Imposed on Archaeological Material From Guatemala" (RIN1515-AD17) received on September 30, 2002; to the Committee on Finance.

EC-9264. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Republic of Cyprus and the status of cultural property agreements with Peru and Canada; to the Committee on Finance.

EC-9265. A communication from the Commissioner of the Financial Management Service, Department of the Treasury, transmitting, pursuant to law, a report concerning the appearance of Social Security account numbers on or through unopened mailings of checks or other drafts issued on public money in the Treasury; to the Committee on Finance.

EC-9266. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports that appear on pages 119-141 of the March 2002 Treasury Bulletin; to the Committee on Finance.

EC-9267. A communication from the Regulations Coordinator for the Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Supplementary Medical Insurance Premium Surcharge Agreements" (RIN0938-AK42) received on September 30, 2002; to the Committee on Finance.

EC-9268. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "State Children's Health Insurance Program; Eligibility for Prenatal Care for Unborn Children" (RIN0938-AL37) received on September 30, 2002; to the Committee on Finance.

EC-9269. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare and Medicaid Programs; Program of All-inclusive Care for the Elderly (PACE) Program Revisions" (RIN0938-AL59) received on September 30, 2002; to the Committee on Finance.

EC-9270. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Material Regulations: Minor Editorial Corrections and Clarifications" (RIN2137-AD72) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9271. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Required for Maintenance, Regualification, Repair and Use of DOT Specification Cylinders; Extension of Compliance Date" (RIN2137-AD58) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9272. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: (including 3 regulations)" ((RIN2115-AE47)(2002-0083)) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9273. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Cape Fear River, Wilmington, NC" ((RIN2115-AE46)(2002-0032)) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9274. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Gulf Intracoastal Waterway Mile 134.0, Cypremort Point, Louisiana" ((RIN2115-AA97)(2002-0189)) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9275. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Procedures for Non-Evidential Alcohol Screening Devices" (RIN2105-AD13) received on September 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9276. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of Proposed Rulemaking Actions" (RIN2105-AD16) received on September 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9277. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees Authorized by 49 USC 30141" (RIN2127-AI77) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9278. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Development of a North American Standard for Protection Against Shifting and Falling Cargo" (RIN2126-AA27) received on September 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC-9279. A communication from the Secretary of Transportation, transmitting, pursuant to law, the National Plan of Integrated Airport Systems (NPIAS), 2001-2005; to the Committee on Commerce, Science, and Transportation.

EC-9280. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the Commission's Revised Strategic Plan for Fiscal Years 2003 through 2008; to the Committee on Commerce, Science, and Transportation.

EC-9281. A communication from the Secretary of Transportation, transmitting, pur-

suant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-9282. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, a report relative to network vulnerability assessment report dated August 2002; to the Committee on Governmental Affairs.

EC-9283. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the Semi-annual Report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-9284. A communication from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, the Department's inventory of commercial activities for Fiscal Year 2001; to the Committee on Governmental Affairs.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2799: A bill to provide for the use of and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes. (Rept. No. 107-298).

By Mr. INOUE, from the Committee on Indian Affairs, without amendment:

S. 2989: A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land. (Rept. No. 107-299).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. LANDRIEU (for herself and Mr. BAYH):

S. 3057. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. BUNNING, Mr. HARKIN, Mr. ALLARD, Mr. REID, and Mrs. CLINTON):

S. 3058. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 3059. A bill to provide for the distribution of judgment funds to the Assiniboine and Sioux Tribes of the Fort Peck Reservation; to the Committee on Indian Affairs.

By Mr. KENNEDY:

S. 3060. A bill to amend the Public Health Service Act to provide protections for human

participants in research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LOTT:

S. 3061. A bill to impose greater accountability on the Tennessee Valley Authority with respect to capital investment decisions and financing operations by increasing Congressional and Executive Branch oversight; to the Committee on Environment and Public Works.

By Mr. CRAIG:

S. 3062. A bill to direct the Secretary of Agriculture to conduct a study of the effectiveness of silver-based biocides as an alternative treatment to preserve wood; to the Committee on Agriculture, Nutrition, and Forestry.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. BURNS, Mr. CRAIG, Mr. ROBERTS, Mr. ALLARD, Mr. VOINOVICH, Mr. CRAPO, Mr. ENSIGN, Mr. DEWINE, Mr. BOND, Mr. FRIST, Mr. WARNER, and Mr. HATCH):

S. Res. 333. A resolution expressing the sense of the Senate relating to a dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mrs. CLINTON):

S. Res. 334. A resolution recognizing the Ellis Island Medal of Honor; to the Committee on the Judiciary.

### ADDITIONAL COSPONSORS

S. 1379

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1434

At the request of Mr. SPECTER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1434, a bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001.

S. 2053

At the request of Mr. FRIST, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2053, a bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes.

S. 2268

At the request of Mr. MILLER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers

and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2569

At the request of Mrs. CLINTON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2569, a bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation.

S. 2667

At the request of Mr. DODD, the names of the Senator from Florida (Mr. NELSON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 2770

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 3018

At the request of Mr. BAUCUS, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Iowa (Mr. HARKIN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3054

At the request of Mr. LIEBERMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 3054, a bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes.

S.J. RES. 46

At the request of Mr. BUNNING, his name was added as a cosponsor of S.J. Res. 46, a joint resolution to authorize

the use of United States Armed Forces against Iraq.

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 142, a concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—OCTOBER 3, 2002

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 3045. A bill to amend the Federal Water Pollution Control Act to provide for the protection and enhancement of the environmental integrity and the social and economic benefits of the Finger Lakes Region in the State of New York; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, today, it is an honor to introduce the Finger Lakes Initiative Act of 2002. The Finger Lakes are the heart of New York. They stretch across most of the State and nurture an endless supply of natural and economic resources. They attract visitors from across the country, and they deserve our support to maintain and strengthen the quality of life in the entire region.

The Finger Lakes Region of New York State is a land of rolling hills, beautiful lakes, pastoral farms, and incomparable fish and wildlife resources. A critical environmental resource, the Lakes are also vital to the region's economy, generating a tremendous amount of tourism and commerce.

Fishing, boating, hunting, wineries, farmers markets and the arts attract visitors from around the nation to the Finger Lakes region. The Finger Lakes region also includes some of the Northeast's most productive agricultural lands.

While Central New York is truly blessed with the environmental, economic, and cultural benefits that the Finger Lakes provide, the health of the Finger Lakes can no longer be taken for granted. Recent reports have confirmed what many residents in New York already know, the Finger Lakes are under environmental stress. In many of the lakes, water quality has suffered. Fluctuating water levels and flooding north of the lakes has also increased. In addition, a significant amount of fish and wildlife habitat is being lost and threats are being posed by the introduction of invasive species.

Local, State, and Federal officials have recognized the seriousness of these threats, and have worked to address these concerns. Local stakeholders have joined forces and are working to protect the lakes, developing management plans, implementing best management practices, and doing what they can to protect the resource that is truly their backyard. Yet there is still no comprehensive, regional action plan to address collective environmental protection and economic development goals for the region.

In recent years, Congress has recognized that our Nation's environmental resources are best protected on an ecosystem or watershed basis, with the federal government providing funds and expertise to assist with protection efforts that are shaped by State and local interests. This approach has been taken with great success in Chesapeake Bay, the Great Lakes, the Long Island Sound, and the California Bay Delta, just to name a few.

Just as the Federal Government has supported these national treasures, it is time for the Finger Lakes to be recognized as a region to be protected and enhanced for the economic and environmental benefit of all who live, work, farm, play, and visit the Finger Lakes.

Under the Finger Lakes Initiative Act of 2002, which I am introducing today with Senator SCHUMER, a new program will be established within the U.S. Environmental Protection Agency to protect and enhance the environmental integrity and cultural and economic benefits of the Finger Lakes. The Initiative will assist Finger Lakes stakeholders in achieving their goals for the region through technical, scientific, and financial assistance and coordination of relevant Federal programs.

To best serve the interests of the region and build upon the knowledge, expertise, and ongoing efforts of local stakeholders, the legislation establishes an official stakeholder group to aid in developing and implementing

the Initiative. The stakeholder group will be comprised of representatives from local businesses, regional planning agencies, academic institutions, homeowners associations, environmental organizations, agricultural interests, the tourism industry, and tribes, as well as representatives of Federal, State, and local governments.

This stakeholder group will have three years to develop a comprehensive plan to provide for the protection and enhancement of the environmental integrity and the social and economic benefits of the Finger Lakes. The plan will be made available for public review and comment, including a number of public meetings throughout the Finger Lakes region. Once approved by the EPA Administrator, with the concurrence of the Governor, the plan will become the blueprint for federally supported activities in the region.

Furthermore, there will be an interdisciplinary research and education program established as part of the Finger Lakes Initiative, including \$5 million in federal support authorized for a Finger Lakes Institute, such as the Institute that was recently announced at the Hobart and William Smith Colleges in Geneva, NY.

Overall, the bill authorizes \$50 million in federal support over five years for efforts to protect and enhance the environmental, economic and cultural benefits of the Finger Lakes. And to ensure proper involvement and coordination among all federal agencies in addressing the needs and challenges in the Finger Lakes, appropriate financial, technical, and scientific assistance will be provided for the Finger Lakes Initiative by the U.S. Environmental Protection Agency, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Department of Agriculture, the National Oceanic and Atmospheric Administration, the Economic Development Administration, and the U.S. Army Corps of Engineers.

For decades, the Finger Lakes region has held its own in the world. The lakes, the farms, the towns, the wildlife, and the recreational opportunities have all pulled people toward this part of the State. I, myself, was drawn there in August and spent time in Auburn, Seneca Falls, Hammondsport, and Geneva. Seeing the potential of this region, I can just imagine the possibilities when we finally reach out to the Finger Lakes Region—when we finally provide this region with the resources and the attention and the planning it deserves. The possibilities are endless.

There is room in our Nation for another natural wonder, the Finger Lakes Region of New York State.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. BAYH):

S. 3057. A bill to support the establishment or expansion and operation of

programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, in 1999, several of us, including the late John Chafee and former First Lady, HILLARY CLINTON, took a long hard look at our Nation's foster care system and in particular those whom the system failed. Each year 25,000 young people leave our foster care system without ever finding a permanent family. Too many of these young people have been in this system for the majority of their lives, moved from home to home to home, school to school, with no one to count on or turn to for guidance and no where to call "home."

Studies show that within two to four years of leaving foster care, only half have completed high school, fewer than half are employed, one-fourth have been homeless for at least one night, 30 percent did not have access to needed health care, 60 percent of the young women have given birth, and less than one-in-five are completely self-supporting. In addition, many States report that the overwhelming majority of youth offenders housed in their State prisons were once a part of our Nation's foster care system.

While these statistics are, in and of themselves, disturbing, as author, Ruth Sidel, once said, "statistics are people with the tears wiped away." It is easier for us to think of the almost 600,000 children making their way through our foster care system as numbers, but they are not. They are children. And like every child, they are born with a need to belong, to be loved, to feel protected and sheltered. When we were working on the John Chafee Foster Care Independence Act of 1999, a young woman named Lisa, who had spent her life in foster care explained this concept better than I ever could. She said, "even at 21, I dream about having someone to call when I am not sure whether you wash whites in warm or cold water, someone to tell me that they are proud that I got an A on my Biology test, and most importantly someone who will love me no matter what. Other kids have that and they are lucky."

One of my goals as United States Senator is to change our foster care system so children like Lisa do not fall through it's cracks. When you stop and think about it, there is no such thing as a foster care "system", its just people, and these children do not fall through "cracks", they fall through our fingers. I, for one, intend to do what I can to ensure that each and every child in the world goes to bed at night blanketed with the security that only a family of their own can provide. The legislation that I am here to introduce today by no means solves the many problems facing our kids in care, but it will go a long way toward ensuring that they do not fall through our fingers.

The Foster Care Mentoring Act of 2002 authorizes \$15 million a year to be used by States to create a statewide foster care mentor program that aims to match a trained, responsible adult with each and every child in care. Last week, I had the chance to sit down with an organization, Children Uniting Nations and the First Lady of California, Sharon Davis, and they shared with me the enormous success they have had in California with a program like this. The mentors provide friendship, guidance, academic tutoring and most importantly consistency to children who are in desperate need of such things. In addition, this legislation provides Federal student loan forgiveness for each mentor that contributes at least 200 hours a year to a child in need.

Although a mentor can never take the place of a permanent family, they can make sure these children do not get lost in a system designed to protect them. Mentors can give these children the tools they need to survive and help guide and protect them as they wait for the permanent home they need and deserve. I hope that my colleagues will join me in support of this legislation.

Mr. BAYH. Mr. President, I rise today to speak in support of legislation I have been working on with Senator LANDRIEU to ensure our foster care youth are provided every opportunity to develop into bright, capable adults and become productive and valuable members of our society. The Foster Care Mentoring Act will help provide a foster care child with a role model, tutor and friend.

Although there are several concerns with the administration of our child welfare system, this bill is one way we can immediately provide necessary relief and guidance to children who have been the victims of abuse and neglect. This legislation takes a necessary step toward providing these children with a healthy stable environment. There are over half a million children in the nation's foster care system, 7,482 children in Indiana alone. As the guardian of these children, the government should take all possible steps to help them overcome their barriers.

As a result of the abuse foster care children have experienced, they are less likely to trust adults, create healthy relationships, and perform academically. Mentors will help them establish trusting relationships, assist them with their school work, and develop emotionally. Mentors will remind foster care youth that they are wanted members of our society who deserve every opportunity to achieve their dreams.

Mentors have proven to have positive impacts on the youth they mentor. Children that have mentors have better relationships with adults, fewer disciplinary referrals, and more confidence to achieve their goals. Research shows that caring adults can make a difference in children's lives: 46 percent of mentored teens are less likely to use drugs; 59 percent of mentored

teens have better academic performance; 73 percent of mentored teens achieve higher goals generally.

The Foster Care Mentoring Act authorizes \$15 million a year to ensure that each mentor receives the appropriate training, makes a long-term commitment to the program, and fulfills educational requirements to mentor foster care youth. Mentoring foster care youth is another way young citizens can serve their country. This bill would reward those who take time to assist those in need. Each college-bound individual will have \$2,000 forgiven from their student loans for every 200 hours they serve as a mentor to a foster care child. States will have the flexibility to coordinate with already existing programs to create mentor-child partnerships. In addition, the legislation would provide \$4 million a year for the creation and administration of a national hotline and website to coordinate mentoring efforts.

Although we should work together to ensure each child in the foster care system is placed in a loving, stable, safe, and permanent home, in the meantime we can at least provide them with a guiding friend. I look forward to working with my colleagues to implement this important legislation.

By Mr. BINGAMAN (for himself, Mr. BUNNING, Mr. HARKIN, Mr. ALLARD, Mr. REID, and Mrs. CLINTON):

S. 3058. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, two years ago we enacted the Energy Employees Occupational Illness Compensation Program Act, EEOICPA. This important legislation was intended to give timely, uniform and reasonable compensation to Department of Energy employees suffering injury and disease resulting from working in the nuclear weapons program.

The program has two parts: a Federal component for certain diseases, and, for all others, an assistance program for the filing of State workers' compensation claims. The Federal component, for workers made ill by exposure to substances unique to DOE facilities, gives a one-time \$150,000 payment and covers medical payments for illnesses like beryllium disease, certain cancers and silicosis.

Since the passage of the original act in October 2000 a number of additional issues, complicating factors and implementation barriers have emerged. Re-

cently I held a public meeting in Espanola, New Mexico with Representative TOM UDALL, to review the performance of the program. The gathering, attended by over 300 present and former workers, focused on three broad issues: delays in processing claims, missing radiation exposure records and difficulty gaining compensation for exposure to toxic substances, like mercury.

Upon my return I continued to investigate the implementation barriers facing the program. Meetings with Department of Energy, Labor and HHS officials as well as experts in occupational health and workers compensation revealed further flaws. Let me describe some of the problems this legislation is intended to address based on what I have recently learned.

First, with regard to subtitle D, the program relies on an amalgamation of private insurance, state workers compensation programs and DOE contractor self-insurance for the timely and fair payment of medical costs and lost wages. Unfortunately, Department of Energy officials recently stated that up to 50 percent of all eligible beneficiaries would not have access to a willing payor. Assistant Secretary of Energy Beverly Cook in a June 7, 2002 letter noted DOE cannot give directives to "persons who are not DOE contractors, such as insurers or lessees of DOE facilities." In short, workers found to have a meritorious claim under the program may not have a payor. The legislation introduced today would address this problem by making DOE the defacto for all claims.

Further, the Department of Energy failed, for nearly two years following the passage of the legislation, to publish a rule crucial for the submission of subtitle D claims. The physician panel rule is a critical component allowing injury claims to be adjudicated by a panel of physicians specializing in occupational medicine. Since the inception of the program and because of delays like the one described above, only four claims have been sent to the physician panel for review. Clearly, we must do better. My legislation simplifies the process to allow the expeditious handling of claims.

The dangers faced by these workers is only now being fully understood. In addition to certain cancers, silicosis and beryllium disease, increased risk for other maladies are now being discovered. In my own State of New Mexico I have workers suffering from mercury poisoning, once known as "Mad Hatters" disease. Mr. Alex Smith of Espanola operated a mercury still for many years at the Los Alamos National Laboratory. At one point Mr. Smith displayed all the signs of both acute and chronic mercury poisoning. He approached LANL's medical clinic seeking treatment only to be told he was not suffering from mercury poisoning. Documentation later revealed a different story. In fact, the physician did suspect Mr. Smith suffered from

mercury toxicity but, for reasons we can only speculate on now, failed to act. According to the Oak Ridge Environmental Peace Alliance, during the 1950's a majority of the world's mercury was used in the production of nuclear weapons. Although mercury usage is not unique to DOE facilities, the volumes utilized in these facilities, at one point 70 percent of the world's supply, set mercury toxicity in this setting apart from other exposures.

Recent data has revealed an increased risk of chronic renal disease and lung cancer from exposure to uranium and beryllium, respectively. Although lung cancer can arise from many causes, clear scientific data points to beryllium disease as a precursor for this devastating illness. As well, chronic renal disease has many etiologies with uranium among them. Like mercury, these exposures and the consequent illnesses are unique to the environment workers found themselves in and should be recognized.

The legislation I am introducing today, along with Senators BUNNING, HARKIN, ALLARD and REID, entitled the Energy Workers Compensation Act of 2002 is intended to fulfill the original legislative objectives of Congress, address unforeseen obstacles and assure just compensation for our Nation's energy workers.

The Energy Workers Compensation Act of 2002 addresses and improves the shortcomings of the original legislation by: Establishing the Department of Labor as the willing payor of benefits for claimants approved by the Department of Energy under Subtitle D. Benefit payments are authorized from the previously established EEOICPA fund. Setting time limits for DOE to make determinations regarding claimant's employment records. Setting at 150 days the time limit for the reconstruction of worker's radiation dosages. Adding lung cancer to a list of covered beryllium related diseases. Adding chronic renal disease as a covered illness for uranium workers. Adding mercury disease as a covered illness for workers employed at facilities utilizing more than 100 kilograms of mercury. Establishing an ombudsman to help claimants with administration of claims. Allowing individuals otherwise eligible for compensation under EEOICPA, but who previously received Radiation Exposure Compensation Act awards, to be compensated at levels equal to EEOICPA.

It is imperative we protect those who helped America win the cold war. Members of the House of Representatives have come to similar conclusion. Representatives WHITFIELD and STRICKLAND have recently introduced legislation similar to ours. They too realize that promises made to cold war era workers and families must be kept. A debt of gratitude to these workers, who became sick through no fault of their own, must be paid.

I request unanimous consent that the bill and selected testimony be printed in the RECORD.



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

S. 3058

*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 "Energy Workers Compensation Act of 2002".

## SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Energy Employees Occupational Illness Compensation Program Act of 2000 (the "Act") was intended to ensure timely, uniform, and adequate compensation of covered employees (and, where applicable, survivors of such employees) suffering from illnesses incurred by such employees in the performance of duty for the Department of Energy and certain of its contractors, subcontractors, and vendors, and to provide parity for uranium miners under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

(2) Four Federal agencies, the Departments of Labor, Health and Human Services, Energy, and Justice, have been assigned responsibilities under the Act pursuant to Executive Order No. 13179, dated December 7, 2000 (42 U.S.C. 7384 note).

(3) The Department of Labor began accepting claims July 31, 2001, and the Department of Health and Human Services, through the National Institute for Occupational Safety and Health, will perform radiation dose reconstruction for cancer claims and evaluate petitions for Special Exposure Cohorts.

(4) The Department of Energy finalized its regulations governing claims under Subtitle D of the Act on August 14, 2002. Those regulations require claimants to use a State workers' compensation system to secure benefits after receiving a positive findings from a Department of Energy physicians panel. The Department of Energy has conceded, however, that it will not have a willing payor for as many as 50 percent of the claims that are meritorious. As a consequence, many deserving claimants with a positive determination from a Department of Energy physicians panel will nonetheless be denied benefits.

(5) The Department of Energy's regulations (at 10 C.F.R. Part 852) direct contractors of the Department to adopt a non-adversarial posture in state workers' compensation proceedings, which are structured as an adversarial forum. The policy of inserting a non-adversarial respondent in an adversarial system should be remedied by utilizing a non-adversarial dispute resolution system. Taxpayers would also benefit from placing claimants in a non-adversarial system, such as the type of systems administered by the Department of Labor under subtitle B of the Act or under chapter 81 of title 5, United States Code (known as the Federal Employees Compensation Act), as doing so would assure that disabilities related to occupational illnesses would be compensated proportional to the degree of injury.

(6) In order to assure that congressional intent is honored with respect to the Department of Energy's program of worker assistance with state worker compensation for occupational illnesses that arose out of the course of employment from exposure to toxic substances at Department of Energy facilities, the Department of Energy's implementation of subtitle D of the Act requires reform, refinement, and clarification.

(7) Certain renal diseases related to uranium exposure and cancers related to employment by beryllium vendors should be added to coverage under subtitle B.

(8) Congress intended that follow-up implementing legislation would be required when it passed the Act and, in section 3613 of the Act, directed the administration to provide such legislation. Although such legislation was forwarded on January 15, 2001, and Congress adopted technical amendments to the Act in 2001, significant shortcomings in the Act have been identified as the Act has been implemented.

(b) PURPOSE.—The purpose of this Act is to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to—

(1) ensure that meritorious claims for exposure to toxic substances at Department of Energy facilities are compensated under subtitle D of the Act;

(2) enhance assistance to claimants at the Department of Labor;

(3) ensure that there is parity in treatment of chronic renal disease between uranium-exposed Department of Energy employees (including employees of contractors, subcontractors, and atomic weapons employer facilities) and the uranium-exposed workers under the Radiation Exposure Compensation Act;

(4) provide coverage of lung cancer for covered beryllium workers; and

(5) make administrative improvements and technical corrections.

## TITLE I—WORKERS' COMPENSATION BENEFITS FOR DOE CONTRACTOR EMPLOYEES EXPOSED TO TOXIC SUBSTANCES

### SEC. 101. BENEFITS.

Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o) is amended to read as follows:

#### "Subtitle D—Workers' Compensation Benefits for DOE Contractor Employees Exposed to Toxic Substances

##### "SEC. 3661. DEFINITIONS.

"In this subtitle:

"(1) The term 'DOE contractor' means any of the following:

"(A) A contractor (or subcontractor at any tier) of the Department of Energy.

"(B) A contractor (or subcontractor at any tier) of USEC, a Government-owned corporation, during the period beginning on July 1, 1993, and ending on July 28, 1998.

"(2) The term 'DOE contractor employee' means any of the following:

"(A) An employee of a contractor (or subcontractor at any tier) of the Department of Energy.

"(B) An employee of a contractor (or subcontractor at any tier) of USEC, a Government-owned corporation, during the period beginning on July 1, 1993, and ending on July 28, 1998.

"(3) The term 'covered DOE contractor employee' means a DOE contractor employee, if a claim relating to that employee is forwarded by the Secretary of Energy under section 3662(d)(3)(A) to the Secretary of Labor for payment under section 3663.

"(4) The term 'specified illness' means, with respect to a covered DOE contractor employee, the illness by reason of which the claim relating to that employee was forwarded by the Secretary of Energy under section 3662(d)(3)(A) to the Secretary of Labor for payment under section 3663.

##### "SEC. 3662. DETERMINATIONS OF CAUSATION BY DEPARTMENT OF ENERGY.

"(a) PROCEDURE FOR SUBMITTING CLAIMS.—

"(1) IN GENERAL.—The Secretary of Energy shall establish, by regulation, procedures under which an individual may submit a claim for benefits under this subtitle due to occupational illness from exposure to toxic substances.

"(2) NOTICE TO CLAIMANT.—Not later than 10 days after the receipt of a claim under

paragraph (1), the Secretary of Energy shall notify the claimant of the receipt of the claim and provide the name, address, and phone number of a person capable of answering questions and providing additional information with respect to the procedures and benefits under this subtitle.

"(b) INITIAL REVIEW BY DOE.—

"(1) EVIDENCE REQUIRED.—The Secretary of Energy shall review each claim submitted under this section and, for each such claim, determine not later than 30 days after receipt of the claim whether the claimant submitted reasonable evidence of both of the following:

"(A) The claim was filed by or on behalf of a DOE contractor employee or such employee's estate.

"(B) The illness or death of the DOE contractor employee may have been related to employment at a Department of Energy facility.

"(2) DETERMINATIONS.—

"(A) If the Secretary determines that the claimant did not submit reasonable evidence under either paragraph (1)(A) or (1)(B), or both, the Secretary shall, not later than 10 days after making such determination, notify the claimant of such determination and include the claimant's options for appeal or for submitting additional evidence.

"(B) If the Secretary determines that the claimant did submit reasonable evidence under both paragraphs (1)(A) and (1)(B), the Secretary shall—

"(i) not later than 10 days after making such determination, notify the claimant of such determination;

"(ii) ensure that the claimant is afforded the opportunity to review the entire record, and to supplement the record within 30 days after the date on which information is provided by the DOE contractor, before the claim is submitted to a physicians panel;

"(iii) not later than 10 days after the end of the 30-day period referred to in clause (ii) or the date on which the claimant completes the supplement of the record under that clause, whichever is later, submit the claim to a physicians panel for review under subsection (c); and

"(iv) not later than 10 days after submitting the claim to a physicians panel, notify the claimant of such submission.

"(c) REVIEW BY PHYSICIANS PANELS.—

"(1) COMPOSITION.—

"(A) The Secretary of Energy shall inform the Secretary of Health and Human Services of the number of physicians panels the Secretary of Energy has determined to be appropriate to administer this section, the number of physicians needed for each panel, and the area of jurisdiction of each panel.

"(B) The Secretary of Health and Human Services shall appoint panel members with experience and competency in diagnosing occupational illnesses under section 3109 of title 5, United States Code. Each member of a panel shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) the member is engaged in the work of a panel.

"(C) A panel established under this subsection shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) OPERATION.—

"(A) The Secretary of Energy shall assist the claimant in obtaining additional evidence within the control of the Department of Energy or a DOE contractor who employed a DOE contractor employee and relevant to the panel's deliberations.

"(B) At the request of a panel, the Secretary of Energy and a DOE contractor who employed a DOE contractor employee shall provide additional information relevant to

the panel's deliberations. A panel may consult specialists in relevant fields as it determines necessary.

“(C) In any case in which the panel finds that additional diagnostic testing or an exposure assessment is necessary to the panel's deliberations—

“(i) the panel shall so notify the Secretary of Energy and the claimant;

“(ii) the claimant may obtain such diagnostic testing or exposure assessment using a qualified physician chosen by the claimant or a qualified occupational health expert (as applicable) or, if the claimant so desires, may obtain such diagnostic testing or exposure assessment using the program carried out under section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i) to monitor Department of Energy workers exposed to hazardous and radioactive substances; and

“(iii) any costs of such diagnostic testing or exposure assessment shall be paid for from the Fund established under section 3612 and shall be provided by the Secretary of Energy through a method under which the claimant is not required to advance any amount toward payment of such costs.

“(D) The Secretary of Energy is authorized to enter into or modify cooperative agreements with providers who are implementing the program carried out under section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i) to provide assessments of exposures to toxic substances at Department of Energy facilities to claimants under circumstances covered by subparagraph (C).

“(3) DETERMINATION OF CAUSATION.—A panel shall review a claim submitted to it under this subsection and shall determine, under guidelines established by the Secretary of Energy, by regulation, whether the illness or death that is the subject of the claim arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility. For purposes of the preceding sentence, illness or death shall be deemed to arise out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility if exposure to the toxic substance (or substances, as the case may be) was a significant factor which aggravated, contributed to, or caused the illness or death.

“(4) MAJORITY VOTE.—A determination under paragraph (3) shall be made by majority vote.

“(5) REPORT TO SECRETARY.—Once a panel has made a determination under paragraph (3), it shall report to the Secretary of Energy its determination and the basis for the determination.

“(d) REVIEW OF PANEL DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary of Energy shall review a panel's determination under subsection (c)(3), information the panel considered in reaching its determination, any relevant new information not reasonably available at the time of the panel's deliberations, and the basis for the panel's determination.

“(2) ACCEPTANCE OF PANEL DETERMINATION.—As a result of the review under paragraph (1), the Secretary shall accept the panel's determination in the absence of a preponderance of evidence to the contrary.

“(3) ACTION UPON ACCEPTED CLAIMS.—If the panel has made a positive determination under subsection (c)(3) and the Secretary accepts the determination under paragraph (2), or the panel has made a negative determination under subsection (c)(3) and the Secretary finds significant evidence to the contrary—

“(A) the Secretary of Energy shall within 10 days forward the claim to the Secretary of Labor for payment under section 3663, together with information relating to—

“(i) the DOE contractor employee to whom the claim relates;

“(ii) the illness to which the claim relates;

“(iii) the determination of the panel and the basis for the determination;

“(iv)(I) the acceptance of the Secretary and the basis for the acceptance; or

“(II) the reversal of the negative determination by the panel and the basis for the reversal;

“(v) the employment to which the claim relates, including available wage or salary information; and

“(vi) any other matter that the Secretary of Labor considers necessary;

“(B) the Secretary of Energy thereafter—

“(i) shall not contest the claim;

“(ii) shall not contest an award made regarding the claim; and

“(iii) shall direct the DOE contractor who employed the DOE contractor employee to which the claim relates not to contest the claim or such award in any administrative or judicial forum, and such obligation in no case shall be considered discretionary; and

“(C) any costs of contesting a claim or an award regarding the claim incurred by the DOE contractor who employed the DOE contractor employee who is the subject of the claim shall not be an allowable cost under a Department of Energy contract.

“(e) ACCESS TO INFORMATION.—

“(1) DUTY TO PROVIDE INFORMATION.—At the request of the Secretary of Energy, a DOE contractor who employed a DOE contractor employee and any other entity possessing information related to such employee relevant to deliberations under this section shall make such information available to the Secretary.

“(2) COPIES TO CLAIMANT.—The Secretary of Energy shall require that a DOE contractor who provides any information to the Secretary or a panel under this section shall simultaneously provide such information to the claimant.

“(f) OUTREACH.—The Secretary of Energy, in cooperation with the Secretary of Labor, shall carry out a program of outreach and education about the availability of benefits under this subtitle. The Secretary shall make available in paper and electronic format forms and information available for potential claimants. As part of the program of outreach, the Secretary shall conduct notification by mail and use the former worker medical screening programs to notify, educate, and assist claimants.

“(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—The Secretary of Energy shall establish a process under which a claimant may obtain prompt and independent administrative review of any adverse determination by the Secretary under subsection (b) or (d) or by a panel under subsection (c). The results of any such administrative review shall be deemed to be a final agency action subject to judicial review.

“(h) REPORT TO CONGRESS.—Not later than February 1 of each year, the Secretary of Energy shall submit to Congress a report on the implementation and operation of this section. The report shall include, for the preceding calendar year—

“(1) the number of claims received under this subtitle;

“(2) the size of the backlog in processing such claims;

“(3) the number of such claims submitted to a physicians panel;

“(4) the number of such claims for which a panel made a determination, including the number of determinations that were positive and the number that were negative;

“(5) the number of determinations accepted, reversed, and denied by the Secretary;

“(6) the number of claims denied under subsection (b) for failure to submit reasonable evidence;

“(7) the number and type of diagnostic tests and exposure assessments requested by a panel, and the number and type of such tests and assessments that were carried out;

“(8) the number and type of claims appealed, and the dispositions of such appeals; and

“(9) the expenditures made, and staff and contractors employed, in carrying out the Department of Energy's responsibilities under this section.

“(i) APPLICABILITY OF EXISTING REGULATIONS.—In implementing the Energy Workers Compensation Act of 2002 and the amendments to this title made by that Act, regulations prescribed by the Secretary of Energy before the date of the enactment of that Act may, to the extent not inconsistent with this title (as so amended), continue to apply to this title.

#### “SEC. 3663. PAYMENT OF BENEFITS BY DEPARTMENT OF LABOR.

“(a) IN GENERAL.—

“(1) PAYMENTS.—Payments shall be made with respect to a covered DOE contractor employee in accordance with this section for the disability or death of that employee resulting from that employee's specified illness.

“(2) MEDICAL BENEFITS.—A covered DOE contractor employee shall receive medical benefits under section 3629 for that employee's specified illness.

“(3) PAYMENT FROM FUND.—The compensation provided under this section shall be paid from the Fund established under section 3612.

“(b) DUTY OF SECRETARY OF LABOR.—The Secretary of Labor shall have the duty to carry out this section.

“(c) NATURE AND AMOUNT OF PAYMENTS.—

“(1) IN GENERAL.—The following provisions of subchapter I of chapter 81 of title 5, United States Code, apply to a covered DOE contractor employee (including the regulations prescribed with respect to those provisions, adapted as appropriate), and the Secretary of Labor shall provide, with respect to that employee and that employee's specified illness, payments determined in accordance with those provisions: Sections 8102(a), 8105, 8106, 8107, 8108, 8109, 8110, 8111(a), 8112, 8114, 8115, 8116, 8117, 8133, 8134, and 8146a.

“(2) ORGANS AND PHYSIOLOGICAL SYSTEMS.—For purposes of carrying out this subtitle, the Secretary of Labor shall prescribe additional regulations for resolving claims under this subtitle of partial or total loss of use of function of organs or physiological systems that are not already covered by existing regulations. Such additional regulations shall cover the liver, brain, stomach, heart, esophagus, bladder, thyroid, pancreas, and nervous system, and such additional organs and physiological systems as the Secretary considers appropriate. The Secretary shall issue such regulations not later than 90 days after the date of the enactment of the Energy Workers Compensation Act of 2002.

“(d) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(1) IN GENERAL.—The Secretary of Labor shall establish a process under which a claimant may obtain administrative review of any adverse determination by the Secretary of Labor under this section. Such process shall not apply to any adverse determination by the Secretary of Energy.

“(2) JUDICIAL REVIEW.—The results of any such administrative review shall be deemed to be a final agency action subject to judicial review in the United States district

court for the district in which the claimant resides.

“(3) ATTORNEY FEES.—In any proceeding pursuant to this subsection, attorney fees shall be available on the same basis as such fees are available under section 28 of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 928).

**“SEC. 3664. GENERAL PROVISIONS RELATING TO RESOLUTION OF CLAIMS.**

“(a) NONADVERSARIAL.—The Secretary of Energy and the Secretary of Labor shall each ensure that claims under this subtitle are resolved in a nonadversarial manner.

“(b) NO STATUTE OF LIMITATIONS.—A claim under this subtitle shall not be barred by any statute of limitations.

**“SEC. 3665. OFFSET FOR CERTAIN PAYMENTS.**

“A claimant awarded benefits under this subtitle as a result of a specified illness or death of a DOE contractor employee who receives benefits because of the same illness or death from any State workers’ compensation system shall receive the benefits specified in this subtitle for such illness or death, reduced by the amount of any workers’ compensation benefits that the claimant receives or will receive on account of such illness or death under any State workers’ compensation system during the period that awarded benefits are provided under this subtitle, after deducting the reasonable costs, as determined by the Secretary of Labor by regulation, of obtaining such benefits.

**“SEC. 3666. SUBROGATION OF THE UNITED STATES NOT APPLICABLE.**

“Notwithstanding any other provision of law, the United States has no right of subrogation against any person by reason of payments or other benefits provided under this subtitle.

**“SEC. 3667. CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.**

“Compensation or benefits provided to an individual under this subtitle—

“(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

“(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

**“SEC. 3668. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.**

“A payment under this subtitle shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments; and a payment under this subtitle shall not affect any claim against an insurance carrier with respect to insurance.

**“SEC. 3669. FORFEITURE OF BENEFITS BY CONVICTED FELONS.**

“(a) FORFEITURE OF COMPENSATION.—Any individual convicted of a violation of section 1920 of title 18, United States Code, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this title or under any other Federal or State workers’ compensation law, shall forfeit (as of the date of such conviction) any entitlement to any compensation or benefit under this subtitle such individual would otherwise be awarded for any injury, illness, or death covered by this subtitle for which the time of injury was on or before the date of the conviction.

“(b) INFORMATION.—Notwithstanding section 552a of title 5, United States Code, or any other Federal or State law, an agency of the United States, a State, or a political subdivision of a State shall make available to the President, upon written request from the President and if the President requires the

information to carry out this section, the names and Social Security account numbers of individuals confined, for conviction of a felony, in a jail, prison, or other penal institution or correctional facility under the jurisdiction of that agency.

**“SEC. 3670. EXCLUSIVITY OF REMEDY.**

“The liability of the United States or a DOE contractor in its capacity as an employer of a DOE contractor employee under this subtitle with respect to the specified illness or death of a DOE contractor employee for which compensation is made under this subtitle is exclusive and instead of all other liability of the United States or DOE contractor in such capacity to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or DOE contractor in such capacity because of the specified illness or death in a direct judicial proceeding, in a civil action, or in admiralty, except for a State workers’ compensation proceeding or a State intentional tort liability proceeding. However, this section shall not apply to illness or death for which compensation under this subtitle is not made.

**“SEC. 3671. COORDINATION WITH BENEFITS UNDER SUBTITLE B.**

“(a) RECEIPT OF SUBTITLE B BENEFITS NO BAR TO APPLICATION UNDER THIS SUBTITLE.—An individual may apply for benefits under this subtitle without regard to whether the individual received a lump sum payment under subtitle B.

“(b) OFFSET FOR BENEFITS PAID ON SAME ILLNESS OF SAME PERSON.—If a lump sum payment is made under subtitle B by reason of a specified illness of a person, any payment (excluding medical costs) made under this subtitle by reason of the same specified illness of the same person shall be offset by the amount of such lump sum payment. In no case shall a claimant obtain double indemnity wage replacement benefits for specified illness under this subtitle.

**“SEC. 3672. ASSIGNMENT OF CLAIM.**

“An assignment of a claim for compensation under this subtitle is void. Compensation and claims for compensation are exempt from claims of creditors.”.

**SEC. 102. GAO REPORT.**

Not later than February 1, 2004, the Comptroller General shall submit to Congress a report on the implementation by the Department of Energy of subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), as amended by section 101, and of the effectiveness of such subtitle in assisting DOE contractor employees in obtaining compensation for exposure to a toxic substance at a Department of Energy facility.

**TITLE II—AMENDMENTS RELATING TO SUBTITLE B OF PROGRAM**

**SEC. 201. COVERAGE FOR CHRONIC RENAL DISEASE.**

(a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

“(D) A covered employee with chronic renal disease.”;

(2) in paragraph (15), by striking “or chronic silicosis” and inserting “chronic silicosis, chronic renal disease.”; and

(3) by adding at the end the following new paragraphs:

“(19) The term ‘chronic renal disease’ includes nephritis and kidney tubal tissue injury and related illnesses of the urogenitoury tract.

“(20) The term ‘covered employee with chronic renal disease’ means an individual

determined to have sustained chronic renal disease in the performance of duty in accordance with section 3623(f).”.

(b) EXPOSURE IN THE PERFORMANCE OF DUTY.—Section 3623 of such Act (42 U.S.C. 7384n) is amended by adding at the end the following new subsection:

“(f) CHRONIC RENAL DISEASE.—(1) An individual with chronic renal disease shall, in the absence of substantial evidence to the contrary, be determined to have sustained chronic renal disease in the performance of duty for purposes of the compensation program if the individual—

“(A) was employed in a Department of Energy facility (in the case of a Department of Energy employee or a Department of Energy contractor employee) or an atomic weapons employer facility (in the case of an atomic weapons employee) that conducted uranium processing, converting, refining, enriching, extruding, calcining, machining, or rolling, or that operated as a uranium foundry;

“(B) carried out job functions while so employed that resulted in the potential for exposure, inhalation, or uptake of uranium or uranium compounds for at least 250 days; and

“(C) submits medical evidence that the individual, after commencing the employment specified in subparagraph (A), contracted chronic renal disease.

“(2) Not later than 60 days after the date of the enactment of the Energy Workers Compensation Act of 2002, the Secretary of Energy shall designate a list of Department of Energy facilities and atomic weapons employer facilities that were engaged in uranium processing, converting, refining, enriching, extruding, calcining, machining, or rolling, or that operated as a uranium foundry, including the dates such activities were performed. The list of facilities shall not include facilities for which uranium millers and transporters are already covered under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

“(3) Not later than 90 days after the date of the enactment of the Energy Workers Compensation Act of 2002, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall establish, by regulation, procedures to be followed and medical evidence to be submitted by claimants for chronic renal disease claims.”.

(c) OFFSET FOR CERTAIN PAYMENTS.—Section 3641 of such Act (42 U.S.C. 7385) is amended—

(1) by striking “or covered uranium employee (as defined in section 3630),” and inserting “covered uranium employee (as defined in section 3630), covered employee with chronic renal disease.”; and

(2) by striking “or radiation,” and inserting “radiation, uranium.”.

(d) CONFORMING AMENDMENTS.—The following provisions of such Act are amended by inserting “chronic renal disease,” after “chronic silicosis,” each place such term appears:

(1) Subsections (a)(1) and (b)(2)(A) of section 3631 (42 U.S.C. 7384v).

(2) Section 3644(a) (42 U.S.C. 7385c(a))—

(A) in the matter preceding paragraph (1);

(B) in paragraph (2)(C); and

(C) in the matter following paragraph (2)(C).

**SEC. 202. COVERAGE FOR MERCURY POISONING.**

(a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841), as amended by section 201(a) of this Act, is further amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

“(E) A covered employee with mercury poisoning.”;

(2) in paragraph (15), by inserting “or mercury poisoning” after “chronic renal disease,”; and

(3) by adding at the end the following new paragraph:

“(21) The term ‘covered employee with mercury poisoning’ means an individual determined to have sustained mercury poisoning in the performance of duty in accordance with section 3627A.”.

(b) PARTICIPATION IN COMPENSATION PROGRAM.—Subtitle B of that Act (42 U.S.C. 7384l et seq.) is further amended by inserting after section 3627 the following new section:

**“SEC. 3627A. MERCURY POISONING.**

“(a) IN GENERAL.—A Department of Energy employee or Department of Energy contractor employee who was exposed to mercury in the performance of duty and who experiences mercury poisoning shall be treated as a covered employee for purposes of the compensation program.

“(b) EXPOSURE TO MERCURY IN PERFORMANCE OF DUTY.—A Department of Energy employee or Department of Energy contractor employee shall, in the absence of substantial evidence to the contrary, be treated as having been exposed to mercury in the performance of duty for purposes of subsection (a) if while employed in activities associated with the design, production, or testing of atomic weapons, or clean-up related thereto, such employee was present in a Department of Energy facility that—

“(1) contained more than 100 kilograms of mercury; and

“(2) did not confine mercury operations to work spaces with dedicated ventilation systems for the removal of airborne toxic substances.

“(c) MERCURY POISONING.—A Department of Energy employee or Department of Energy contractor employee shall be treated as experiencing mercury poisoning for purposes of subsection (a) if such employee manifests a physical, psychological, or neurological illness consistent with mercury poisoning.

“(d) DETERMINATIONS OF MERCURY POISONING.—The Secretary of Labor shall utilize evaluations, tests, or other medical information obtained pursuant to section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274i), and may utilize any other evaluations, tests, information, or other means that the Secretary considers appropriate, to determine whether a Department of Energy employee or Department of Energy contractor employee manifests a physical, psychological, or neurological illness consistent with mercury poisoning for purposes of subsection (a).”.

(c) OFFSET FOR CERTAIN PAYMENTS.—Section 3641 of such Act (42 U.S.C. 7385), as amended by section 201(c) of this Act, is further amended—

(1) by inserting “or covered employee with mercury poisoning” after “covered employee with chronic renal disease,”; and

(2) by inserting “or mercury” after “uranium,”.

(d) CONFORMING AMENDMENTS.—The following provisions of such Act, as amended by section 201(d) of this Act, are further amended by inserting “mercury poisoning,” after “chronic renal disease,” each place such term appears:

(1) Subsections (a)(1) and (b)(2)(A) of section 3631 (42 U.S.C. 7384v).

(2) Section 3644(a) (42 U.S.C. 7385c(a))—

(A) in the matter preceding paragraph (1);

(B) in paragraph (2)(C); and

(C) in the matter following paragraph (2)(C).

**SEC. 203. COVERAGE FOR LUNG CANCER IN COVERED BERYLLIUM EMPLOYEES.**

Section 3621(8) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(8)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D) and, in that subparagraph, by striking “or (B)” and inserting “(B), or (C)”;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Lung cancer, if such cancer occurs within 5 years after the date on which the employee is determined to have been first exposed to beryllium in the performance of duty in accordance with section 3623(a).”.

**SEC. 204. CLARIFICATION OF SPECIAL EXPOSURE COHORT EXPANSION PROCEDURE.**

(a) AUTOMATIC DESIGNATION BY LAPSE OF TIME.—Section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

“(c) AUTOMATIC DESIGNATION BY LAPSE OF TIME.—Notwithstanding subsection (b), if a class of employees described in subsection (a)(1) petitions to be treated as members of the Special Exposure Cohort under subsection (a)(3), the members of that class shall, as of the expiration of the 180-day period beginning with the date on which the petition was received, be deemed to be members of the Special Exposure Cohort for purposes of the compensation program, unless before the expiration of that period the petition is denied.”.

(b) INDIVIDUAL PRESUMPTION BY LAPSE OF TIME.—Section 3623 of that Act (42 U.S.C. 7384n) is amended by adding at the end of subsection (d) the following new paragraph:

“(3) An estimate referred to in paragraph (1) shall be completed by the Secretary of Health and Human Services within 150 days after the date on which the Department of Labor submits to the Secretary of Health and Human Services the claim for which the estimate is required. If such estimate cannot be completed before the expiration of such period, it shall be deemed, for purposes of section 3626(b)(1), that it is not feasible to estimate with sufficient accuracy the radiation dose received by the individual to which the claim relates.”.

**SEC. 205. CORRECTING PROBLEMS IN THE RADIOEPIDEMIOLOGIC MODEL FOR DETERMINING COMPENSATION.**

Section 3623(c)(3) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384n(c)(3)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C)—

(A) by striking “past health-related activities (such as smoking);”;

(B) by striking the period at the end and inserting “; and”;

(3) by adding at the end the following new subparagraph:

“(D) provide the benefit of the doubt to the claimant wherever there is reasonable scientific evidence to justify compensation, including such factors as dose rate effectiveness of low dose radiation, bias due to selection effects, and increasing risks from radiation with increasing age at exposure.”.

**SEC. 206. ADDITIONAL SPECIFIED CANCERS.**

(a) REPORT.—The National Institute for Occupational Safety and Health shall prepare a report that identifies each type of cancer (other than specified cancers, as already defined in section 3621(17) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(17))) that the Institute has determined from epidemiology studies of workers or atomic bomb survivors to be radiosensitive and, for each cancer so identified, provides a basis for that determination. Not later than

90 days after the date of the enactment of this Act, the Institute shall submit the report to Congress, the Secretary of Labor, and the Advisory Board on Radiation and Worker Health, and shall publish the report in the Federal Register, for public review and comment.

(b) FINAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Institute shall submit to Congress, the Secretary of Labor, the Secretary of Health and Human Services, and the Advisory Board on Radiation and Worker Health a final report, taking into account comments received in response to the report under subsection (a), that identifies each type of cancer that is appropriate to be deemed an additional specified cancer for purposes of the Energy Employees Occupational Illness Compensation Program Act of 2000.

**SEC. 207. COVERAGE FOR INDIVIDUALS EMPLOYED BY ATOMIC WEAPONS EMPLOYERS OR BERYLLIUM EMPLOYEES DURING PERIOD OF RESIDUAL CONTAMINATION.**

Paragraphs (3) and (7)(C) of section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l) are each amended by inserting before the period at the end the following: “, or during a period when, as specified by the National Institute for Occupational Safety and Health in the reports required by section 3151(b)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384 note) or any subsequent report, significant contamination remained in a facility of the employer after such facility discontinued activities relating to the production of nuclear weapons and such contamination could have caused or substantially contributed to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be”.

**SEC. 208. COORDINATION OF COMPENSATION AND BENEFITS FOR CANCER WITH COMPENSATION AND BENEFITS UNDER OTHER RADIATION COMPENSATION LAWS.**

(a) COORDINATION.—Section 3651 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385j) is amended to read as follows:

**“SEC. 3651. COORDINATION WITH OTHER RADIATION COMPENSATION LAWS.**

“(a) IN GENERAL.—Except in accordance with section 3630 and except as provided in subsection (b), an individual may not receive compensation or benefits under the compensation program for cancer and also receive compensation under either of the following:

“(1) The Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

“(2) Section 112(c) of title 38, United States Code.

“(b) OFFSET.—A payment of compensation may be made to an individual, or the survivor of an individual, under subtitle B for cancer for which payment has been made under the Radiation Exposure Compensation Act, but the amount of such payment shall be offset by the amount of any payment made pursuant to section 4(a)(1)(A)(i)(III) or 4(a)(2)(C) of that Act on account of such cancer.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 209. TECHNICAL CORRECTIONS.**

(a) FINDINGS.—Section 3602(a)(6) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384(a)(6)) is amended by striking the second sentence and inserting the following: “Furthermore, studies indicate that 98 percent of radiation-induced cancers within the Department of Energy nuclear weapons complex

occur at dose levels below the existing thresholds for establishing proof of causation. Those studies further indicate that workers at Department of Energy sites were exposed to levels of silica, heavy metals, and toxic substances that will lead, contribute to, or aggravate illnesses or diseases.”.

(b) PAYMENTS IN THE CASE OF DECEASED PERSONS.—Section 3628(e)(3)(A) (42 U.S.C. 7384s(e)(3)(A)) of such Act is amended by inserting before the semicolon the following: “, or a wife or husband of that individual who was married to that individual immediately before the death of that individual and filed, on or before December 28, 2001, a claim in that capacity under this subtitle”.

### **TITLE III—ADMINISTRATIVE ASSISTANCE FOR CLAIMANTS UNDER EITHER SUBTITLE OF ACT**

#### **SEC. 301. PROVIDING ADMINISTRATIVE RELIEF IN CASES WHERE MEDICAL RECORDS ARE NOT AVAILABLE.**

Subtitle C of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385 et seq.) is amended by adding at the end the following new section:

#### **“SEC. 3652. PROOF WHEN MEDICAL RECORDS NOT AVAILABLE.**

“For any claim under any subtitle of this title, if the Department of Energy, a contractor of the Department of Energy (including a DOE contractor, as defined in section 3661), an atomic energy weapons employer, or a beryllium vendor is unable to locate medical records necessary for the processing of that claim that it possessed or was required to possess within 120 days after receiving a written request from the claimant to locate such records, an affidavit of the employee as to the contents of those records, together with any medical records possessed by the claimant or otherwise made available, shall be considered in determining the medical evidence relating to the claim.”.

#### **SEC. 302. RESOURCE CENTERS AND OUTREACH PROGRAMS.**

Subtitle C of such Act is further amended by adding after section 3652 (as added by section 301) the following new section:

#### **“SEC. 3653. RESOURCE CENTERS AND OUTREACH PROGRAMS.**

“(a) REQUIREMENT.—The Secretary of Labor and the Secretary of Energy shall maintain resource centers and outreach programs relating to the availability of benefits under any subtitle of this title. Such centers shall be staffed and maintained proportional to the demand for assistance and follow-up.

“(b) UNDERSERVED AREAS.—The resource centers required by subsection (a) shall include one or more resource centers in each underserved area near a Department of Energy facility.

“(c) DURATION.—(1) Except as provided in paragraph (2), such centers and programs shall be maintained through September 30, 2004.

“(2) In the case of a resource center in an underserved area referred to in subsection (b), such center shall be maintained until demand is exhausted.”.

#### **SEC. 303. OFFICE OF THE OMBUDSMAN.**

(a) IN GENERAL.—Subtitle C of such Act is further amended by adding after section 3653 (as added by section 302) the following new section:

#### **“SEC. 3654. OFFICE OF THE OMBUDSMAN.**

“(a) ESTABLISHMENT.—There is established within the Office of the Secretary of Labor an office, to be known as the Office of the Ombudsman for Occupational Illness Compensation (in this section referred to as the ‘Office’), to assist claimants under this title.

“(b) OMBUDSMAN.—

“(1) APPOINTMENT.—The head of the Office shall be the Ombudsman. The Ombudsman

shall be appointed by the Secretary of Labor, after consultation with claimants or claimant advocates, worker compensation experts, and members of the advisory committees to Federal agencies implementing this title, from among individuals with at least one of the following qualifications:

“(A) Experience or training as an advocate.

“(B) Training as a health care provider with knowledge of occupational illness and disease.

“(C) Experience in assisting claimants with worker compensation claims.

“(2) REMOVAL.—The Secretary of Labor may remove the Ombudsman for just cause and shall, in such a case, communicate to Congress the circumstances forming the basis of such just cause.

“(c) DUTIES.—The duties of the Ombudsman are as follows:

“(1) To direct the operations of the Office.

“(2) To report to the Secretary of Labor with respect to the activities of the Office.

“(3) To assist claimants under this title with claims filed with the Department of Labor or the Department of Energy.

“(4) To receive and investigate complaints or inquiries regarding the status of a claim under this title.

“(5) To provide claimants under this title with contacts at agencies with responsibilities under this title.

“(6) To offer informal advice on options available to claimants under this title.

“(7) To identify whether claimants under this title are encountering systematic difficulties or delays with respect to claims under this title, and to make recommendations for improvement, with respect to such claims, in speed, equity, fairness, or compliance with statutes and regulations.

“(8) With respect to individuals filing complaints or requests for information under this title—

“(A) to respond within 30 days after receiving such a complaint or request;

“(B) to maintain reasonable communication with the individual until the matter is resolved; and

“(C) to maintain, as confidential and privileged, the identity of the individual, unless such confidentiality or privilege is otherwise waived.

“(9) To maintain and publish a telephone number, facsimile number, electronic mail address, and post office address for the Office.

“(d) LIMITATION.—The Ombudsman may not reverse or make decisions regarding any claim under this title.

“(e) AUTHORITY.—The Ombudsman is authorized to carry out the following activities:

“(1) Investigate questions regarding a claim under this title, or procedures or systems for processing such claims, with the offices of the Department of Energy, Department of Labor, and Department of Health and Human Services (including the National Institute for Occupational Safety and Health), and any contractor of any such department, that has responsibility under this title.

“(2) Contract for expert advice with respect to the Ombudsman’s responsibilities under this title.

“(3) Access any material relating to a matter under investigation under paragraph (1).

“(4) Request explanations from any Federal agency with responsibilities under this title about the activities of that agency under this title.

“(5) Enter and inspect places in order to carry out an investigation under paragraph (1).

“(6) Refer any matter within the responsibility of the Ombudsman to an appropriate inspector general.

“(f) COOPERATION WITH FEDERAL AGENCIES.—Federal agencies and the officials responsible for the implementation of this title shall assist the Ombudsman in carrying out this section and shall promptly make available to the Ombudsman all information requested by the Ombudsman. The Ombudsman shall cooperate with such agencies and officials.

“(g) COORDINATION.—The Ombudsman shall coordinate the activities of the Office with the activities of the Secretaries of Energy, Health and Human Services, and Labor in carrying out this title. Such coordination shall be carried out pursuant to memoranda of agreement entered into among and between the Ombudsman and such Secretaries.

“(h) ANNUAL REPORT.—Not later than January 1 of each year, the Ombudsman shall submit a report on this title to the President, Congress, and the Secretaries of Energy, Health and Human Services, and Labor. No official outside the Office may require such outside official’s approval before submitting the report. The report shall contain the following:

“(1) The number and types of complaints, grievances, and requests for assistance received by the Ombudsman in the previous year.

“(2) Identification of the most common difficulties encountered by claimants under this title.

“(3) Recommended changes to the administrative practices of the Federal agencies with responsibility under this title.

“(4) Recommended legislative changes that may be appropriate to mitigate problems with the implementation of this title.

“(i) PUBLICATION.—The Secretaries of Energy, Health and Human Services, and Labor shall publicize the availability of the services of the Office.

“(j) SEPARATE LINE ITEM.—The budget of the President under section 1105(a) of title 31, United States Code, shall include funding for the Office as a separate line item.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$800,000 for each of fiscal years 2003 through 2007.”.

(b) INITIAL APPOINTMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Labor shall appoint the Ombudsman required by section 3654 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (as added by subsection (a)).

(c) MEMORANDA OF AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Ombudsman shall enter into the memoranda of agreement required by such section 3654 (as added by subsection (a)).

#### **MEETING ON THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM, MAY 11, 2002, 3:00 P.M., ESPANOLA, NEW MEXICO**

You know, these people are all good people. And after 9/11, when there’s been so much talk about patriotism and doing the right thing by people who helped their country, on behalf of Levi and others similarly situated, I would just ask the Congress and the Administration to remember those words and not let them be hollow, empty phrases. Thank you very much. (Applause.)

MR. SMITH: My name is Alex Smith. I’m a 33-year employee with the Lab. I testified before Tom and Senator Bingaman and David Michaels the last time. I went to work for the Lab in 1947 in the chemical warehouse. Tom and Bingaman already know and I’ve been doing this for your benefit.

I went to work for the chemical warehouse there at the Lab in the old TA 1. My duties

were clerk and to issue laboratory chemicals and laboratory glassware, and when we had time, I'd run a mercury, still, me and another fellow named Lewis Devetima.

In 1948, early in 1948, I started having trouble. My face would swell up, and my gums were bleeding. And I would go down to Q Building to see Dr. Whipple, and he would send me home. He said, "You're allergic to something," and that was it.

And when my face went back down, I'd come back to work and it would happen all over again. About the fourth time, I got to see Dr. Harriet Harding, who was a consultant there, and she interviewed me. Luckily, I got to see her. And she asked me where I worked, and I told her. She asked me what my duties were, and I told her that I run a mercury still when I didn't issue chemicals. She said, "You're operating what?"

I said, "I operate a mercury still."

She said, "Take me up there and show it to me."

So I did. She shut it down. And so we were full, me and Lewis Devetima were full of mercury. We used to heat it, and it had a still, like it was made out of glassware. It would go through this, heat it, and form a gas, go through that, come out condensed on that end, pure mercury. And we would breathe in vapors, and it was in a small 10 x 10. The old warehouse there in TA 1 was a shed. It was formerly the stable for the school that was there before the Lab took over, and they converted it into a chemical shop.

Anyway, when I retired in 1982—prior to 1982, I suffered from depression, bleeding gums, and so I went to the doctor there at the Lab. I was in very bad shape, and she sent me to a sanitarium in Albuquerque, and I spent some time there, about two or three weeks. I then was on an outpatient to Dr. Kenneth Poole there in Albuquerque for about three years.

And then I came back and was under the tutelage of Dr. William Oakes who worked for the H Division, and then he retired. And I saw Dr. Charles Shafer, and then he retired. And then I saw Dr. Ralph Greer. And anyway, when I retired, I noticed that there was no record of this sickness on my medical records.

And I asked Dr. Greer why. And he said they searched and they searched and they searched and they even went back into the microfilms, and they could find no evidence of anything to do with a mercury still or anything. So I retired thinking that.

When I testified before Mr. Bingham and Mr. Udall and Mr. Michaels, I didn't have any evidence. It was my story against theirs. And I have met a fellow named Ken Silver. He found these letters from Dr. Harding telling the whole story in six letters, and the DOE database of historical documents, it tells the whole story about me and Devetima's sickness, about the mercury still, their shutting it down.

These are all H Division letters to our division leader, Van Gammer, Assistant Property Division leader. Yet they couldn't find them. There was no evidence. They're here, right here. Everything I have reverts back to those six letters. In one of them, she refers to a fellow name Carl Butler. I happen to know Carl Butler, so I wrote him a letter telling him what was happening. He wrote me back a five-page handwritten letter confirming everything that I said when I testified, everything, even to closing down and admitted that nobody in 1947 and 1948 in H Division knew anything about mercury until an industrial engineer named Harold Sheeton—Harry Sheeton—came on board, and this was months later.

And after I got that letter from Butler, I wrote a letter to Mr. Udall and Mr. Bingham,

asking him—I sent them a copy of those six letters. I didn't give them a copy of this, but I did take it to Mr. Udall's office, everything I had, when you were in Federal Place over there, and I gave it to Raul and he made copies of it. He said he would forward it on to you, your office.

And this is my letter to Senator Bingham asking that you amend that Act to include mercury. I don't know what happened there. I got a letter from Mr. Udall there, and he asked that I get documentation. So I've got it. Don't you think I have it? And you asked for names and addresses of people that are working. I can give you names, Mr. Udall, but they all got one address: Cemetery. There's no—me and Mr. Butler are the only ones alive that I know that knew about that mercury still, and why I'm still around, I don't know.

After that, Mr. Silver came up with a couple more publications by Dr. Harriet Potter on mercury poisoning. Anybody that knows anything about mercury should read it. She even enlightened me. I guess she really dug in to her research. And in this—the other one is Challenging Manmade Decisions by Harriet Potter. I'll read you just one paragraph here.

On page 54 it tells about the year 1948 in Los Alamos, nonradioactive acting hazard material in use in Los Alamos. "An example will make this clear. Very soon after I began active duty, a worker came to the nurse in H-2 complaining with bleeding gums and skin rash." That's me. "In taking his job history, I found he and three other men were engaged in cleaning dirty mercury, an element widely used."

"Next, I visited the job site. And even though I had no engineering skill, I knew from my Massachusetts Department of Occupational Hygiene experience that the mercury hazard was great in this dirty, shed-like building."

I could go on, but I haven't got time, but you get the drift. And I don't know where to go from here. I know mercury is not covered in the Act. Like I say, I'm asking you to amend it to include mercury. Thank you very much for listening to me. I'm probably out of time. (Applause.)

Mr. LEYBA: The next person will be Phil Schofield.

Mr. SCHOFIELD: Thank you for coming, Beverly Cook and Congressman Udall, Senator Bingham, Mr. Turcic, Mr. Elliot. I'll try to keep my time short here.

I worked for Los Alamos National Lab for 2 years. I suffer from several severe health problems, multiple chemical sensitivities, HO cervical syndrome, respiratory problems, severe dermatology problems, swelling of my extremities. I have short-term memory and concentration deficits, and plus I lost almost half my hearing.

Mainly what I would like to address is some problems with the reconstruction of people's dosages. I can give you two quick examples where personnel worked in the same room. One was a—it depended on your job. You \* \* \*

Mr. BUNNING. Mr. President, I rise today as a cosponsor of the Energy Workers Compensation Act of 2002, EWCA.

During the Cold War, workers employed at the Department of Energy sites across the country served our country by helping to make nuclear weapons. But, for over 50 years of manufacturing these weapons, we now know that the Department of Energy consistently sacrificed health and safety of the workers and placed them in

harm's way without their knowledge. Many of these workers subsequently became ill due to their work with radioactive and toxic substances at the sites.

In 2000, Congress passed legislation, the Energy Employees Occupational Illness Compensation Program Act, EEOICPA, to establish compensation programs for Department of Energy workers who became sick as a result of their work. The bill addressed compensation for illnesses caused by the workers' exposure to radiation, beryllium, and numerous toxic substances. EEOICPA created two separate programs: Subtitle B of the law provided a program administered by the Department of Labor that would give a lump sum \$150,000 payment to workers exposed to radiation and beryllium; and, subtitle D of the law provided a program administered by the Department of Energy that relied on State worker compensation programs to make compensation payments to workers exposed to toxic substances. Subtitle D is what the EWCA legislation addresses.

Currently, under subtitle D the Department of Energy uses a physician's panel to review workers' claims and determine whether a worker's illness is related to work at a Department of Energy site. Upon a positive finding, the panel relies upon individual State worker compensation programs to make payments for wage loss and medical benefits. The Department of Energy, however, has admitted that nearly half of the claimants will not be able to pinpoint a responsible payor who will be able to honor the Department of Energy Physician Panel finding because many contractors no longer are associated with DoE.

Congress intended a uniform and equitable Federal compensation program for these employees who worked to serve our country. The Government should not sit idly by and let this problem fester knowing that so many claimants will not receive any compensation.

Introduction of the Energy Workers Compensation Act of 2002 will fulfill the original legislative objectives of Congress to assure compensation to all of our country's energy workers who were made ill due to their work with toxic substances. The legislation would correct subtitle D by making the Department of Labor responsible for paying those sick workers who are determined eligible to receive compensation.

We are only now beginning to realize the dangers that the energy workers faced. These workers thought they were serving our country and were unaware of the risks they took to win the Cold War. We must do all we can to protect the energy workers to make sure they receive just compensation for the illnesses and disabilities they incurred from their jobs at the Department of Energy nuclear weapons sites.

By Mr. BAUCUS:



S. 3059. A bill to provide for the distribution of judgment funds to the Assiniboiné and Sioux Tribes of the Fort Peck Reservation; to the Committee on Indian Affairs.

Mr. BAUCUS. Mr. President, I rise today to introduce a bill to provide for the use and distribution of judgment funds awarded to the Assiniboiné and Sioux Tribes of the Fort Peck Reservation in northeast Montana.

In 1987, the Assiniboiné and Sioux Tribes of the Fort Peck Reservation brought suit against the United States to recover interest earned on their trust funds while those funds were in Special Deposit and IMPL-Agency accounts. The case was filed in the United States Claims court, and docketed as No. 773-87-L.

After the Court ruled that the United States was liable to the Fort Peck Tribes and individual Indians for interest on those funds, the Tribes and the United States reached an agreement for settling claims in the case, for the sum of \$4,522,551.84. The court approved the settlement agreement.

The settlement agreement further provided that the judgment be divided between the Fort Peck Tribes and those individual Indians who are found to be eligible to share in the judgment. On January 31, 2001, the court approved a stipulation between the parties that defined the procedures by which the Fort Peck Tribes' and individual Indians' respective shares in the judgment would be determined and distributed to them.

Pursuant to the Court-approved stipulation in the case, on February 14, 2001, a portion of the Tribe's share of the judgment was deposited into an account in Treasury for the use of the Fort Peck Tribes. As provided by the Court-approved stipulation, those funds are to be available for immediate use by the Tribe pursuant to a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act, 25 U.S.C. 1401 et seq. The Court-approved stipulation further recognized that the Tribe will most likely receive additional payments from this settlement once the work identifying all individuals eligible to share in the judgment is completed and the pro rata shares are finally computed. Those funds, too, are to be available for use by the Tribe in accord with a plan adopted under the Tribal Judgment Funds Use or Distribution Act.

As required by the stipulation and the Tribal Judgment Funds Use or Distribution Act, the Tribe developed a plan for the use of the Tribe's share of the settlement. Under the plan, the Tribe's share of the judgment will be used for tribal health, education, housing and social services program.

The Tribe submitted its plan to the Department of the Interior for review and approval. Public hearings were held during which the views and recommendations of Tribal members were heard regarding the plan. The Tribe has been advised that the Department

of Interior has no objection to the Tribe's plan and can approve it. However, although the plan was developed and public hearing held during 2001, the Interior Department did not complete its review of the plan, nor submit the approved plan to Congress within the one-year deadline imposed by the Tribal Judgment Funds Use or Distribution Act. As a result, in order for the Fort Peck Tribe to make use of the judgment awarded to the Tribe, it is necessary for Congress to formally adopt legislation approving the Tribe's plan. The proposed bill language, would serve this purpose.

This judgment is based on money that rightfully belongs to the Fort Peck tribes and should be moved expeditiously through Congress. I look forward to working with the Committee on Indian Affairs to move this legislation forward.

By Mr. KENNEDY:

S. 3060. A bill to amend the Public Health Service Act to provide protections for human participants in research; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, today I am introducing legislation to achieve reforms in our system of oversight for protecting the safety of human subjects in research. As the Institute of Medicine report released today again demonstrates, reforms are long overdue. The moment has come to take action to restore the trust and confidence of those who serve as subjects in clinical trials and other forms of research.

We passed the National Research Act over twenty years ago as an important step toward protecting against inhuman research experiments and conditions. We have developed guidelines to ensure that people participating in medical research have clearly agreed to be a part of the study and will be treated humanely during the study.

These protections benefit the people participating as subjects in medical research, but they also help those conducting the research. If patients fear that they will not be protected or that the researchers do not have their best interests in mind, patients will not volunteer to take part in these needed tests.

As we all know, a revolution is taking place in medicine today. Scientists have mapped the human genome. They have made incredible breakthroughs in treatments for cancer and AIDS. It is not unreasonable to expect that we will see cancer cured, a quadriplegic stand up and walk, new drugs that prevent Alzheimer's and AIDS, and other advances we cannot even begin to imagine. But for all these advances to take place, new treatments will first have to be tested on human subjects. For these studies to succeed, patients must have confidence in our system and must be willing to participate in medical research. We must protect patients when they volunteer for these tests. To do otherwise would jeopardize this very hopeful future.

Many of those who participate in these studies are the most vulnerable members of our society and are the most in need of our protection. We are now benefiting from drugs that have been developed and tested outside the United States. Our country is based on the premise that all people are created equal. Basic protections that are good enough for research subjects in the United States should be good enough for research subjects in other nations who volunteer for tests that will benefit all of us.

We also must face the fact that medical research is constantly changing. Protections that were put in place 20 years ago no longer cover all human research projects. New studies in areas such as gene therapy have raised safety and ethical concerns requiring special scrutiny.

Institutional Review Boards, which review the safety and ethical acceptability of research involving human subjects, are overworked and underfunded. Loopholes in the system allow researchers who have had proposals rejected by one Board to reapply to a second Board in the hope of obtaining a more lenient review—all without notifying the second Board of the decision of the first. We do little to train researchers about methods for protecting human subjects. Many researchers with the best intentions are not knowledgeable of the latest changes to regulations.

These shortcomings cry out for a response, especially at this moment in history that holds so much promise for future medical research. The legislation I am introducing addresses these issues by expanding research subject protections and strengthening the review and oversight mechanisms to ensure that all human subjects are properly protected.

The legislation will, for the first time, ensure that all participants in such research are protected by a comprehensive and strong set of safeguards. The legislation provides clear statutory authorization for these protections and establishes a central office to review and amend current rules for the protections.

The legislation will improve Institutional Review Boards by strengthening firewalls against conflicts of interest and enhancing training for Board members. The bill will provide the Boards with the funding they need to be effective, by allowing human subject protection costs to be charged as direct costs on federal grants. The bill will end "IRB shopping", the practice in which a proposal rejected by one Board for ethical reasons is submitted to a second Board in the hope of obtaining a more lenient review. The legislation will require that every Board receives accreditation to assure that it is carrying out its duties effectively and rigorously.

The legislation will assist researchers in learning more about the best practices for protecting human subjects, by creating programs to improve

training for researchers in good research practices. The bill strengthens the firewalls against financial conflicts of interest for researchers, and will require the establishment of regulations to govern payment of research subjects.

The legislation will also enhance the ethical review of clinical trials conducted overseas with federal funding or submitted to FDA for review, by requiring that research conducted overseas that falls within U.S. regulatory jurisdiction must be reviewed and approved by a U.S. Institutional Review Board. The bill enhances the review of areas of research that raise special safety concerns, such as gene therapy and xenotransplantation.

We must act now to improve our protections for human research subjects, so that patients will feel confident enough to volunteer for the many vital research projects that will be developed in coming years. These reforms will have a significant role in improving medical care. But even more important, these safeguards will protect our fellow human beings. The people this bill protects are not numbers of statistics. They are someone's mother, daughter, or spouse. Mistakes and abuses that hurt them affect their families, friends, and communities.

We are a great people and a great nation. We are a moral people and an ethical nation. We must do all we can to see that our great medical advances of the future do not come at an unnecessary cost of death and suffering by patients who first volunteered to test these new medical treatments. I look forward to working with my colleagues to enact these needed reforms as soon as possible.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

#### THE RESEARCH REVITALIZATION ACT

The current oversight system for protecting human subjects is overdue for reform. Rules for research subject protection do not cover all research. Protections for research subjects are largely based on regulation rather than statute. There is no Federal lead agency charged with amending and issuing guidance on the rules for research subject protections, resulting in an often confusing set of divergent regulations across different Federal research agencies. In addition, since no single agency can amend the research rules, the rules themselves have not been updated in years and have not kept pace with the changing nature of research. To address these problems, the bill will: 1. Ensure that all human subjects in all research are covered by strong protections. 2. Provide a clear statutory authorization for research subject protections. 3. Establish a central office to amend the rules for research subject protection.

Institutional Review Boards, IRBs are committees at universities and hospitals that review the safety and ethical acceptability of research involving human subjects. The IRB system is under severe strain for several reasons. First, IRBs are overworked and underfunded. Second, IRBs vary widely

in their training and effectiveness. Third, conflicts of interest threaten the integrity of research. Fourth, investigators can engage in "IRB shopping" whereby a proposal rejected by one IRB for ethical reasons can be submitted to a second board in the hope of a more lenient review all without notifying the second IRB of the decision of the first. To address these problems the bill will: 1. Require accreditation of all IRBs to ensure that they do their jobs adequately. To be accredited, IRBs would not only have to review proposals to conduct research, but also monitor such research once it is initiated. 2. End "IRB shopping" by requiring notification of previous proposal rejection. 3. Establish rules for financial conflict of interest for IRB members. 4. Allow IRB expenses to be charged as direct costs on Federal grants, so that universities can give IRBs the resources they need to do their job. 5. Allow, on a voluntary basis, a central IRB to review projects conducted at multiple local research sites to provide for more effective and efficient review.

Investigators conducting human subject research are often poorly trained in protecting human subjects. As revealed by the controversies surrounding gene therapy, financial conflicts of interest can often compromise the objectivity of researchers. Finally, payment of research subjects is becoming common, but few standards have been established to govern when and how a subject can or should be compensated. To address these problems, the bill will: 1. Require HHS to establish a model program to train researchers in good research practices and then provide grants to allow universities to establish similar programs. 2. Strengthen current rules on financial conflict of interest for researchers. Numerous studies have shown that the existing system does a poor job in protecting against conflict of interest. The proposal follows recent recommendations by the AAMC. 3. Establish standards to govern payments to research subjects.

Research projects involving human subjects that use federal funds or support a submission to the FDA are subject to US regulations even when conducted overseas. When conducted on poorly educated and/or impoverished populations in nations with weak local oversight, such research raises special ethical concerns. First, subjects may not be adequately protected when an ethical review is conducted in a country without a strong infrastructure for research subject protection. Second, there are significant ethical concerns about conducting high-risk research on local populations who will never receive the benefits of the products being tested on them. Third, some subjects receive placebos or non-treatment, even when effective treatments are available and could be given to patients. The bill will: 1. Require review by a US-accredited IRB of all human subject research conducted overseas that falls within US regulatory jurisdiction. This requirement would be waived where standards of review are equivalent to those in the US, e.g. EU, Australia, Canada. 2. Require rules governing the use of placebos or non-treatment when effective therapies could be administered to research subjects.

Certain areas of research, such as gene therapy or xenotransplantation, raise unusual safety concerns. NBAC has recommended special scrutiny for such areas, beyond simple IRB review. The bill will require special monitoring of adverse events in clinical trials of such research so that threats to patient safety can be identified.

By Mr. LOTT:

S. 3061. A bill to impose greater accountability on the Tennessee Valley

Authority with respect to capital investment decisions and financing operations by increasing Congressional and Executive Branch oversight; to the Committee on Environment and Public Works.

Mr. LOTT. Mr. President, the Tennessee Valley Authority has long served as an engine for economic development in my part of the country and has enjoyed widespread support for its efforts to provide power that is needed to fuel the economy and enhance the quality of life of those it serves. It is my desire to assist the TVA in continuing its legacy and carrying out its mission. To provide that assistance, the Congress, the Administration, and the TVA itself must determine whether TVA's policies, practices, and long-term strategies are consistent with the realities of today's marketplace.

The TVA is at a crossroads in its illustrious history. The United States taxpayer and the power consumers in the TVA service area have provided the capital necessary to develop, finance, and operate one of the largest, if not the largest, public power systems in history. The TVA is now facing a number of challenges with respect to its existing generating system in the form of environmental compliance, aging and obsolete plants, and the urgent need to provide additional generating capacity to meet the demands of the future. It is my belief that the United States taxpayer is unwilling and unable to continue to bear the financial burden and risks associated with addressing these challenges.

The reality of the marketplace for energy and the political imperatives with which we are confronted mandate that any new financing strategies and supplemental sources of capital be considered and utilized by the TVA. Likewise, we need to review and analyze the short-term and long-term financing and risk management strategies employed by the TVA with respect to its almost \$26 billion of debt.

During 2002, we have witnessed the results of risky and sometimes corrupt corporate financing and management practices. Although I have no reason to believe that TVA has been involved in any such practices, I believe we have a responsibility to the taxpayers to examine the financing and disclosure practices of the TVA to ensure that their investment is being protected. I note that TVA has utilized short-term financing facilities and derivative securities as hedging and interest rate management techniques. We need to better understand the risks and rewards associated with these strategies.

The legislation that I am introducing today would require that the TVA provide the Congress and the Administration with a 10-year business outlook and strategic plan with respect to its development and financing needs, as well as an analysis of its ongoing financing and risk management strategies. During the period in which the

TVA is responding to this Congressional mandate, the TVA would be required to cease and desist from incurring new obligations or entering into any arrangements for the development or financing of new, additional, or replacement plant, equipment, or capacity. Likewise, during this period the TVA would be required to gain the concurrence of the Director of the Office of Management and Budget and the appropriate Senate and House Committee leaders before undertaking any additional financing or refinancing activities. The legislation specifically provides for the necessary flexibility for the TVA to continue normal operations and fund necessary maintenance activities while complying with this Congressional mandate.

I strongly support the TVA and I recognize its importance to the economic health of several states in the southeastern United States, including my own. Indeed, the TVA is a critical component of the infrastructure that supports the economy of the entire United States. It is my desire in introducing this legislation that the TVA be positioned to meet the challenges of the 21st Century. Introduction of this legislation is the first step to help the TVA achieve that goal.

By Mr. CRAIG

S. 3062. A bill to direct the Secretary of agriculture to conduct a study of the effectiveness of silver-based biocides as an alternative treatment to preserve wood; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, today I am introducing the Wood Preservation Safety Act of 2002. If enacted, this legislation would authorize the Forest Products Laboratory of the U.S. Forest Service to study the effectiveness of silver-based biocides as a wood preservative treatment.

According to silver experts and academics, silver biocides could serve as a viable, safe and cost effective alternative wood preservative. Given silver's long-standing role as an effective biocide, testing should be undertaken to determine silver's suitability as a wood preservative. Thus, I feel it is important to study and fully explore the potential of silver as a wood preservative.

Mining has been an important part of Idaho's history since the late 1800s. It became Idaho's first industry and remains a critical part of Idaho and the nation's economy. Mining in Idaho has supplied the nation with minerals necessary for today's modern lifestyle which many of us take for granted. In 1985, the mines of Idaho's Coeur d'Alene mining district produced their one billionth ounce of silver. The Sunshine Mine was America's richest silver mine, producing over 300 million ounces of silver, more than the entire output of Nevada's famous Comstock Lode. Silver contributes to our quality of life in many ways, and its use as a biocide in wood products is an important application that must be explored.

I look forward to working with my colleagues to pass legislation that would create a comprehensive research program to test the viability of silver-based biocides for the treatment of wood products.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 333—EX- PRESSING THE SENSE OF THE SENATE RELATING TO A DIS- PUTE BETWEEN THE PACIFIC MARITIME ASSOCIATION AND THE INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. HELMS, Mr. HAGEL, Mr. BURNS, Mr. CRAIG, Mr. ROBERTS, Mr. ALLARD, Mr. VOINOVICH, Mr. CRAPO, Mr. ENSIGN, Mr. DEWINE, Mr. BOND, Mr. FRIST, Mr. WARNER, and Mr. HATCH) submitted the following resolution, which was referred to the Committee on Health, Education, Labor, and Pensions:

#### S. RES. 333

Whereas the ongoing dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union, relating to a collective bargaining agreement, has shut down 29 West Coast ports;

Whereas this dispute has sent harmful economic reverberations far beyond the shipping industry, the West Coast, or even the borders of the United States;

Whereas 7 percent of the Nation's gross domestic product travels through those ports and the flow of goods in and out of those ports is critical to the operation of businesses, farms, and factories, and the business of retailers and consumers, all across the United States;

Whereas the stay of all West Coast transport by sea has already prevented farmers from selling their crops, shut down manufacturing plants, idled trucks and trains, and precluded consumers from purchasing goods;

Whereas, due to the interruption of the flow of commerce caused by the dispute, thousands of persons in the United States have been laid off and are living without a paycheck through no fault of their own;

Whereas the United States is already enduring an economic recession and high unemployment; and

Whereas if the shutdown of those ports continues, the shutdown will present a serious threat to the Nation's safety and health: Now, therefore, be it

*Resolved,*

#### SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the Pacific Maritime Association and the International Longshore and Warehouse Union should enter into mediation to resolve the dispute, adopt 24-hour extensions of the expired collective bargaining agreement, and end the current lockout; and

(2) if the Pacific Maritime Association and the International Longshore and Warehouse Union do not reach a settlement or reopen the ports through that mediation during a reasonable period (as determined by the President), the President should appoint a board of inquiry, to begin the emergency dispute-settling procedure under the Labor-Management Relations Act, 1947.

Mr. HUTCHINSON. Mr. President, today, many of my colleagues have

joined me in submitting a resolution urging the President to invoke the Taft Hartley emergency dispute resolution procedures in response to the complete shutdown of twenty-nine West Coast ports due to a labor dispute. I deeply regret that this legislation is necessary, but the grave economic consequences of the shutdown and the serious ramifications on our country's ability to improve homeland security have made it so.

It is estimated that 7 percent of our Nation's gross domestic product flow through these ports. However, that does not begin to calculate the cost to the workers and families who are and will be affected by this impasse. Transportation of products to West Coast ports has been shut down. The jobs of railroad employees, barge employees, and independent truck drivers, whose livelihoods all depend upon the flow of goods in and out these ports, are being endangered by this dispute. In addition, manufacturers who are unable to move products are facing unexpected storage costs that have already resulted in thousands of layoffs.

In the agriculture sector, the inability to ship grains, vegetables, livestock, and other perishables is having a catastrophic effect on farmers and ranchers, many of whom are already facing consecutive years of drought and economic hardship. The ability to move agricultural products and sell them to foreign markets when prices are best is essential to the health of rural communities across our country. In addition, the inability to move these products off our own domestic market threatens to push commodity and livestock prices even lower. Agricultural producers and marketers have spent millions of dollars to open and develop Asian markets amidst heavy competition from Canada, Australia, and many other countries vying for access. This dispute is threatening thousands of jobs and years of work to increase trade with these emerging markets.

At a time when the country is already experiencing economic hardships, this shutdown is jeopardizing the jobs and livelihoods of thousands of citizens across our country. From auto-workers in Michigan and Missouri to rice and wheat farmers in Arkansas and Kansas, the human cost of this dispute far exceeds the financial and technical issues that have provoked it.

This resolution calls on the Pacific Maritime Association and the International Longshore and Warehouse Union to adopt 24-hour extensions of the expired collective bargaining agreement and end the current lockout while they go through mediation.

It also urges the President to appoint a board of inquiry and begin the emergency dispute settling procedures called for under the Taft Hartley Labor Management Relations Act, 1947, if he determines that mediation has failed.

My colleagues and I have taken this action out of concern for our home states and the safety and health of the

nation. Much of the industry in my home state of Arkansas relies on product import and export, and much of it travels through west coast docks. Arkansas is already feeling the effect of the shutdown, and it is critical that labor dispute be solved before even more damage is done.

Mr. Craig. Mr. President, I rise to commend my colleague, the Senator from Arkansas, Mr. HUTCHINSON, and an happy to join him as an original cosponsor, upon his submission of a resolution expressing the sense of the Senate about the recent shutdown of shipping that has occurred on the West Coast.

We are at war with terrorism. The Senate is now debating action on another front in that war. We are at a critical moment in our economic recovery, when we are eager for that economy to continue to grow, and we want to protect and resume creating good jobs for American workers.

At such a time, frankly, I am at a loss to understand how such a dispute has ever come about in these 29 ports on the West Coast. I would hope the parties involved understand that they risk strangling an estimated 7 percent of our Nation's economy. I would hope they realize the implications a prolonged dispute would have for millions of workers and their families, as well as for our Nation's health and safety.

This shutdown already is hurting agriculture, one of the largest sectors of Idaho's economy. I have been in touch with farmers and ranchers in Idaho. The impact of this shutdown has been immediate and it threatens to be devastating. I know it is affecting other industries as well. We have all heard the estimates that it will cost the Nation's economy \$1 billion a day, but I understand that is the cost in the early days of the shutdown. The harm will grow, and it is something that workers, families, farmers, and employers in Idaho and across the Nation should not be forced to bear.

So, I commend Senator HUTCHINSON for his leadership in the submission of this resolution. I join him in imploring the disputing parties to work with urgency to resolve differences and reach a settlement, while adopting twenty-four extensions of the expired collective bargaining agreement, allowing the ports to reopen, and restoring the full, brisk, efficient flow of American goods to markets overseas.

I also appreciate the fact that the administration already is working to resolve this problem. A Federal mediator has gotten engaged. Now it is time for the Senate to add its voice to the constructive efforts of the administration.

With my colleagues, I call on the disputing parties to consider the good of the country at a critical time; to recognize the responsibilities of a good neighbor to employers and labor across our land; and to come back to the table and come back to work.

## SENATE RESOLUTION 334—RECOGNIZING THE ELLIS ISLAND MEDAL OF HONOR

Mr. DASCHLE (for Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 334

Whereas the Ellis Island Medal of Honor, established by the National Ethnic Coalition of Organizations in 1986, pays tribute to individuals of various ethnic origins who have distinguished themselves through their contributions to the United States;

Whereas the Ellis Island Medal of Honor has been awarded on a bipartisan basis to 6 Presidents and numerous Representatives and Senators;

Whereas the National Ethnic Coalition of Organizations is the largest organization of its kind in the United States, representing more than 5,000,000 family members and serving as an umbrella group for more than 250 organizations that span the spectrum of ethnic heritage, culture, and religion;

Whereas the mandate of the National Ethnic Coalition of Organizations is to preserve ethnic diversity, promote equality and tolerance, combat injustice, and bring about harmony and unity among all peoples;

Whereas the Ellis Island Medal of Honor is named for the gateway through which more than 12,000,000 immigrants passed in their quest for freedom of speech, freedom of religion, and economic opportunity;

Whereas the Ellis Island Medal of Honor celebrates the richness and diversity of American life by honoring not only individuals, but the pluralism and democracy that have enabled the Nation's ethnic groups to maintain their identities while becoming integral parts of the American way of life;

Whereas during the 15-year history of the Ellis Island Medal of Honor, more than 1,500 individuals from scores of different ethnic groups have received the Medal, and more than 5,000 individuals are nominated each year for the Medal; and

Whereas at the 2002 Ellis Island Medal of Honor ceremony in New York City, individuals from different ethnic groups will be honored for their contributions to the rescue and recovery efforts of September 11, 2001, the war against terrorism, and the enhancement of the Nation's homeland security: Now, therefore, be it

*Resolved*, That the Senate recognizes the Ellis Island Medal of Honor for acknowledging individuals who live exemplary lives as Americans while preserving the values of their particular ethnic heritage.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, October 4, 2002, at 11 a.m., to conduct a hearing on the nomination of Mr. Philip Merrill, of Maryland, to be president of the Export-Import Bank of the United States.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be author-

ized to meet during the session of the Senate on Friday, October 4, 2002, at 10 a.m., to hold a nomination hearing.

## Agenda

Nominees: The Honorable John R. Hamilton, of North Carolina, to be Ambassador to the Republic of Guatemala; Mr. John F. Keane, of Virginia, to be Ambassador to the Republic of Paraguay; and the Honorable David N. Greenlee, of Maryland, to be Ambassador to the Republic of Bolivia.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, October 4, 2002, at 11 a.m., to hold a closed hearing on intelligence matters.

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

## PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I also ask unanimous consent that Ryan Montgomery, an intern in the Finance Committee staff, be accorded floor privileges for the day.

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

## MEASURE INDEFINITELY POSTPONED—H. CON. RES. 401

Mr. REID. Mr. President, I ask unanimous consent that Calendar No. 583, H. Con. Res. 401, be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ADVANCEMENT ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 432, S. 2064.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2064) to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2064) was read the third time and passed, as follows:

S. 2064

*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 “Environmental Policy and Conflict Resolution Advancement Act of 2002”.

**SEC. 2. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5609) is amended by striking subsection (b) and inserting the following:

“(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 10 \$4,000,000 for each of fiscal years 2004 through 2008, of which—

“(1) \$3,000,000 shall be used to pay operations costs (including not more than \$1,000 for official reception and representation expenses); and

“(2) \$1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.”.

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION REAUTHORIZATION ACT OF 2002**

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 609, S. 1210.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1210) to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Matter to be omitted is shown in black brackets; matter to be added is shown in bold italic.]

*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 “Native American Housing Assistance and Self-Determination Reauthorization Act of 2001”.

**[SEC. 2. REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996.]**

[(a) BLOCK GRANTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended by striking “, 1999, 2000, and 2001” and inserting “through 2006”.

[(b) FEDERAL GUARANTEES.—Subsections (a) and (b) of section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) are each amended by striking “, 1998, 1999, 2000, and 2001” and inserting “through 2006”.

[(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking “, 1998, 1999, 2000, and 2001” and inserting “through 2006”.]

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2002”.

**SEC. 2. REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996.**

(a) BLOCK GRANTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended by striking “1998, 1999, 2000, and 2001” and inserting “1998 through 2007”.

(b) FEDERAL GUARANTEES.—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended—

(1) in subsection (a), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”; and

(2) in subsection (b), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(d) INDIAN HOUSING LOAN GUARANTEE FUND.—Section 184(i) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)) is amended—

(1) in paragraph (5)(C), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”; and

(2) in paragraph (7), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”.

**SEC. 3. DEFINITIONS.**

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended by adding at the end the following:

“(22) HOUSING RELATED COMMUNITY DEVELOPMENT.—

“(A) IN GENERAL.—The term ‘housing related community development’ means any tribally-owned and operated facility, business, activity, or infrastructure that—

“(i) is necessary to the direct construction of reservation housing; and

“(ii) would help an Indian tribe or its tribally-designated housing authority reduce the cost of construction of Indian housing or otherwise promote the findings of this Act.

“(B) EXCLUSION.—The term ‘housing and community development’ does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).”.

**SEC. 4. BLOCK GRANTS AND GRANT REQUIREMENTS.**

Section 101(h) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(h)) is amended—

(1) in the heading, by inserting “AND PLANNING” after “ADMINISTRATIVE”; and

(2) by inserting after the word “Act” the first place that term appears, the following: “for comprehensive housing and community development planning activities and”.

**SEC. 5. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.**

Section 104 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114) is amended—

(1) in subsection (a)(1)—

(A) by striking “A recipient” and inserting the following: “Notwithstanding any other provision of this Act, a recipient”; and

(B) by striking subparagraph (B) and inserting the following:

“(B) the recipient has agreed that it will utilize such income for housing related activities in accordance with this Act.”; and

(2) in subsection (a)(2)—

(A) in the heading, by inserting “RESTRICTED ACCESS OR” before the word “REDUCTION”; and

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) whether the recipient has expended retained program income for housing-related activities.”.

**SEC. 6. REGULATIONS.**

Section 106(b)(2)(A) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)(A)) is amended by inserting after “required under this Act” the following: “, including any regulations that may be required pursuant to amendments made to this Act after the date of enactment of this Act.”.

**SEC. 7. FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.**

Section 601 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191) is amended—

(1) in subsection (a), by inserting after “section 202” the following: “and housing related community development activity as consistent with the purposes of this Act”; and

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (e), respectively.

**SEC. 8. FEASIBILITY STUDIES TO IMPROVE THE DELIVERY OF HOUSING ASSISTANCE IN NATIVE COMMUNITIES.**

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended by adding at the end the following:

“(7) COMMUNITY DEVELOPMENT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with principles of Indian self-determination and the findings of this Act, the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes, tribal organizations, or tribal consortia are authorized to expend amounts received pursuant to the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 in order to design, implement, and operate community development demonstration projects.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.

“(8) SELF-DETERMINATION ACT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes and tribal organizations are authorized to receive assistance in a manner that maximizes tribal authority and decision-making in the design and implementation of Federal housing and related activity funding.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.”.

**SEC. 9. BLACK MOLD INFESTATION STUDY.**

*Not later than 180 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall—*

*(1) complete a study on the extent of black mold infestation of Native American housing in the United States; and*

*(2) submit to Congress a report that describes recommendations of the Secretary for means by which to address the infestation.*

Mr. SARBANES. Mr. President, on September 12, 2002, the Committee on Banking, Housing, and Urban Affairs reported out favorably S. 1210, the Native American Housing Assistance and Self-Determination Reauthorization Act, NAHASDA. The Indian Affairs Committee referred NAHASDA to the Committee on Banking, Housing, and Urban Affairs on August 28, 2002. According to the Senate Rules, all legislation affecting HUD's Indian Housing programs must be considered in the Banking Committee. This is bipartisan legislation that has the support of the National American Indian Housing Council, NAIHC.

The NAHASDA Reauthorization Act extends the program originally created in 1996. The bill makes very modest changes to update the legislation, including asking HUD to explore ways to increase tribal self-determination with regards to the NAHASDA block grant. It also asks HUD to do a study of black mold, which is apparently is a growing problem on reservations.

In 1996, Congress passed NAHASDA in order to strengthen federal housing assistance for tribal communities. NAHASDA provides block grants to Indian tribes or their tribally designated housing entities, TDHEs, for affordable housing activities that were previously under general housing programs, including public housing, section 8, Youthbuild, and homeless programs. Consolidating these funds into a block grant helps to meet the goal of self-determination for Indian tribes.

Since its passage, NAHASDA has achieved many successes. HUD reports that through NAHASDA, 25,000 new units of housing has been produced in Indian communities. In spite of NAHASDA's successes, many of the people in these communities still live in severely substandard housing. According to the NAIHC, Native American housing is said to be six to eight times more crowded than the national average. Furthermore, it is estimated that 1 out of every 5 Indian homes lacks complete plumbing; and 40 percent of homes on Indian lands are overcrowded. These figures demonstrate the need for affordable housing programs, like NAHASDA, that benefit Native American communities.

Mr. JOHNSON. Mr. President, I am proud to be a cosponsor of the bill to reauthorize the Native American Housing Assistance and Self-Determination Act which is an important step in strengthening Federal housing assistance for tribal authorities. I urge prompt consideration of this legislation by the full Congress. I wish to thank Senators INOUE and CAMPBELL

for their work on this bill during deliberations in the Committee on Indian Affairs. Also, I wish to thank Senator SARBANES for his leadership in moving this bill quickly through the Banking Committee.

Throughout my 16 years in Congress, I have been dismayed by the living conditions of Native Americans. On numerous occasions, it has been documented that Native Americans have the worst housing conditions in the United States. Rampant overcrowding, homelessness, and a crumbling housing stock plague our tribal communities, and South Dakota has seen some of the worst conditions overall. Our tribes suffer from anywhere between 50 to 80 percent unemployment on Native American reservations. According to the Housing Assistance Council, South Dakota contains 10 counties that are inhabited by 30 to 65 percent of persons below poverty.

NAHASDA was originally passed in 1996 to strengthen Federal housing assistance to tribal communities. NAHASDA provides block grants to Indian tribes for affordable housing activities that were previously under general housing programs, including public housing, section 8, Youthbuild, and homeless programs. I believe that consolidating these funds in a block grant to tribes helps meet the goal of self-determination for Indian tribes.

NAHASDA has proven to be a vast improvement over the previous way that housing assistance was provided to tribes. The Federal Government must end the practice of treating our first Americans as third class citizens. As this bill is considered by the full Senate, I will continue to press my colleagues for their full support.

Mr. REID. Mr. President, I ask unanimous consent that the Banking Committee substitute amendment be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1210), as amended, was read the third time and passed.

#### ORDERS FOR MONDAY, OCTOBER 7, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today—maybe I should say tonight—it adjourn until the hour of 12 noon, Monday, October 7, 2002; that on Monday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there be a period for

morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the first half under the control of Senator WYDEN, and the second half under the control of the Republican leader or his designee; that at 1 p.m., the Senate resume consideration of S.J. Res. 45, with the time until 4 p.m. equally divided and controlled between the two leaders or their designees, with Senators permitted to speak up to 15 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, I announce on behalf of the majority leader that we should move to as many Iraq speeches as quickly as we can. Not everyone can give their speeches on Wednesday. It is possible someone might attempt to invoke cloture on this legislation. If that, in fact, were the case, everyone should be aware that following Thursday, we would be in postcloture if someone decided to file it on Tuesday. So everyone should be aware of that and move forward with the speeches as quickly as possible.

There will be no votes on Monday, Mr. President.

#### ADJOURNMENT UNTIL MONDAY, OCTOBER 7, 2002

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment.

There being no objection, the Senate, at 6:09 p.m., adjourned until Monday, October 7, 2002, at 12 noon.

#### NOMINATIONS

Executive nominations received by the Senate October 4, 2002:

##### NATIONAL LABOR RELATIONS BOARD

ROBERT J. BATTISTA, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2007, VICE WILMA B. LIEBMAN, TERM EXPIRING.

WILMA B. LIEBMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2006, VICE PETER J. HURTGEN.

##### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. ROBERT W. WAGNER, 0000

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major

ERRISH NASSER G. ABU, 0000  
ZAIGHAM H. ANSARI, 0000  
ERIC L. BERNING, 0000  
JAMES P. BROOKS, 0000  
ROSEMARY PHILLIPS CARDOSI, 0000  
BLAINE J. CASHMORE, 0000  
NATHI A. CHEN, 0000  
BRADLEY R. DAVIS, 0000  
DONALD D. DILWORTH, 0000  
DANIEL H. DUFFY, 0000  
MATTHEW J. FICENEC, 0000  
GILBERT A. FIELD, 0000



*October 4, 2002*

JOEL G. GOTVALD, 0000  
GEOFFREY K. HAHM, 0000  
KERRIE M. HENRY, 0000  
JOCELYN Q. IVIE, 0000  
DARICK LEE JACOBS, 0000  
STEVEN YOUNG KIM, 0000  
WADE M. LARSON, 0000  
PERCY H. LO, 0000  
AJAY K. MAKHJA, 0000  
ELIZABETH A. MITTENDORF, 0000  
JUDITH A. NORMAN, 0000  
DENNIS A. NUTTER JR., 0000  
DAVID H. PARK, 0000  
RICHARD J. REPETA JR., 0000  
CRAIG A. ROHAN, 0000

## CONGRESSIONAL RECORD — SENATE

**S9999**

MICHAEL E. SHEEHY, 0000  
MICHAEL T. SHOEMAKER, 0000  
GEOFFREY D. STILLER, 0000  
JAMES L. SULLIVAN, 0000  
JACK J. SWANSON, 0000  
BENJAMIN D. TANNER, 0000  
ERIC E. WEISSEND, 0000  
ROBERT T. WILCOX, 0000  
EDWARD B. WOODWARD, 0000  
CLARENCE B. YATES, 0000  
BRIAN M. YORK, 0000  
ERNEST J. ZERINGUE, 0000

### WITHDRAWAL

Executive message transmitted by the President to the Senate on October 4, 2002, withdrawing from further Senate consideration the following nomination:

ROBERT J. BATTISTA, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2006, VICE PETER J. HURTGEN, WHICH WAS SENT TO THE SENATE ON JUNE 13, 2002.