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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

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

Thank you, Lord, for the resources You have given to us. You ask us to be good stewards—to invest resources wisely. And we want to do so. But this is hard when others deceive us. We have learned recently how professionals in a few companies took unfair advantage of investors. They lost track of their accountability to truth and their commitment to integrity. As a result, investors lost billions of dollars, tens of thousands of workers lost their jobs, and untold numbers of people lost confidence in the financial markets. Please comfort and help those who were harmed. Bless the many men and women who operate their companies honestly. Help strengthen the integrity of America's financial system so that people can be better stewards of our resources. And give the Senators wisdom to know how to legislate to preserve an effective financial accounting system for the businesses of America. In Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED 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, July 9, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. JACK REED thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, in a short time there will be a period of morning business until 10:15 today, with times evenly divided, the first half under the control of the Republicans and the second half under the control of the Democrats. At 10:15, the Senate will resume consideration of the accounting reform bill.

I was advised by my junior colleague from Nevada last evening that he was notified by the Republican leader that this afternoon the Republicans will move to the nuclear waste veto matter which has been hanging around for a while. If that is the case, that will take up most of the afternoon, I am sure, with a 10-hour statutory time available that could go into tomorrow. We have been working since we learned about this yesterday to work something out that would be more definite. We will keep the Senate advised as soon as we know something more.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Nebraska.

DISASTER ASSISTANCE FOR AGRICULTURE

Mr. HAGEL. Mr. President, I rise this morning to speak about the severe drought gripping much of our Nation. The situation is developing into a national problem, a big problem that can no longer be ignored.

Last week in Nebraska, I met with farmers and livestock producers who have witnessed firsthand the devastation caused by this drought. For many agricultural producers in Nebraska and throughout America, hope is again for this growing season. Their crops are wilted and their pastures are scorched and bare. These producers need assistance. For them, there are no options left. Drought is not just a Nebraska problem; it is a national problem.

According to the National Drought Mitigation Center at the University of Nebraska, about 15 percent of the country experiences drought in a typical year. Today, more than 40 percent of the entire country is suffering from drought. The West is bone dry. "Exceptional" and "extreme" drought, as it is termed by the National Oceanic and Atmospheric Administration, NOAA, has ravaged the Southwest as well as Wyoming, Montana, and parts of Texas. The Southern States, along with sections of New England, such as represented by the distinguished Presiding Officer, and the Mid-Atlantic States are also reeling from drought.

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



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This past spring was the driest in 107 years of data reporting in Colorado and the second driest in Arizona and southern California. Keep in mind, it is only July 9. To add to this problem, the drought has brought swarms of grasshoppers which are now infecting many parts of Nebraska as well as the entire Midwest.

The economic effects of drought are often hard to measure. Unlike a hurricane or tornado, droughts are measured in years, sometimes decades. The worst drought in recent memory, in the summer of 1988, covered almost 40 percent of the entire United States. It cost an estimated \$40 billion. Compare that to Hurricane Andrew in 1992, which cost about \$30 billion.

The bad news is the current drought could be much worse than the drought of 1988, considering we still must endure July and August, the hottest months of the year. Already, Nebraska is estimating at least \$307 million damage to its economy, with the loss to crops and pastureland alone estimated at \$150 million. Again, this is only a midyear estimate.

Government action is now necessary. Congress is quick to respond to floods, earthquakes, and hurricanes. Now we must respond to this national drought. Some of my colleagues may second-guess the need for additional agricultural assistance. After all, Congress, for the past 3 years, has provided billions of dollars for supplemental agricultural spending, mostly due to low commodity prices. Emergency payments were supposed to cease with passage of the new farm bill this year.

Clearly, the new farm bill, which will spend an estimated \$180 billion or more over the next 10 years, provides almost no safety net for farmers and ranchers hurt by drought. That is one of the farm bill's biggest faults, as Senators ROBERTS and LUGAR pointed out often during the farm bill debate on the floor of the Senate. Increased price supports could not help much when there is no crop to be harvested.

During the Senate farm bill debate, Senator LUGAR brought up the idea of expanded crop and livestock revenue insurance. Senator ROBERTS called for more emphasis on direct, decoupled, nonproduction-related payments. Both are solid, sound ideas, but Congress did not listen. Now we must play with the cards we have dealt ourselves.

It is important we do not hold drought-plagued agricultural producers hostage to a shortsighted farm bill. The President said any new agricultural disaster aid must come from the \$73.5 billion in new agricultural funding. I agree with the President. We should find the necessary offsets for this new funding. But we must act quickly to find the necessary disaster aid to help minimize the drought's impact on local economies. America will see a ripple effect on these economies. The economies of many States are directly tied to agriculture and food production.

We are not limited to just an agricultural disaster package. There are other ways in which Washington is helping our agricultural producers this year.

Secretary Veneman has been making disaster declarations for counties across the country, which allows eligible agriculture producers to receive emergency low-interest loans. She has approved grazing and haying on Conservation Reserve Program acres throughout the country, including almost 40 Nebraska counties.

Also, I would like to remind my colleagues of an important bill recently introduced by the senior Senator from New Mexico. Senator DOMENICI's National Drought Preparedness Act S. 2528 would move us away from the costly, ad-hoc, response-oriented approach to droughts to a comprehensive, proactive national drought policy. We need an established program that will allow local, State, and Federal Governments to work together—to coordinate a drought preparedness strategy.

Droughts do not happen overnight, and the damage they cause to the economy and environment do not go away with one measurable rainfall. Government cannot bring an end to the drought or bring pastures and crops back to life. But we can help our agriculture producers survive, weather this crisis, and prepare for the next growing season. With many of my colleagues in the House and Senate, I am working on an emergency drought disaster package to bring before the Congress.

I urge all of my colleagues to help find a responsible way to get America's agriculture producers the help they need—as soon as possible.

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

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

Mr. REID. Mr. President, how much time do the Republicans have?

The ACTING PRESIDENT pro tempore. The Republicans have 5 minutes 30 seconds.

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

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. BOXER. Will the Presiding Officer advise me if the time of the Republicans has run out?

The ACTING PRESIDENT pro tempore. The time of the Republicans has expired.

Mrs. BOXER. Thank you very much, Mr. President.

What is the order now?

The ACTING PRESIDENT pro tempore. The majority leader or his designee has control of the remaining 20 minutes.

Mrs. BOXER. Thank you very much, Mr. President.

CORPORATE ENVIRONMENTAL RESPONSIBILITY

Mrs. BOXER. Mr. President, I come to the floor today to discuss a matter that is very related to the whole issue of corporate responsibility. Sometimes the people do not connect the issue of the environment with corporate responsibility, but I am going to do that this morning with the Senator from Illinois, as we touch on some of the policies of this administration, which are really, in my view, putting us in a very dangerous situation in terms of taking a stand with the corporate polluters versus the people of this country who deserve to have protection from environmental hazards. This is not a discussion about ideology, it is really a discussion about the checks and balances that there have to be in this country so we can have robust economic growth along with the sense that there will be responsibility and people will be protected.

I have found out, in my long history in politics, that in fact if you are good to the environment and if you care about the health and safety of people, you will have, actually, development of new businesses to deal with pollution and you will have prosperity.

We go back in the environmental movement to the days when rivers in this country were on fire, they had so many hazards in the waterways, such as in Ohio and other places. That is what started the Clean Air Act. We go back to the days when you could literally see the air in some of our big cities. We turned it around in such a way that the people benefited both from a healthier environment and a robust economy.

So this argument that we should step away and no longer say to corporations that pollute: You have a responsibility to clean up your mess—the fact that this administration seems to take that position is at odds with our history and is at odds with what we ought to be doing.

On Monday, July 1, a report by the Environmental Protection Agency inspector general was released stating that the EPA has designated 33 sites in 18 States for cuts in financing for the Superfund cleanup program. The reason this administration decided to do this is, frankly, they are depleting the Superfund, which is a fund that is set up via a fee by polluting corporations, and the administration is not interested, at least to now, in making sure that we have that fund, that that fund is not depleted.

The report that was commissioned several months ago by Democrats in

the House finally did come back. I have to say, as the chair of the Superfund Subcommittee in the Environment Committee, we have been trying to get this information from EPA for several months. We have not been able to get it. I thank my colleagues in the House for going to the inspector general.

The 33 sites are National Priorities List sites, and they are among the most toxic in the country. So instead of saying, we are going to clean them up, the administration is walking away from them.

What do these sites contain? Let me say, you may want to know this information but you would not want to get near it. The sites contain arsenic, Agent Orange, dioxin, and industrial pesticides.

The report indicates that EPA's Atlanta regional office staff say there is a bottleneck on new starts for cleanup and that there must be maintenance of cleanup progress. The Dallas office reports they have problems. They did not receive \$56 million. The Kansas office says they need \$100 million. The Denver regional office at EPA says they did not get the \$10 million they were to receive.

Here is the point. For an administration that says, trust the people who are working in the field, this administration has turned its back on their regional offices.

One of the excuses the administration comes up with—and then I will yield to my friend from Illinois—is that, well, it is true the Clinton sites were cleaned up—I have a chart showing progress that was made under President Clinton. We see, in the last 4 years of his administration, 88, 87, 85, and 87 sites. That is the number of sites that were cleaned up. Under this administration, they told us, when we asked them, they wanted to clean up 75, 65, and 40 sites. Now it is 47, 40, and 40 sites.

We are looking at a terrible diminution in the number of sites cleaned.

One of the things they say is: Well, there are no tough sites left. They were cleaned up by Clinton.

So we did a little research. One of the sites that was cleaned up by the Clinton administration is the Illinois site.

I want to bring this up so my colleague can hear this. The NL Industries Corporation smelter site in Illinois was cleaned up. For them to say they didn't clean up any hard sites is ridiculous. The site was used for lead smelting operations from the turn of the century until 1983. It included 100 square blocks and 1,600 residences were affected. Ten percent of the children living near the site had blood levels of lead above 10 micrograms, which is an unsafe level. The responsible parties fought the EPA. We had to go to the Superfund to get the money. It was not a simple site. The cleanup was important for the children. The site was cleaned up.

Why was it cleaned up? Because the Clinton administration used that Superfund, and they were committed

to cleaning up the site. I am sure my colleague will attest to the fact that the site is quite different today.

That is the reality. That is why we are on the floor—because this is a great program. It had some problems in the early stages. It wasn't moving. But by 1992 it really started.

It is a sad day when I am here to tell you that this administration is not cleaning up its act.

Mr. DURBIN. Mr. President, if the Senator will yield, I thank the Senator from California for her leadership on this issue. I hope the Senator will bear with me for a moment. I think for those who are following this debate, a little history goes a long way.

There was a time in America, in my home State of Illinois, when people would strip-mine coal. They would literally drag the coal out from just below the surface and leave behind this terrible wasteland that looked like craters on the Moon. Over time, people started saying: It is not only ugly but the runoff is dangerous, and we ought to require the coal companies to restore the land after they have strip-mined so it can be used for something—so it looks a little bit like it looked when God created it.

That really reflected a kind of change in the national conscience which said it isn't enough to take the land, or take parts of America, blight them, make them toxic and dangerous for someone to make a profit.

We said, as we looked around America and found toxic waste and hazardous waste, that is a danger to our environment, to the people living nearby and to the ground water. President Carter—a Democrat—said let us put together a Superfund tax where the corporations, the businesses which are polluting businesses, will pay a tax to pay for the cleanup of the mess left from this industrial work.

The reason I wanted to get into this history a little bit is that, as I understand from staff, although it was passed by President Carter—obviously, a Democrat—and a Democratic Congress, a few years later, in 1986, President Ronald Reagan—a Republican—not only reauthorized the same program but said, yes, corporations around America should be held accountable; they should pay a fee or a tax to clean up the toxic waste sites across America through the Superfund. Not only did this Republican President restore it, but he raised the tax. He said we need more money to do this on a national basis.

Now we had a bipartisan commitment to this concept from a Democratic President, Jimmy Carter, and a Republican President, Ronald Reagan. They assumed that America would stand behind the concept of corporate responsibility when it came to environmental cleanup.

Now enter President Clinton at a later point. He said to Congress, we need to reauthorize this same law to keep up this program. What he ran into

was a Republican Congress, a probusiness Congress, that said: We don't believe that is the right thing to do any longer. So they wouldn't reauthorize the Superfund. The collection of about \$2 billion or more a year to clean up America started evaporating as the taxes and fees were not being collected to clean up the polluted mess across America. Now we are down to \$25 million, or \$26 million for all of this mess around America.

The Senator from California, in a bipartisan effort, I might add, with Senator CHAFEE of Rhode Island, says we ought to reestablish the Superfund. If it was good enough for Democratic President Carter and Republican President Reagan, if Congress—Democratic and Republican—thought it was a good concept, why are we walking away from it?

When I was back home on the Fourth of July break, I went to two sites in Chicago. I went to one site in the southeastern part of the city. It is an industrial graveyard from an operation not many years ago, and 75,000 manufacturing jobs are now gone. I went to the LTV Steel Corporation site, a company that declared bankruptcy just last December. I took a look at the toxic waste which the Superfund left behind.

I went up to north to Waukegan. For over 20 years, Waukegan has been dealing with mercury and PCBs dumped into Lake Michigan—something we value as part of our national heritage. They are in a position of limbo with a suspended mix of efforts to clean it up. It is within a stone's throw of Lake Michigan. We pointed out the outboard marine site. Waukegan said this is a site which won't be cleaned up because the Superfund is not being funded again by the Bush administration. They refused to put the money into environmental cleanup.

That is irresponsible. It is irresponsible not to hold liable the corporations that produce the chemicals that we find over and over again at these sites. If they want to make a profit producing these chemicals, is it unreasonable to suggest they pay a fee so they can clean up the aftermath of the use of these chemicals which have blighted parts of America?

I say to the Senator from California, as we view this issue, some say: There go the Democrats again with their outlandish environmental policies. But if you look at the history, this has been a bipartisan approach from the start. I ask the Senator from California, who has been our leader on this issue, if she could comment on that.

Mrs. BOXER. Mr. President, I first thank the Senator from Illinois for his eloquence on this subject. Again, this isn't really a theoretical thing at all. We see the progress that has been made during the last 8 years. It is amazing to look at the difference because there were, frankly, problems with the Superfund Program for a while. They weren't really doing a good job of it.

Under Carol Browner began a shake-up, and they began to get through all the problems.

Here we are. My friend is right. This is not only important for the environment, and not only bipartisan, as he pointed out, but it is really, in my view, a probusiness situation. When they leave behind a mess such as this, then they go somewhere else and go before the planning commission in some little place in Illinois, or California, or Louisiana, and this big company XYZ wants to come in and do some work over here with a plant, what is their record? Now the county supervisor or the planning commission can look back and say: Oh, my God, the XYZ company left a mess in California. The truth is that the company is not going to be welcomed.

To me, it is probusiness to clean up your mess. It is going to help your business. It is, in fact, a part of corporate responsibility. It is our responsibility to make sure that polluters pay.

I want to share a chart with my friend that shows what has happened with this program.

In 1995, 82 percent of the cleanup was paid by industry. Either through responsible parties coming forward and paying for the mess they made, or the Superfund itself—as my friend points out, as opposed to the dollars that are collected from a fee on polluters—only 18 percent had to be made up by the general taxpayers.

By 2003, if the situation continues to deteriorate under this President, 46 percent of the cleanup is going to be paid for by our constituents who had nothing to do with the dumping of those materials. This should fall on the people who made the mess. The polluters should pay. It is part of the Superfund.

As we talk about corporate irresponsibility and as we talk about ways we can put confidence back into the system, we shouldn't forget that corporate responsibility is reflected in the Superfund Program. It has been reflected. It has been a successful program. That is why it was embraced by many Republicans. That is why I hope it will be again embraced by many, although I am very concerned, frankly, that the bipartisan nature of this is slipping away in this atmosphere today.

I am very proud to have Senator CHAFEE of Rhode Island as the key Republican sponsor of the Superfund legislation.

Mr. DURBIN. If the Senator will yield for one last question, is this not the same basic concept as protecting pensions? If a corporation accepts the responsibility of going into business, hiring people, making a promise that the people who work for them when they retire will have a pension, then that corporation violates its trust and responsibility and destroys the pension, like the Enron officers cashing in on stock while the pensioners were losing everything they had in their 401(k)s

isn't this a similar situation where if a business in America says, I want to create a business here and I want to try to make a profit and I am going to hire people to do it, isn't there kind of a social contract involved here that says: You can't pollute the land and walk away from it as part of doing business in America; part of your responsibility as a corporation is to take responsibility for keeping that natural heritage we all respect so much protected.

Eliminating Superfund takes away the responsibility of these corporations to clean up their own mess and says no to the families at large and businesses across America: It is now your responsibility.

It seems to me, whether we are talking about pensions or the environment, corporate responsibility really applies at the same level. I ask the Senator from California, does she see a distinction here? I do not.

Mrs. BOXER. That is an excellent analogy. If a corporation makes certain promises to the people they employ and that is part of the contract and if a corporation comes into a community to be a good neighbor and that is part of the deal, then they should not walk away from either. That is why it is important sometimes that the Government, the House and Senate, the President, make sure that we get in and restore justice.

Talk about justice, a lot of these sites—take a look at the sites shown in purple on the chart—are the major polluted sites. They are in every State but North Dakota. My State has the second number. New Jersey has the first. Illinois is up there, unfortunately. There are many States that are affected.

We are talking about walking away from a lot of places when we deplete the Superfund. We are walking away from "polluter pays."

I thank my friend. There is a definite analogy to be made. He has made it very clearly, as he usually does when we talk about the issue of corporate responsibility.

Today we are concentrating on the WorldComs and Global Crossings and the Enrons and Arthur Andersen and the ImClones. We know those names now. Those names and what is behind those names has propelled us in the Senate to take up the very important Sarbanes bill. The Leahy bill will be added, and the bill will become the Sarbanes-Leahy bill. We have been propelled into action because of, as President Bush says, these bad actors.

I think it goes beyond that to the system. There are no checks and balances in that system. If we don't have a Superfund, I say to the Senator, we have no check and balance on those bad actors who would walk away.

Let me say to my friend, is he familiar with that site I talked about that was cleaned up?

Mr. DURBIN. I am. I say to the Senator from California, we have three Superfund sites in the State of Illinois, another 18 that must go on the list, and

6 others we think could be eligible. Frankly, if the Bush administration's proposal goes through, it means no Superfund, no money, no cleanup. That means the public health hazard will remain.

Today the President will go to New York to talk about corporate responsibility. He wants to throw the bad actors in jail. That makes sense. The simple fact is, an actress accused of shoplifting in California is facing potentially more prison time than any officer of Enron is facing today. I might say, if the President's premise, his principle is sound, why do we stop and say it is just when it comes to accounting? If a corporation walks away from its responsibility in terms of cleaning up the environmental mess they have left behind, why aren't we talking about that as being the kind of misconduct that should not only be condemned but punished?

Instead, the administration has said: We don't even want to hold them liable for paying for it. No penalty, no crime, they are not even going to be liable for paying for the cleanup.

The Senator from California has made the point so well today: Corporate responsibility goes way beyond accounting. It goes into the handling of pensions. It goes into the environmental responsibility that corporations have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. LANDRIEU). According to the earlier order, morning business is now closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 4174

(Purpose: To provide for criminal prosecution of persons who alter or destroy evidence in Federal investigations or defraud investors of publicly traded securities, and for other purposes)

Mr. DASCHLE. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DASCHLE], for Mr. LEAHY, for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 4174.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Madam President, on behalf of Senator LEAHY and others, I offer this amendment which is identical to the Corporate and Criminal Fraud Accountability Act, S. 2010, passed unanimously by the Judiciary Committee some time ago.

I view the Leahy amendment as a necessary complement to the Sarbanes bill. In fact, I think of them as two parts of a vital whole—one element guarantees the truth and honesty of corporate accounting. The other is a deterrent. It says that corporate misrepresentation will be forcefully punished—with jail time.

We need both. We need to improve oversight and independence of the accounting profession and hold corporate wrongdoers accountable for their actions.

We need to act comprehensively to fulfill our promise to the American people that integrity, honesty, and accountability will be restored to our markets.

Last week Senator LEAHY and I wrote to the President requesting his views on this bill and the Sarbanes accounting reform bill.

Unfortunately, the President has not answered our letter yet. But I hope to hear today—and I think we need to hear today—that he supports and will sign both.

We welcome the President's apparent new enthusiasm for reforming our corporate culture, and we look forward to working with him.

The administration needs to understand that the time for half measures has long passed. The American people expect and deserve comprehensive reform.

Combining the Leahy bill and the Sarbanes bill accomplishes just that. The Sarbanes bill revamps the regulatory structure that protects our markets. There will be better rules and a new oversight body to send corporations and accountants a clear message that they must tell the truth on their balance sheets.

The Leahy bill is every bit as vital. Let me summarize a few of its provisions very quickly. The amendment has three aims: punishing criminals; preserving evidence; and protecting victims.

The Leahy amendment punishes criminals by creating a tough new 10-year felony for securities fraud. It provides prosecutors with a new tool that is flexible enough to keep up with the

most complex new fraud schemes and tough enough to deter violations on the front end. It also provides a mechanism to raise the fraud sentences that are already on the books.

The amendment also preserves evidence of fraud. It creates two new criminal anti-shredding provisions in federal law. As we say in the Arthur Andersen case, even the most straightforward obstruction of justice cases can be difficult to prove under current law.

Senator LEAHY's bill closes the loopholes and makes document destruction in fraud cases an unambiguous crime.

The amendment does not just protect "paper evidence," it also protects valuable testimony from people. For the first time, the Leahy bill creates federal protection for whistleblowers. People like Sherron Watkins of Enron will be protected from reprisal for the first time under federal law. This bill is going to help prosecutors gain important insider testimony on fraud and put a permanent dent in the "corporate code of silence."

Finally, the amendment will protect victims of fraud. By extending the time period during which victims can bring cases to recoup their losses, the Leahy bill removes the reward for those fraud artists who are especially gifted at concealing what they've done for lengthy periods of time.

Cases where victims have lost their entire life savings should be decided on the merits, not based on procedural hurdles that may now be used to throw legitimate victims out of court.

The Leahy bill also prevents fraud artists from declaring bankruptcy to shut out their victims. The amendment would accomplish this by making security fraud debts nondischargeable in bankruptcy.

Again, the Leahy provisions enjoyed broad bipartisan support in the Judiciary Committee when passed unanimously in April. They are needed now more than ever, as the number and magnitude of corporate misstatements continues to pile up and the lost jobs, lost pensions, and ruined lives continue to mount.

We must act to punish criminals, no matter what color their collar. I hope all Senators will support this amendment.

Madam President, the country will be listening intently to what the President says this morning. A crucial test will be whether he explicitly supports—and pledges to sign—the Sarbanes bill with the Leahy legislation attached. We cannot restore confidence in the integrity of our markets with anything else.

Senator LEAHY is on the floor.

Mr. LEAHY. Will the majority leader yield?

Mr. DASCHLE. Yes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I very much appreciate what my good friend, the distinguished majority leader, has

said. I also compliment him for his leadership on corporate accountability. Sometime ago, he asked the Chairs of the various committees with possible jurisdiction in this area to get together and craft comprehensive legislation. I recall that meeting very well. I recall the majority leader—back at the time of Enron, before WorldCom and these other business scandals came forward—expressing his concern that not only is this a blight on the business community, it is a blight on our system of doing things. He also spoke about how terrible it was for those people, not only workers who had their pensions tied up in the fortunes of the companies they are working with and are relying on for truthfulness—what they assumed is the truthfulness—of the accounting statements of those companies, but also many other people who invest, whether it is a farmer in South Dakota or a merchant in a small town in Vermont who is putting savings in and hoping this will be part of his retirement.

The majority leader made it very clear to all of us that we were to set politics aside, we were to set any kind of special interests aside, and we were to bring up the best legislation possible for the people of America. That was what Senator DASCHLE charged us to do, and that is what I am trying to do with this amendment.

We have excellent accounting reform legislation, S. 2673, crafted by Chairman SARBANES and the Senate Banking Committee. I commend Senator SARBANES and the other members of the Banking Committee—for their bipartisan leadership. Senator SARBANES had people on both sides of the aisle come out with this legislation, and I am proud to cosponsor it.

My amendment is to add to Senator SARBANES' legislation, not to detract from it. As he knows, I offered to add a criminal penalty and other provisions that are within the jurisdiction of the Judiciary Committee.

My amendment is cosponsored by Senator MCCAIN and the majority leader, Senators DURBIN, HARKIN, CLELAND, LEVIN, KENNEDY, BIDEN, FEINGOLD, MILLER, EDWARDS, BOXER, CORZINE, KERRY, SCHUMER and BROWNBACK. Our amendment is identical to S. 2010, the Corporate and Criminal Fraud Accountability Act that was reported unanimously by both Republicans and Democrats in the Judiciary Committee on April 25.

Again, following the very clear direction the distinguished majority leader gave us when he said we have to protect the people of this country, we have to make sure corporate America can do its best to help our economy, this would create tough new penalties for securities fraud and would preserve evidence of fraud to make sure there is accountability for crimes that not only cheat investors but rob the markets themselves of the public trust. The markets have stolen the public's trust.

According to press reports, President Bush has changed his mind on corporate reform and may support new penalties for corporate fraud, and I welcome the President's change of heart. The Corporate and Criminal Fraud Accountability Act creates tough, new, criminal penalties for corporate fraud, and Senator DASCHLE and I have written to the President asking for his support.

The time for watching and hand-wringing is over. We have to take action to start the slow but critical process of restoring confidence in the books of our publicly traded companies.

The collapse of Enron has become a symbol of a corporate culture where greed has been inflated and accountability devalued. Unfortunately, Enron is no longer alone. Joined by Arthur Andersen, Global Crossing, Tyco, Xerox, and, most recently, WorldCom, the misrepresentations about the financial health of our Nation's largest companies have shaken confidence in our financial markets.

If we do nothing to learn and apply the repeated lessons of the last months, we are only going to compound the problem. That was obviously the belief of the unanimous Judiciary Committee vote when the committee approved S. 2010. Innocent consumers, investors, and employees depend on stock investments for their children's college funds, for their retirement nest eggs, and for their savings. Every week brings news of a new financial scandal. Just look at the effect on the stock market. It has been devastating. This has repercussions not just for companies that depend on our capital markets to grow their businesses and our economy, but certainly also for the average American family. More than one in every two Americans invest in our financial markets, and they are watching what we do here. They deserve action.

Those who defraud investors should be held accountable for their crimes. The Leahy-McCain amendment, the Corporate and Criminal Fraud Accountability Act, is all about accountability and transparency—two bedrocks of our market.

The PRESIDING OFFICER. The Chair states that the majority leader has yielded for a question only while retaining the floor. Is that the intent of the majority leader?

Mr. DASCHLE. Madam President, it was my intention to yield for a question, but I thank the distinguished chair of the Judiciary Committee for his extraordinary leadership and the effort he has made to bring this legislation to the floor.

This is the Leahy amendment and, as I noted, it passed unanimously in large measure because I think he was able to work with our colleagues on both sides of the aisle.

I am happy to yield the floor so he and others may seek recognition.

Mr. LEAHY. My question would be this to the majority leader: Would he

agree, in his experience, that nothing would focus the attention more of those executives who have defrauded their own companies and investors than the idea that they would actually go to jail for it, and not walk off with hundreds of millions of dollars?

Mr. DASCHLE. Madam President, it is for that reason that I believe this package ought to be viewed in its entirety. The Sarbanes bill lays out the framework. The Leahy bill lays out the penalties for violating that framework. So I don't know that you can have one without the other and not have a complete package.

So I appreciate very much the work of the Judiciary Committee, and the chair of the Judiciary Committee especially, for the work in allowing this package to come to the floor. I thank him again for the contributions he made.

Several Senators addressed the Chair.

Mr. LEAHY. Madam President, I seek recognition in my own right.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 4175 TO AMENDMENT NO. 4174

Mr. GRAMM. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. LEAHY. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. What is the rule on recognition? Is it not the Senator who seeks recognition first?

The PRESIDING OFFICER. The Chair understands that the managers of the amendment are entitled to be recognized.

Mr. LEAHY. On my amendment? May I be recognized on my own amendment which is pending before the Chair? Is that correct?

The PRESIDING OFFICER. The managers of the legislation have priority.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the manager of the underlying bill.

Mr. LEAHY. Would the managers of the amendment include the distinguished senior Senator from Kentucky? Is he one of the managers?

The PRESIDING OFFICER. The managers of the legislation are the Senator from Maryland and the Senator from Texas.

Mr. LEAHY. The distinguished Presiding Officer has recognized, however, the Senator from Kentucky.

The PRESIDING OFFICER. The Chair has recognized the Senator from Texas. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. McCONNELL, proposes an amendment numbered 4175 to amendment No. 4174.

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

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The assistant legislative clerk continued with the reading of the amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I want to make sure people understand what the Leahy-McCain amendment is. I realize there may be those who want to amend it to make life easier.

The PRESIDING OFFICER. Will the Senator from Vermont suspend? The regular order is the reading of the amendment.

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

The PRESIDING OFFICER. Is there objection to calling off the reading of the amendment? Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for certification of financial reports by labor organizations and to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations)

At the end of the amendment add the following:

SEC. 302. CORPORATE AND LABOR ORGANIZATION RESPONSIBILITY FOR FINANCIAL REPORTS AND DISCLOSURE REQUIREMENTS.

(a) FINANCIAL REPORTS.—

(1) CERTIFICATION OF REPORTS.—

(A) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(B) CERTIFICATION OF FINANCIAL REPORTS BY LABOR ORGANIZATIONS.—

(i) IN GENERAL.—Each financial report filed by a labor organization with the Secretary of Labor pursuant to section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) shall be accompanied by a written statement by the president and secretary-treasurer (or the equivalent thereof) of the labor organization.

(ii) DEFINITION.—In this subparagraph, the term "labor organization" has the meaning given the term in section 3 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402).

(2) CONTENT.—The statement required by paragraph (1) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer or labor organization.

(3) CONFORMING AMENDMENT.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 is amended, in the matter preceding paragraph (1), by inserting "(and accompanied by the statement described in section 302(a)(1)(B) of the Public Company Accounting Reform and Investor Protection Act of 2002)" after "officers".

(b) REPORTING REQUIREMENTS.—

(1) FINANCIAL REPORTING FOR LABOR ORGANIZATIONS EQUIVALENT TO REQUIRED REPORTING

OF PUBLIC COMPANIES.—Section 201 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431) is amended by adding at the end the following:

“(d)(1) In the case of a labor organization with gross annual receipts for the fiscal year in an amount equal to \$200,000 or more, the information required under this section shall be reported using financial reporting procedures comparable to procedures required for periodic and annual reports of public companies pursuant to sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(2)(A) Such information shall be reviewed by a certified public accountant using generally accepted auditing standards applicable to reporting companies under the Securities and Exchange Act of 1934.

“(B) Such audit shall be conducted subject to requirements comparable to the requirements under section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1).

“(3) Such information shall be reported using generally accepted accounting procedures comparable to the procedures required for public companies under sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(4) The authority provided under this subsection shall be in addition to the authority provided under subsection (b) and section 208, regarding reporting procedures and review of information required under this section.”.

(2) REMEDIES AND PENALTIES FOR VIOLATIONS OF REPORTING REQUIREMENTS.—Section 210 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 440) is amended—

(A) by striking “Whenever” and inserting “(a) Whenever”; and

(B) by adding at the end the following:

“(b)(1) If the Secretary finds, on the record after notice and opportunity for hearing, that any person has willfully violated any provision of section 201(d), the Secretary may impose a civil monetary penalty in an amount not to exceed the amount for any comparable violation under section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2).

“(2) In the case of a violation of an auditing requirement under section 201(d)(2) by a public accountant, the Secretary may impose a civil monetary penalty in the same manner as penalties are imposed under section 10A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(d)).

“(3) For purposes of any action brought by the Secretary under paragraph (1), any person who knowingly provides substantial assistance to another person in violation of a provision of section 201(d), or of any rule or regulation issued under such section (including aiding, abetting, counseling, commanding, or inducing such violation) shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

“(c)(1) Any person who makes or causes to be made any statement in any report or document required to be filed under section 201(d) which statement was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who relied upon such statement. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction.

“(2) In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys’ fees, against either party litigant.

“(3) The recovery and statute of limitation provisions of subsections (b) and (c) of section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) shall apply for purposes of any action under this subsection.

“(d) In any action arising under subsection (c) or (d) or in connection with any provision of section 201(d), the provisions of section 27(c) of the Securities Act of 1933 (15 U.S.C. 77z-1(c)) regarding abusive litigation shall apply.”.

(3) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, shall promulgate such regulations as the Secretary determines necessary to carry out the provisions and purposes of this subsection (including the amendments made by this subsection) and to ensure the provisions of this subsection are carried out in a manner comparable to the manner any similar provisions are carried out by the Securities and Exchange Commission.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, so people understand what the Leahy-McCain amendment is, it is the Corporate and Criminal Accountability Act. It is about accountability, and it is about transparency. I think everybody—investors, corporate managers, or anybody else—will tell you that accountability and transparency are the bedrock of our economy, of our markets.

If one is going to invest in a company, one wants to know what the company does and what the books say. One wants to be able to rely upon their reports.

Transparency will instill confidence, and accountability helps enforce transparency and forthright financial decisions. We do not just rely on the better angels of our nature; we rely on the fact that somebody is going to be there to enforce it.

We cannot stop greed, but we can stop greed from succeeding. This bipartisan amendment is going to send wrongdoers to jail and save documents from the shredder, and that sends a powerful and clear message to potential wrongdoers: Don’t do it.

The measure enjoys wide support. The amendment is supported by law enforcement officials, regulators, and numerous whistleblowers, and consumer protection advocates. I have letters of support from these advocates, and I will, at the end of my statement, ask consent to print them in the RECORD.

Let me summarize some of the provisions. This bipartisan amendment has three prongs to restore accountability: punishing and preventing fraud, preserving the evidence of fraud, and protecting victims of fraud.

S. 2010, as unanimously reported, accomplishes these goals in a number of ways. It is going to create a tough new Federal felony for securities fraud for a 10-year maximum penalty. The idea of 10 years in the slammer is going to focus the attention of those who are more interested in taking their money and hiding it in offshore bank accounts.

As one who was a prosecutor, I was surprised to learn that unlike bank fraud, health care fraud, and even bankruptcy fraud, there is no specific Federal crime of securities fraud to protect victims of fraud related to publicly traded companies.

Can you imagine, Madam President, while all this talk has been going on, it turns out there is no specific crime of securities fraud. This bill would create such a felony with a tough 10-year jail sentence.

The amendment provides for a review of the existing sentencing guidelines for fraud cases and for organizational misconduct to make them tougher as well.

The new crimes and enhanced criminal penalties in this bill were worked out among Senators HATCH, SCHUMER, and me, and unanimously supported by the Judiciary Committee, and I thank Senators HATCH and SCHUMER for their support.

The Leahy-McCain amendment also creates two new anti-shredding penalties which set clear requirements for preserving financial audit guides and close loopholes in current anti-shredding laws.

These provisions close loopholes in current laws and set a clear requirement that corporate audit documents must be saved for 5 years. We, incidentally, picked that time period because that is the statute of limitation for most Federal crimes.

These provisions are crucial in preventing recurrences of what happened at Arthur Andersen.

These provisions will preserve evidence that helps law enforcement officers and prosecutors focus immediately on the evidence. It takes a few minutes to warm up the shredder, but it can take years for prosecutors and victims to put together a case without key documents.

The amendment protects corporate whistleblowers. Senator GRASSLEY and I worked out these bipartisan measures in the Judiciary Committee. I thank the Senator from Iowa for his assistance and his constant leadership over the years on whistleblower rights.

When sophisticated corporations set up complex fraud schemes, corporate insiders are often the only ones who can disclose what happened and why.

Unfortunately, the Enron case also demonstrates the vulnerability of corporate whistleblowers to retaliation under current law. This is a memo from outside counsel to Enron management. They were afraid there might be a whistleblower. It said:

You also asked that I include in this communication a summary of the possible risks associated with discharging (or constructively discharging) employees who report allegations of improper accounting practices.

Then he goes on to give them the good news:

Texas law does not currently protect corporate whistleblowers. The supreme court has twice declined to create a cause of action for whistleblowers who are discharged. . . .

In other words, if they dare tell about corporate misdeeds, fire them, it is not going to hurt.

After this high-level employee of Enron reported improper accounting practices, the Enron executives were not thinking about firing the accountants who were doing wrong; they wanted to fire the whistleblower, their own employee. Why? Because they were pocketing the money. They were getting that money out to their bank accounts as fast as they could, and they did not want anybody to say so.

The bipartisan whistleblower protections are supported by the National Whistleblower Center, the Government Accountability Project, and Taxpayers Against Fraud. They call S. 2010 "the single most effective measure possible to prevent further recurrences. . . ."

The measure lengthens the statute of limitation by extending it from the earlier of 1 year from discovery or 3 years from the fraud to 2 years from discovery or 5 years from the fraud.

Senators FEINSTEIN and CANTWELL worked hard to craft a fair compromise on this provision in the Judiciary Committee.

Indeed, the last two SEC Chairmen from both parties, Arthur Levitt and Richard Breeden, both agreed that the current short statute of limitations is unfair to fraud victims.

Attorney General Christine Gregoire testified before the Judiciary Committee in the Enron State pension fund litigation that the current short statute has forced some States to forego claims against Enron.

In Washington State alone, the short statute of limitations could cost hard-working State employees—firefighters and police officers—nearly \$50 million in lost Enron investments.

Last week, Xerox announced it was restating its revenue back 5 years by \$6.4 billion. Madam President, as a law student, I remember sitting in the gallery listening to the distinguished Senator from Illinois, Mr. Dirksen, give his well-known speech: "A billion here and a billion there, and soon you're talking about real money."

Imagine a corporation claiming they made a mistake in their revenue of \$6.4 billion for the past five years. The disclosures raise the specter of innocent investors who, through no fault of their own, will be barred from recouping losses.

We make the debt from security law violations nondischargeable in bankruptcy. We protect fraud victims by amending the bankruptcy code to make judgments and settlements based upon security law violations nondischargeable. Corporate leaders should not be allowed to take the money, run, file bankruptcy, and keep from ever paying any securities fraud judgment. The State security regulators strongly support this change. You cannot have one set of rules which say if you steal \$500 from a store, you can go to jail. But if you steal \$50 million from the corporate boardroom,

keep the money. That makes no sense. Everywhere I went in the State of Vermont last week, people were saying: If I committed an act, if I stole something, if I cash a bad check for \$100, I run the risk of going to jail.

But what do you do if you get \$50 million or \$100 million? You are home free.

Criminal conduct deserves criminal penalties. Corporate CEOs who rob their company, who rob the pension funds of their employees, who rob the trust of the American people, are criminals. They ought to go to jail.

The steel bars, maybe that will give a conscience to some of these people like Kenneth Lay and others who obviously do not have one. This gives prosecutors, the investigators, and victims the tools to hold corporate wrongdoers accountable.

The people who are involved in such massive criminal activity ought to pay. The American people ought to know they will have to pay. If they don't, there will be a whole lot more fraud.

I ask unanimous consent to have a number of letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TAXPAYERS AGAINST FRAUD,
Washington, DC.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, July 5, 2002.

DEAR SENATOR: The Government Accountability Project (GAP) and the Taxpayers Against Fraud (TAF) reaffirm our support for the Leahy Corporate and Criminal Fraud Accountability amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Initially introduced as S. 2010, the Corporate and Criminal Fraud Accountability Act, was unanimously reported by the Senate Judiciary Committee on May 6, 2002. This amendment is a landmark proposal. It promises to make whistleblower protection the rule rather than the exception for those challenging betrayals of corporate fiduciary duty enforced by the Securities and Exchange Commission. It would be the single most effective measure to prevent recurrences of the Enron and Worldcom debacles as well as similar threats to the nation's financial markets, shareholders and pension holders.

GAP is a nonprofit, nonpartisan public interest law firm dedicated since 1976 to helping whistleblowers, those employees who exercise freedom of speech to bear witness against betrayals of public trust that they discover on the job. GAP has led the campaign for passage of nearly all federal whistleblower laws over the last two decades. TAF is a nonprofit, nonpartisan public interest organization dedicated to combating fraud against the Federal Government through promotion and use of the federal False Claims Act and its qui tam whistleblower provisions. TAF supports effective anti-fraud legislation at the federal and state level.

The Leahy amendment to S. 2673 is outstanding good government legislation. It closes the loopholes that have meant whistleblowers proceed at their own risk when warning Congress, shareholders, and their own management's Board Audit Committees of financial misconduct threatening the

health of their own company, investor confidence and the nation's economy. We hope we can count on your support to add this state of the art whistleblower protection system in S. 2673. If you have any questions regarding the Leahy amendment, please call Tom Devine at GAP (202-408-0034 ext. 124), or Doug Hartnett (ext. 136).

Sincerely,

JIM MOORMAN,
Executive Director, TAF.
TOM DEVINE,
Legal Director, GAP.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATIONS, INC.,
Washington, DC, July 5, 2002.

Hon. PATRICK LEAHY,
Washington, DC.

DEAR SENATOR LEAHY: NASAA supports S. 2673, The Public Company Accounting Reform and Investor Protection Act of 2002, and opposes efforts to weaken its provisions. State securities regulators believe there is an immediate need to restore investor confidence in our securities markets.

Passage of the Leahy amendment, which incorporates S. 2010, the Corporate and Criminal Fraud and Accountability Act of 2002, into the accounting reform bill would send a strong deterrent message to potential securities violators by providing prosecutors with new and better tools to punish those who defraud our nation's investors. Our focus is on Section 4, which would prevent the discharge of certain debts in bankruptcy proceedings. At the present time, the bankruptcy code enables defendants who are guilty of fraud and other securities violations to thwart enforcement of the judgments and other awards that are issued in these cases.

We support passage of the Leahy amendment because it strengthens the ability of regulators and individual investors to prevent the discharge of certain debts and hold defendants financially responsible for violations of securities laws. This issue is of great interest to state securities regulators, and we hope you'll support it on the Senate floor.

In addition, state securities regulators enclose Title V of S. 2673—Analyst Conflicts of Interest—in its current form and strongly oppose any amendment to this title that would reduce our ability to investigate wrongdoing and take appropriate enforcement actions against securities analysts. An amendment drafted by Morgan Stanley was circulated that, we believe, would have prohibited state securities regulators from imposing remedies upon firms that committed fraud, if it involved securities analysts and perhaps even broker-dealers that deal with individual investors. Clearly this approach is ill-advised, especially in today's climate. What message would be sent to Main Street investors if the states' investigative and enforcement authority were weakened? (Additional information on this proposal was delivered to your office last week.)

Please vote for passage of S. 2673, for the Leahy amendment, and against any amendments to curtail state securities enforcement actions.

Sincerely,

JOSEPH P. BORG,
NASAA President,
Alabama Securities
Director.

CHRISTINE A. BRUENN,
NASAA President-elect,
Maine Securities Administrator.

AMERICAN FEDERATION OF LABOR
ANDCONGRESS OF INDUSTRIAL
ORGANIZATION,

Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Senate Judiciary Committee, Washington, DC.
Legislative Alert!

DEAR SENATOR LEAHY: The sudden and spectacular collapse of Enron has jeopardized the retirement security of millions of hardworking Americans and exposed systemic failures of our securities laws. If we are to prevent future Enrons and restore the credibility of America's capital markets, aggressive reform is required. This week the Judiciary Committee will markup S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is an important part of this effort and deserves your support.

The measures embodied in S. 2010 will help protect working families and their retirement funds from future Enrons by strengthening the penalties for securities and accounting fraud, and destruction of audit papers. The bill provides strong civil and criminal penalties for conduct such as document shredding by auditors and conspiracies to defraud investors; and bars those who commit securities fraud from using the bankruptcy system to avoid compensating the victims of such fraud. It also lengthens the statute of limitations for civil lawsuits by the victims of securities fraud, making it more difficult for those who commit these crimes to escape having to compensate their victims.

S. 2010 is an important part of the comprehensive reforms Congress needs to enact in response to the conflicts in the capital markets exposed by the collapse of Enron. The AFL-CIO urges you to support S. 2010 at this week's Judiciary Committee markup.

Sincerely,

WILLIAM SAMUEL
Director, Department
of Legislation.

CONSUMERS UNION,
Washington, DC.

Re Support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

CONSUMER FEDERATION OF AMERICA,
Washington, DC, April 16, 2002.

DEAR SENATOR: Consumers Union and the Consumer Federation of America urge your support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Thursday. This proposal adds important provisions to the civil and criminal laws, which will both, deter and when necessary, punish securities fraud.

ENHANCING ENFORCEMENT AND SANCTIONS FOR
SECURITIES FRAUD

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the US attorney general has such authority currently under RICO.

ADOPTING A REALISTIC STATUTE OF
LIMITATIONS

S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would set the statute of limitations to the earlier of 5 years after the date of the fraud or three years after the fraud was discovered.

The current statute of limitations, the result of a 5-4 vote in a 1991 Supreme Court decision, sets up an unrealistically short timetable for bringing private suits and needs to be corrected. Former President Bush's SEC Chairman Richard Breeden, former President Clinton's SEC Chairman Arthur Levitt, and state securities regulators have all supported an extension of the statute of limitations.

Suits by defrauded investors have long been recognized by securities regulators, including former SEC Chairman Levitt, as an important deterrent against fraud. Moreover, securities fraud is often well-concealed and not readily apparent to investors until, in some cases, years after the fraud has been committed. As Chairman Levitt testified in 1995 before the Senate Banking Committee, "Extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years."

Justices O'Connor and Kennedy, in their vigorous dissent in the 1991 Supreme Court case, also supported a longer statute of limitations. Justice Kennedy wrote, "The most extensive and corrupt schemes may not be discovered within the time allowed for bringing an express cause of action under the 1934 Act. Ponzi schemes, for example, can maintain the illusion of a profit-making enterprise for years, and sophisticated investors may not be able to discover the fraud until long after its perpetration . . . By adoption of a three year period of response, the Court makes a 10(b) action all but a dead letter for many injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within three years after the violation occurred. In so doing, the Court also turns its back on the almost uniform rule rejecting short periods of response for fraud-based actions."

Indeed, some states' pension funds may have to forego claims against Enron for securities fraud that occurred in the late 1990s because of this short statute of limitations. Washington State's Attorney General discussed this problem when she testified before your Committee in February of this year. "In fact, for Washington State, our claim in the [Enron] case is for approximately \$50 million, when in fact our losses are in excess of \$100 million. But because of the statute of limitations, we're not able to make that claim." (underlining added).

The current statute of limitations rewards those who are able to conceal their fraud for a relatively short time with immunity from private liability. It also includes a limit of one-year from the time of discovery, which encourages a rush to the courthouse.

The criminal conduct surrounding the collapse of Enron, and the fact that many claims for fraud will be time-barred by the current short statute of limitations, have drawn attention to the need for reform. S. 2010 includes important investor protection measures. We urge your support for this bill in the Judiciary Committee April 18.

Sincerely,

SALLY GREENBERG,
Senior Counsel.
TRAVIS PLUNKETT,
Legislative Director.

U.S. PUBLIC INTEREST
RESEARCH GROUP;

Washington, DC, April 17, 2002.

No More Enrons—Support S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

DEAR MEMBER OF THE SENATE JUDICIARY COMMITTEE: We are writing on behalf of the members of state Public Interest Research Groups to urge your strong support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Tuesday. This proposal adds important provisions to the civil and criminal law to both deter and, when necessary, punish securities fraud. Please oppose weakening amendments.

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the U.S. attorney general has such authority currently under RICO.

Importantly, S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would reasonably and sensibly set the statute of limitations to the earlier of 5 years after the date the fraud occurred or three years after the fraud was discovered. A securities law violation is often a complex, multi-year enterprise. Indeed, Enron's recent accounting restatements went back five years. Under the fraudster-friendly current law, some state pension fund claims against Enron may be time-barred.

S. 2010 includes numerous important investor protection measures to assist whistleblowers, fraud victims, and law enforcement agencies. We urge your strong support for this bill to help restore investor confidence in the Judiciary Committee April 18. Please oppose weakening amendments. For more information about the full state PIRG platform to protect employees, investors and taxpayers from future Enron/Andersen debacles, please visit <http://www.enronwatchdog.org>. Please contact me with questions at either 202-546-9707x314 or ed@pirg.org.

Sincerely,

EDMUND MIERZOWSKI,
Consumer Program Director.

NATIONAL WHISTLEBLOWER CENTER,
Washington, DC, April 17, 2002.

Hon. MARIA CANTWELL,
Senate Judiciary Committee, Washington, DC.

DEAR SENATOR CANTWELL: The National Whistleblower Center strongly supports S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002. This law would protect employees who disclose Enron-related fraud to the appropriate authorities.

One of the most notorious loopholes in current whistleblower protection law exists under the securities laws, in which employees who report fraud against stockholders have no protection under federal law. It is

truly tragic that employees who are wrongfully discharged merely for reporting violations of law, which may threaten the integrity of pension funds or education-based savings accounts, have no federal protection.

This point was made abundantly clear by the recently released internal memorandum from attorneys for Enron. According to Enron's own counsel, employees who were blowing the whistle on Enron's misconduct were not protected under federal law, and could be subject to termination. Unfortunately, the Enron attorney was correct.

It is imperative that the next time a company like Enron seeks advice from counsel as to whether they can fire an employee, like Sharon Watkins (who merely disclosed potential fraud on shareholders), the answer must be a resounding "no." That can only happen if the Corporate and Criminal Fraud Accountability Act is enacted into law.

Respectfully submitted,

KRIS J. KOLESNIK,
Executive Director.

NATIONAL ASSOCIATION
OF ATTORNEYS GENERAL,
Washington, DC, July 3, 2002.

DEAR SENATOR: It has come to my attention that the substance of S. 2010, the Corporation and Criminal Fraud Accountability Act of 2002, will be offered as an amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, as early as next week.

I have attached a letter to Senator LEAHY from seven Attorneys General written last April in support of the substance of S. 2010, in order to make these views known as you consider this legislation.

If you have any questions or concerns, please feel free to call Blair Tinkle, NAAG's Legislative Director at 202-326-6258.

Sincerely,

LYNNE ROSS,
Executive Director.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, U.S.
Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: We would like to take this opportunity to express our support for your bill, S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is pending before the Senate.

As you know, the proposal would allow state Attorney's General to seek to enjoin racketeering activities under the federal RICO statute. Such added authority would enhance the ability of Attorneys General to protect their citizens from unlawful activities by organizations both within and outside the borders of our individual states.

In addition, to restore accountability, S. 2010 provides prosecutors new and better tools to effectively prosecute and punish criminals who defraud investors by:

Creating a new, 10-year felony specifically aimed at securities fraud.

Enhancing fraud and obstruction of justice statutes where evidence is destroyed and in fraud cases, where there are many victims or where any victim is financially devastated.

Creating two new document destruction felonies establishing a new felony shredding crime and requiring the preservation of audit documents for 5 years.

Creating new protections for corporate whistleblowers.

Finally, the bill protects victims' rights by:

Protecting securities fraud victims from discharge of their debts in bankruptcy.

Extending the statute of limitations in securities fraud cases.

We appreciate your efforts to enact this important legislation. Please feel free to contact us if we can provide further assistance in this effort.

Sincerely,

Carla J. Stovall, Attorney General of Kansas, President of NAAAG; Hardyress, Attorney General of Oregon, Chairman, Enron Bankruptcy Working Group; Christine Gregsire, Attorney General of Washington; William H. Sorrell, Attorney General of Vermont; Ms. Edmonds, Attorney General of Oklahoma, President-Elect of NAAAG; Thurbert E. Baker, Attorney General of Georgia; Betty D. Montgomery, Attorney General of Ohio.

Mr. LEAHY. I appreciate the distinguished majority leader introducing this amendment and yielding to me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. I was going to send an amendment to the desk but I understand there is one pending. I ask unanimous consent I have up to 8 minutes to discuss this amendment now, which I will send later.

Mr. MCCONNELL. Reserving the right to object, and I probably will not, I hoped for an opportunity to briefly explain the second-degree amendment that is pending at the desk. If the Senator thinks it might be helpful just to determine the order of discussion, perhaps it is more appropriate to discuss the amendment that is pending over one that might have been pending.

Mr. MILLER. The Senator from Kentucky is correct. I would like to get in the queue somewhere along the line.

Mr. REID. I ask the question of the Senator from Kentucky, How long does the Senator from Kentucky wish to speak?

Mr. MCCONNELL. I will be happy to wrap up in 5 or 6 minutes. I want to summarize what the amendment is about.

Mr. SARBANES. Madam President, I ask unanimous consent the Senator from Kentucky be recognized for 5 minutes to speak to the second-degree amendment that has been offered, that is pending, and that be followed by the Senator from Georgia to speak for 8 minutes.

Mr. MURKOWSKI. Madam President, I wonder if I may be recognized after the sequence that has been discussed for about 1 minute.

Mr. REID. I object.

The PRESIDING OFFICER. Is there an objection to the original request of the Senator from Maryland?

Mr. REID. I do not object to the original 13 minutes.

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

The Senator from Kentucky will proceed.

Mr. MCCONNELL. I thank my friend from Georgia. I will briefly discuss the second-degree amendment. I expect to vote for the underlying bill, but we ought to, in the name of equity, apply the same principles in the underlying bill we are seeking to apply to corporations to labor unions.

The amendment I sent to the desk requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under Federal securities laws. It imposes civil penalties for violations of these new auditing requirements that mirror those imposed on the Security Exchange Act of 1934. Third, it requires that the Union President and Secretary-Treasurer certify the accuracy of financial reports, mirroring a similar requirement for CEOs and CFOs in the Sarbanes bill.

We are debating how to better oversee and enforce the audit requirements for large corporations that were first established under the Securities Act of 1933. It may shock many to learn that labor unions are not even required to have independent audits of the financial statements they file with the Department of Labor—or should I say that they are required to file. Many unions apparently thumb their nose at the requirement. A study by the Office of Labor Management Standards found that 34 percent of all unions filed late financial reports or no reports at all.

If we are serious about protecting the investing public from the financial fraud of corporations and accountants, we should be equally serious about protecting the day-to-day American worker—the plumbers, the machinists, the longshoremen, and the steelworkers—from the financial fraud of union officials.

One prominent union official recently said that:

Over the coming months you will no doubt hear more about the Enron scandal and the many thousands of people who have lost their pensions because of corporate greed.

I agree with that. What we do not hear enough of are the stories of union greed. It is only fair to share some of them today. I have a rather long list I will discuss later in the debate, but let me cover a few of them in my allotted time. We have heard of Arthur Andersen, but has anyone heard of Thomas Havey? That is the accounting firm where a partner confessed to helping a bookkeeper conceal the embezzlement of hundreds of thousands of dollars from a worker training fund of the International Association of Ironworkers. And in an eerie parallel to the Enron scandal, the Havey accountants revealed startling information—10 years ago, the then General Counsel for the Ironworkers Union said that if the accounting firm refused to assist in the union scheme to conceal financial mismanagement, the accounting firm should be fired. Sadly, the accounting firm complied.

We have all heard of Global Crossing, but has anyone heard of ULLICO? That is the multibillion-dollar insurance company owned primarily by unions and their members' pension funds that invested \$7.6 million in Global Crossing. Apparently, ULLICO directors received a sweetheart investment deal that allowed them to make millions on the sale of stock. The union pension

funds, however, dried up with Global Crossing's demise.

There is much more. An accountant within the National Association of Letter Carriers embezzled more than \$3.2 million from union funds over an 8-year period to buy 8 cars, 2 boats, 3 jet skis, a riding mower, and 105 collectable dolls. A former official of the Laborers' Union District Council in Oregon, Idaho, and Wyoming is in jail for accepting hundreds of thousands of dollars in kickbacks for directing money into a ponzi-like investment scheme that defrauded Oregon labor unions of \$355 million.

I have a number of additional examples that I wish to get to later, but I do want to say in summary, again, what my amendment is about, just so everyone will understand as we move subsequently to a vote. It first requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under the Federal securities laws; second, it imposes civil penalties for violations of these new auditing requirements that mirror those imposed under the Securities Exchange Act of 1934; and, third and finally, it requires that the Union President and Secretary-Treasurer certify the accuracy of their financial reports, which mirrors a similar requirement for CEOs and CFOs in the Sarbanes bill.

I yield the floor.

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

Mr. MCCONNELL. Yes.

Mr. SARBANES. Of course, there is a special statutory arrangement that governs labor organizations. I take it this proposal—has this come to us from the Department of Labor?

Mr. MCCONNELL. I say to the Senator from Maryland, it did not come from the Department of Labor. It came from my office. This is something we have been looking at over the last week or 10 days, thinking that, since the very worthwhile requirements of corporations and accounting firms, under the bill of the Senator from Maryland, make sense if we are looking to protect investors, we should also protect union members from similar kinds of casual exploitation.

Mr. SARBANES. But under the Labor Management Reporting and Disclosure Act, the Department has certain authorities it can invoke in dealing with the kind of problems the Senator has outlined. At least that is my understanding under the current state of the law. Is that correct?

Mr. MCCONNELL. I don't know what the position of the Department of Labor is on the amendment I am offering. But it is my belief that if the amendment were not necessary, we would not be offering it here today. This is something I am sure we are going to discuss further as we move along.

Mr. SARBANES. I am sure the Senator would be able to find out from the Secretary.

Mr. MCCONNELL. I expect I could find out from the Secretary of Labor, but I chose not to do that.

Mr. GRAMM. I don't know whether you could or not.

Mr. MCCONNELL. She has her job and I have mine.

AMENDMENT NO. 4176

The PRESIDING OFFICER. The Senator from Georgia is recognized under the previous order.

Mr. MILLER. Madam President, I ask unanimous consent the pending amendment be temporarily set aside so I be allowed to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. MILLER] proposes an amendment numbered 4176.

Mr. MILLER. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation)

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS

SEC. 801. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 of the Internal Revenue Code of 1986 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: "The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation."

(b) EXECUTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

Mr. GRAMM. Will the Senator yield?

There is a little bit of confusion. I want to be sure he is setting aside the entire amendment, the Leahy and the McConnell amendment, and he is offering a first-degree amendment? That is what I understood when I talked to the Senator and to what I had agreed.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. SARBANES. No. What was the request? I thought the unanimous consent request was to set aside the McConnell amendment and offer the Miller amendment to the Leahy amendment.

Mr. GRAMM. It was the pending amendment.

Madam President, I wanted to be sure that we set aside both Leahy and McConnell. This is a new issue, a first-degree amendment. That was the basis that I understood it on and on the basis of that I had no objection to it.

The PRESIDING OFFICER. The Chair understands the Senator from Georgia was going to offer an amendment that would be considered at a different time, an independent first-degree amendment, to be spoken about now and considered at a later time. Is

that the understanding of the Senator from Vermont?

Mr. LEAHY. Reserving the right to object, I want to make sure I fully understand. What is the request?

The PRESIDING OFFICER. There is no request pending.

Mr. LEAHY. I am sorry. I thought there was a request to lay aside my amendment.

The PRESIDING OFFICER. That request has been granted.

Mr. LEAHY. But then my—what is the parliamentary situation with my amendment? Maybe that is the best way to ask it.

The PRESIDING OFFICER. The Senator from Georgia obtained the consent to set aside the pending amendment in order to offer a first-degree amendment.

Mr. LEAHY. I understand.

Mr. SARBANES. Would the call for the regular order at the completion of the statement of the Senator from Georgia, or disposition of his amendment, bring back before the body the Leahy amendment?

The PRESIDING OFFICER. Yes, it would.

Mr. LEAHY. The Senator from Georgia spoke to me earlier. I do not want in any way to interfere with that. I do want to accommodate him. I just wanted to make sure, also for my own schedule, where we stood.

I thank the distinguished Presiding Officer and I thank the distinguished chairman of the committee and of course I thank the distinguished Senator from Georgia.

Mr. MILLER. I thank the Senator from Vermont and the Senator from Texas.

Madam President, there is a good old boy from down in Georgia named Jerry Reed, who went to Nashville several years ago and made it big as a tremendous guitar picker, singer, and songwriter. He had a big hit a while back. Maybe some of you remember it. It was called "She Got the Gold Mine and I Got the Shaft."

I thought about that song of Jerry Reed's as I watched what has happened lately on the corporate scene. The big shots of Enron and WorldCom and others, they got the gold mine while the poor employees and the innocent stockholders got the shaft.

If a picture is worth a thousand words, take a look at this gold mine. It was built partly on the backs of those Georgia schoolteachers who, each month, put their hard-earned money into the Georgia teachers' retirement fund. The fund in Georgia lost \$78 million from Enron and another \$6 million from WorldCom. Think how many monthly contributions by how many struggling teachers that represents. And think about those other thousands of employees who have lost their life savings, not even to mention the thousands of employees who have lost their jobs—at least 450 jobs were wiped out in Georgia alone so far.

Yes, a few big shots got the gold mine and a lot of little folks got the shaft.

I am as probusiness as anyone in this body. I yield to no officeholder when it comes to supporting business issues. As Governor and Senator, I have worked to give tax cuts and tax incentives and pay for the training of their employees—all to provide a probusiness environment in which the entrepreneurial spirit can thrive and prosper and create jobs. But, folks, there comes a time when so much greed and so many lies become so bad—even if it is only by a few—that something meaningful has to be done. We must act quickly to protect the investor, provide some security for the worker, and restore confidence in the marketplace because, make no mistake about it, today we have a crisis in the integrity of corporate America.

That is why I have worked with Senator SARBANES in perfecting his bill, and I strongly support it. I am pleased that it is before us this week. I also commend President Bush for making the strong recommendations he is going to be making in New York.

But I think we need to do at least one other thing, so I have a simple amendment. It is only two short paragraphs in length, but it goes to the very essence of fairness. It simply says that, when the taxman cometh, we all—workers and high-dollar bosses alike—must face him just alike, without any go-betweens or liability firewalls or corporate veils.

This is how it would work. There is a standard tax form called 1040. I know there are more sophisticated ones for big business, but the principle I am getting at is the same. This is what it says:

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct and complete.

And then it is signed here by Joe Sixpack. Joe Sixpack of America signs those kinds of forms. There were more than 14 million of those forms filed in April. If Joe Sixpack is required to sign this oath for his family, why shouldn't Josephus Chardonnay be required to sign that same oath for his corporation?

So my little amendment simply requires that henceforth the chief executive officer of all publicly owned and publicly traded corporations must sign the corporation's annual Federal tax return.

Currently, there is an IRS rule that corporations can designate any corporate officer to sign their tax return. That will not get it. Let's be specific. Let's put it into law: The CEO is the one who is to sign the tax return and must be accountable for it.

Where I come from it is expected that those being paid "to mind the store" should at least know whether the store is losing or making money.

Harry Truman had a sign on his desk in the Oval Office that said, "The Buck Stops Here." For Truman, it meant that he was accountable.

He took the blame. He suffered the consequences when things went bad.

For some of today's CEOs, it is just the opposite. They want no accountability. They shift the blame to others. They hide behind that corporate veil. And, it seems, they rarely if ever pay the consequences.

Their former workers cancel plans for their children to go to college while they sip from champagne flutes in their mansions in Boca and Aspen.

For these CEOs, Truman's famous sign has changed from "The Buck Stops Here" to "The Bucks Go Here."

Our system of collecting taxes is based upon the premise that individual taxpayers will take all steps necessary to ensure that the financial information in the tax return is accurate.

If Joe Sixpack fudges the numbers, he doesn't get a pass from paying penalties or going to jail. I find it outrageous that the same is not a part of the mind set for those in the corporate culture.

If any CEO is not willing to sign the company tax return—if they are not willing to take steps to satisfy themselves that their corporation is accurately reporting financial information—then those CEOs have no right to the prestige and respect that goes with the position they hold.

What is good for the goose is good for the gander. So I urge my colleagues to simply hold our CEOs to the same standard that we now impose upon our average wage earners.

Treat them the same, "Treat 'em" the same. That is the American way. That is what the voters out there want us to do and that is what they expect us to do. "Treat 'em" the same.

And you can take that back home this summer and explain it. Some of these other reforms, I fear, will be more difficult to explain.

Treat 'em the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

S.J. RES. 34—APPROVAL OF YUCCA MOUNTAIN DEPOSITORY MOTION TO PROCEED

Mr. MURKOWSKI. Madam President, in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act, the chairman of the Energy Committee, Senator BINGAMAN, introduced S.J. Res. 34 on April 9. The Committee on Energy and Natural Resources held 3 days of hearings. On June 5, the measure was favorably reported to the Senate.

As the ranking member of the Energy and Natural Resources Committee, pursuant to the recommendations of the committee and in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act that contemplates Senate action within 90 days of introduction, I now move to proceed to S.J. Res. 34.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, during the last little bit we have been working on an orderly way to proceed on this matter. We knew before the break that the minority was going to bring this matter up, and we did not know exactly when.

I spoke a couple times yesterday with the distinguished Republican leader. I spoke to my colleague, Senator ENSIGN, on a number of occasions. And the day has arrived and the motion has been made. As a result of that, even though Senator ENSIGN and I are extremely disappointed, this matter is now before us. It is here.

We think it would be best resolved as follows: I ask unanimous consent that there be 4 hours 30 minutes for debate on the pending motion to proceed, equally divided between Senator REID of Nevada and Senator MURKOWSKI, or their designees; that upon the use or yielding back of that time, the Senate vote on the motion to proceed; that if the motion to proceed is agreed to, then H.J. Res. 87 be read a third time and the Senate vote on final passage of the joint resolution; that the motion to reconsider that vote be laid on the table, and the preceding all occur without any intervening action or debate.

If I could say just one thing, Madam President, the reason that I felt so strongly, as did Senator ENSIGN, about this is it is important that Members have the benefit of some debate prior to this most important vote. So that is the reason. I appreciate the general tenure of what is going on here. I know there are strong feelings on both sides. Nobody is happy with what we are doing, but it is the best we could do.

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I do reserve the right to object but state in the beginning I would not and will not object. I think this is an appropriate way to proceed. This is something that has been fully disclosed to all on both sides of the argument. We certainly understand and respect the desire of the Senators from Nevada, Mr. REID and Mr. ENSIGN, to have an opportunity to make their case and to maximize their effort against this proposal.

I also made it clear that it was the intent of the proponents, with the leadership of Senator MURKOWSKI and others on both sides of the aisle, that under the law there is a time limit. We have to act on this issue by July 27 or, in fact, this proposal could not go forward. The veto of the Governor, in effect, would be upheld by inaction.

Not wanting to get squeezed down to the end of the session and having it unclear as to how we would proceed, we thought the fair thing to do to both sides was to say on this Tuesday, we would move to proceed to the issue which would be nondebateable unless agreement was worked out to the contrary.

As a result of that being what our intent was, the motion was made, and we have now worked out this unanimous consent agreement which is agreeable to all sides. There would be debate before the vote, and then there would be a vote on the motion to proceed which would be really, in fact, the vote. So this afternoon somewhere not later than 5:45, or perhaps earlier, as I understand it—Senator REID can maybe comment on this—there would be a vote on the motion to proceed.

While nothing else is precluded, it would be clearly my understanding that it would not be necessary to have a vote on final passage if the motion to proceed is agreed to. Everybody understands that is the vote. We have checked on both sides of the aisle, and this agreement is acceptable. That would be the vote.

Another good thing about this is it allows everybody to know when the critical vote will come. It also means, instead of 10 hours, we will go 4½ hours. There is no demand or desire that we go beyond that. Then we can get back to other business; hopefully, defense-related appropriations bills and the auditing bill and get that work done this week.

This is a fair way to proceed. Everybody is on notice. I am glad to work with the opponents and proponents to come to this agreement.

With that statement, I withdraw my reservation of objection.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As the leader has indicated, both sides have sought to determine if there would be a requirement for a rollcall vote, and both sides have come back no. If there is anyone who attempts in the ensuing period to be mischievous in that regard for whatever reason, it would be very hard for them to get a second for that vote. I think we should go forward on this basis.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, let me echo the comments of the two leaders relative to what we have before us. I would like to point out in the spirit of cooperation, the motion to proceed is nondebateable. We have agreed on a 4½-hour time limit. It is my anticipation that we will yield some time back.

I just wanted to point out the reality that any Member could have brought this up for action. We worked with Senator REID and the other concerned Senators trying to reach some accord. We think this is a fair and equitable arrangement within the Senate preroga-

tives, particularly given the opportunity on both sides for 4½ hours of debate, and then expedite final disposition so we can move on to other business. I did want to point out, the motion to proceed ordinarily is nondebateable.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. ENSIGN. Madam President, reserving the right to object, and I will not object, I wanted to emphasize a couple of points. First of all, Senator REID and I obviously vehemently oppose this bill and oppose this bill even being on the floor today. Given the reality of what we were dealing with, we knew that we could not delay this bill coming to the floor beyond the July 27 deadline that has been talked about. Because of that, we believed the procedural vote was so important that we have some debate prior to the vote. As Senator MURKOWSKI has pointed out, it is a nondebateable motion. We appreciate the cooperation of the other side because it is such a precedent-setting motion that we believed it was important to have the debate.

We appreciate the cooperation for this 4½ hours of debate prior to the motion to proceed, understanding that if our side loses that vote, it will automatically go to a voice vote and nobody is going to request—although not precluded—no one will request a recorded vote.

I will not object at this time.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, it is my understanding that the unanimous consent request has been accepted; is that right?

The PRESIDING OFFICER. The Chair has asked if there is further objection to the request.

Without objection, it is so ordered.

The Senator from Nevada.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 today for the weekly party conferences.

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

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side as it will be for a short time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. REID. Madam President, I yield time to the Senator from Nevada.

Mr. ENSIGN. Madam President, I start my remarks today by saying a lot

of the information that I am going to talk about this morning on this procedural vote—I will be talking more about the substance of the issue this afternoon, but this morning on the procedural vote, a lot of the information has been gathered through hours and hours of research with the Congressional Research Service, with the former Parliamentarian of the Senate, Bob Dove, as well as several conversations with the current Parliamentarian.

I believe strongly this research is accurate and that the precedent we will be setting is a very dangerous precedent.

Today's vote is not just about whether the Senate should allow nuclear waste to be dumped in Nevada. It is also about the authority of the majority leader, and the very meaning of a Senate majority.

According to the rules of the Senate, it is true, any member may offer a motion to proceed to a bill or resolution. In practice, we all know that's not the way it works. The Senate isn't governed just by rules; it is also governed by traditions. And one of those traditions is that the majority leader—and only the majority leader—can set the Senate's agenda by deciding which legislation will be considered. As Senator BYRD's history of the Senate makes clear, it is the exclusive role of the majority leader to "determine what matters or measures will be scheduled for floor action and when."

That's why—the rules notwithstanding—never in the history of the modern Senate has anyone—I repeat, anyone—other than the majority leader or his designee successfully offered a motion to proceed with legislation. It is simply not done.

Why? Because if such a motion prevails without the majority leader's consent, then his office has been impaired. His ability to control the agenda of the Senate—which is the basis of his power and that of the majority party—would be dealt a devastating blow.

That is why Senators of the majority party have always deferred to the majority leader's authority to set the Senate's agenda—and have voted with him to protect this power even when they disagreed on the substance of the issue at hand. Because they know that if they lose, what is at stake is their very power as the majority party. If any Senator can set the Senate agenda, then all the minority has to do to hijack the Senate agenda is convince a handful of Senators from the majority party to join them on any given issue.

Indeed, that is why, from time to time, the minority has sought to challenge the majority leader's power by offering motions to proceed. As a matter of fact, I believe the current majority leader did so when he was in the minority. He did so because he knew the consequences if he succeeded. And those high stakes were the very reason

he was unsuccessful—because the majority party has always rallied around its leader.

We call today's vote a procedural vote. But it is in effect, a test of the power of the majority.

That being said, I suspect few on the other side of the aisle are jumping at the chance to proclaim the stakes in this vote because they hope, perhaps, that no one will notice—that it will be like a tree falling in the woods. If no one hears, perhaps it will not make a noise.

But this vote will make a loud noise—and will change the way the Senate operates. It will do so because—as of this moment—every Senator knows that even though the Standing rules of the Senate permit any Member can make a motion to proceed, no one has ever done it successfully, save for the majority leader or his designee.

After today, if the minority succeeds, it will be a different story. Each Senator will be able to decide how to interpret the results. Will it be OK for any Senator to offer a motion to proceed on any bill or resolution? Or just measures considered under expedited procedures, such as this bill? Or just those considered under expedited procedures which explicitly state that any member can make a motion to proceed? Take your pick, Madam President. Like beauty, this precedent is in the eye of the beholder. And that's what makes it so dangerous.

Our opponents argue that this is a unique circumstance. They are simply wrong. The procedure in the Nuclear Waste Policy Act is not unique.

There are many statutes containing expedited procedures. And 6 expedited procedures in current law, including the Nuclear Waste Policy Act, contain language that explicitly states that "any Member of the Senate" may offer the motion to proceed. That language merely restates the rules of the Senate. Still no one has ever successfully done so without the express consent of the majority leader.

There have been times when Congress has determined that is appropriate to override the traditional power of the majority leader to schedule the Senate's agenda, and this is important when this has been the will of Congress. Congress has passed legislation like the National Emergencies Act and the War Powers Act to do so.

The War Powers Act states that,

Any joint resolution or bill so reported (from Committee) shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

Madam President, unlike the War Powers Resolution, the nuclear Waste Policy Act does not make the resolution the pending business of the Senate. It does not take away the prerogative of the majority leader by making a resolution the pending business with-

out any motion to proceed being required. Had the Senate wished to do so in this case it could have followed the language of the War Powers Resolution, but it did not.

Unlike this War Powers provision, there is no requirement in the Nuclear Waste Policy Act for Congress to take any action with regard to the Yucca Mountain resolution. The procedure spelled out in the Nuclear Waste Policy Act is not required; it is merely permitted. In other words, it is left up to the majority leader whether or not to proceed.

Indeed, the Nuclear Waste Policy Act anticipates that a vote on the Yucca Mountain resolution might not occur that it might be blocked. That is why, if the deadline passes, then the statute giving the State of Nevada a veto will have been carried out. That was part of the 1982 compromise.

The junior Senator from Alaska stated that he does "not know that it really matters very much" who makes the motion to proceed to the Yucca Mountain resolution.

Well, I say that it does matter. It matters very much. The majority leader has made clear he opposes proceeding with this legislation. He has staked his reputation and his office on this matter. I—and the people of Nevada—appreciate his courage in doing so.

So let me be clear: any Senator who offers a motion to proceed in this matter is posing a direct challenge to the powers of any majority leader. For the majority leader to lose such a vote would be unprecedented.

As I said, it may be in my interest as a member of the minority to see the majority leader lose such a vote. But the majority leader has put a lot on the line for Nevada, which is why I am standing here today—a Republican Senator—defending the prerogatives of the Democrat majority leader.

I am doing so because this issue is the most important matter for the State of Nevada to come before the U.S. Senate. No single issue unites Nevadans—no single issue transcends region, political party, or industry—like our fight against becoming the Nation's nuclear dumping ground.

In conclusion, let me restate how important the precedent we are setting today is if the majority leader is overruled. Every Senator needs to reflect on this vote very carefully because this vote could literally change the entire way the Senate operates. Many people believe this issue is vitally important. Some of us believe it is wrongheaded, as I do.

Regardless of how one Senator feels on this issue, the procedures of the Senate need to be preserved. The precedent set today will be a dangerous one and the unintended consequences in the future could be very dire. I encourage all my fellow Senators to think long and hard before they vote. It is not just a vote on whether or not to proceed on Yucca Mountain but a vote on violating the rules of the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I yield myself such time as I may require.

Let me first point out that it has been a long time coming. We have been approximately 20 years on this issue of nuclear waste, and we are moving in an orderly process, but I feel compelled to respond to my good friend from Nevada on the point on which he most eloquently commented relative to the authority of the majority leader in cases of this nature.

I am going to comment on the motion to proceed, and I think what my colleagues need to understand is that despite what has been said, we are proceeding under Senate rules, make no mistake about it. This particular provision was identified under procedures set forth in the Nuclear Waste Policy Act. They were very carefully developed and adopted as part of the rule-making powers of the Senate.

I quote that portion to address the concerns of my friend from Nevada.

They are deemed a part of the rules of the Senate.

We are not excluding the rules of the Senate. We are not excluding the authority of the majority leader. This procedure is deemed part of the Senate rules. So I hope we can put to rest the matter that somehow we are violating or circumventing Senate rules.

Some have objected to the provision that allows any Member to make the motion to proceed, but they forget, or perhaps ignore, the history of the provision and how integral it was to the 90-day limit on congressional consideration.

This came before the Senate in 1979 and 1980 when the Senate and House were attempting to resolve this issue, as we are today. That provision was considered and passed by the Senate.

Further, it was included in the nuclear waste measure that was introduced in 1981 by then-Chairman Jim McClure of Idaho, who had assumed the chairmanship of the committee. It was also included in legislation offered by Congressman UDALL on the House side, and it was included in the substitute amendments that were reported from the Energy Committee and the Environment and Public Works Committee which had joint referral of the legislation.

It was included in the legislation that passed the Senate in April and then was included in the final legislation that was enacted in December of 1982. It was part of the proposal insisted on by Senator Proxmire, Senator Mitchell, and others who wanted a stronger State veto provision. It was, in fact, what made work the compromise suggested by Congressman Joe Moakley, the chairman of the House Rules Committee.

I find it somewhat off the point, if you will, and kind of a diversion that

some are speaking about violating the integrity of the Senate when we are moving a bill in line with what the Senate had already adopted. Again, I refer to the Nuclear Waste Policy Act and the manner in which this process was considered under the rulemaking powers of the Senate, and included in the rule are the words, "... are deemed to be part of the rules of the Senate."

Let me comment briefly on the role of the majority leader. I have the utmost respect for procedure and traditions. As to the role of the majority leader, there should be no misunderstanding that this process does not in any manner detract from his authority or responsibility. By its very terms, this process applies in the situation of a resolution of approval only under the Nuclear Waste Policy Act and no other situation. So no Member of this body should be misled. This process applies only to the situation of a resolution of approval under the Nuclear Waste Policy Act.

This resolution should not come as any surprise to any Member. All sides have known this was coming since last year. We certainly have not circumvented the procedure. Once the Secretary of Energy made his recommendation to the President, we all took out the calendars and figured out that 90 days would expire sometime before the end of July, specifically July 27. The majority leader was very much aware of this timeframe. Madam President, that day fast approaches.

The chairman of the committee introduced the resolution as required by law, and we had a fairly good idea of exactly when the Senate needed to act. Throughout the process—hearings, full committee consideration, and reporting—the majority leader has been aware of the status of the legislation and the need for the Senate to act, indeed, within the statutory timeframe.

The majority leader has also been aware of the desire of the chairman of the committee and mine as ranking member, together with other Members of the Senate who support the resolution, to find a time that was convenient for him, given his responsibilities to schedule activities on the Senate floor.

The majority leader's office, in fact, proposed a unanimous consent request almost immediately after we reported the resolution to the floor. We responded, and there have been several attempts to work out a suitable time and schedule as well.

It should not come as a surprise, Madam President. Everyone in the Senate knows what the issue is and what the issue is not. No one is trying to undermine the majority leader. No one is trying to circumvent the Senate rules.

When I brought the nuclear waste legislation to the floor last Congress, I tried to fully accommodate the desires of my colleagues from Nevada, and I certainly intend to see that they have

every opportunity to express their concerns today.

I also advise my colleagues again that under the motion to proceed, which is nondebatable, we have agreed to a reasonable debate, 4½ hours. This shows good faith on the part of those of us who believe this matter should be brought to a head and resolved.

As I indicated, the motion to proceed is nondebatable. We could have relied on the statute to proceed, but we have worked out a satisfactory compromise that is fair and equitable. I think the method under which we are proceeding is a fair one, given the circumstances, but I want everyone to understand that we have gone the extra mile to accommodate procedure, the majority leader, each Member, and of course our friends from Nevada.

Provisions in the Nuclear Waste Policy Act are there to allow the leader to decide that he would not make the motion to proceed but allow someone else to do it. I did that this morning by proposing the motion to proceed, and we have now agreed on a procedure.

We have a choice to make. The Senate will today decide very simply whether we should permit the Secretary of Energy to apply for a license to operate a repository at Yucca Mountain.

Madam President, I am going to yield the floor at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Who yields time?

Mr. SPECTER. Madam President, I inquire of the distinguished manager if I may ask him a question or two. I discussed this with Senator MURKOWSKI.

Mr. MURKOWSKI. I will be happy to respond to my friend from Pennsylvania.

Mr. SPECTER. Madam President, I thank the distinguished Senator from Alaska.

The question of concern to this Senator and I think many others is the issue of safety in transporting this nuclear material. What are the plans in the general sense? That is, how will the material be transported? By truck? By rail? And in a general way, what will the routes be? Will they pass through densely populated areas?

Mr. MURKOWSKI. In response to the Senator from Pennsylvania, under the licensing process, I emphasize the action we are taking today does not address the transportation system or the procedure associated with the transportation system. That would come under the licensing process which takes place at a later time.

All we are authorizing today is the procedure to allow the Secretary to apply for the license. So the licensing process will in great detail examine all parameters associated with transportation safety, the manner in which the waste will be not only transported by rail and by truck but containers, and the safety of the containers to ensure they can withstand any anticipated exposure associated with derailment or whatever.

What we have in the transportation of nuclear waste is a number of historic examples of moving spent nuclear fuel. We have had about 2,700 shipments in the last 30 years. The distance these have been shipped totals almost 2 million miles. There has not been a single release of radioactivity.

Now, in other parts of the world—in Europe—they have shipped over 70,000 tons in the last 25 years. The estimates are 175 shipments to Yucca Mountain will take place over a 24-year period. I could go on and enlighten my friend at great length relative to the procedure, but I emphasize what we are doing today is giving the administration and the Secretary the authority to proceed with the licensing. The licensing will address the transportation issue.

I am happy to respond to further questions.

Mr. SPECTER. Madam President, my next question is, is the Senator from Alaska in a position to respond to what the tonnage would be, over how long a period of time, and how many shipments there would be to handle the nuclear waste involved in the projection for being a repository of Yucca Mountain?

Mr. MURKOWSKI. That Department estimate is 175 annual shipments to Yucca Mountain.

Mr. SPECTER. Over how long a period of time?

Mr. MURKOWSKI. Over 24 years; that is 4,300 shipments. In comparison to 300 million hazardous material shipments that take place annually in the United States today with no notice given because these are military shipments associated with the breakup of reactors, most associated with our nuclear Navy fleet.

That is strict guidelines for the Nuclear Regulatory Commission and the Department of Transportation. In testimony before the Senate Energy Committee, both the NRC and the DOT testified they can and will take all precautions necessary for safe and secure transportation. As I am sure the Senator from Pennsylvania is aware, the transportation is in nearly impenetrable casks. For every 1 ton of spent fuel there are 4 tons of protective shielding. The casks have to pass the test to ensure there will be no breach. Tests show they can withstand a 120-mile-per-hour crash into a concrete wall and prolonged exposure to fires at 1,475 degrees.

Some of that will depend, of course, on routing and volume. But 175 shipments is a responsible estimate.

Annual numbers, as I indicated, depend on transportation plans and the combination of truck or train is not yet decided. This will be decided under the licensing process. It is fair to say we will have another opportunity for input on the adequacy of the transportation plan once the licensing process is undertaken. The action of the Senate today will lead to that next step.

Mr. SPECTER. Madam President, when I inquire as to the next step, the

Senator from Alaska comments we will have another opportunity to make an inquiry. Will these procedures, if I may inquire of the Senator—

Mr. MURKOWSKI. It is my understanding—

Mr. SPECTER. Let me finish the question.

Having been here for 22 years, having come to the Senate the same day, we can almost communicate without speaking very much. But my question goes to the issue of another vote here. You say we will have another opportunity. Will there be something presented to the Senate where we have an opportunity to vote on our views as to the adequacy of the safety procedures?

Mr. MURKOWSKI. It is my understanding there will not be another opportunity for a vote. The licensing process is a procedure under the Nuclear Regulatory Commission that will examine and certify the safety of the transportation mode, but there will not be another opportunity for a vote.

Under the rules of procedure we have outlined, this is quite explicit. It allows the licensing process to go ahead. The licensing process will determine the adequacy of transportation and safety. We should recognize we have moved nuclear waste, military waste—primarily military waste—throughout the country for many years and have done it successfully. There is no reason to believe we cannot use transportation methods we have and technology we have to move high-level nuclear waste to one site as opposed to leaving it in 131 sites in 34 States.

Clearly, the Yucca Mountain provision which identifies it at one central location and without transportation, obviously, is going to have to stay in the States where it currently is located, which were not designed for a permanent repository.

Mr. SPECTER. Madam President, another couple of questions. In the absence of a vote, my question to the Senator from Alaska would be, What congressional oversight is possible? Sometimes licensing procedures are fine and sometimes they are not, but they do not have the assurance which this deliberative body can apply.

So my specific question is, What level of oversight would the Senator from Alaska envisage with the licensing procedures?

Mr. MURKOWSKI. I would like to give my friend from Pennsylvania the comfort that suggests we are the parties in making a determination of safety. We certainly have the obligation of oversight. But the appropriate agencies that have this responsibility are the Department of Energy, the Nuclear Regulatory Commission, and the Department of Transportation.

They have the obligation to address, if you will, transportation procedures, safety, routing, the manner in which casks are stored and safeguarded. It is fair to say that the National Academy of Sciences is a participant in the process as well.

What we have is the very best science, engineering, and technology to address the legitimate concerns of the Senator from Pennsylvania. I personally believe they have the expertise, the experience, and have certainly a record that suggests there has not been an accident. It does not mean there couldn't be, but all the necessary precautions within reason have been taken.

Of course, in comfort to the Senator from Pennsylvania, again, we have legitimate oversight of the agencies I have named and will continue to have and maintain that which I would hope would be sufficient to meet the concerns of the Senator from Pennsylvania.

Mr. SPECTER. My final question relates to the issue as to the precautions in the event, perhaps unlikely, that there would be an accident. What assurances are there, if it should happen, for example, in Russell, KS, my hometown—what could happen in Alaska could happen in the hometown of the Senator from Alaska—

Mr. MURKOWSKI. If I could respond, I would almost make sure the waste would not go through my State or through Russell, KS.

Nonetheless, it is a legitimate question. In the Nuclear Regulatory Commission proceedings there is obviously work in progress where there would be a response procedure associated with any inevitability of an accident at any time. That is part of the responsibility of the Nuclear Regulatory Commission, and they would work, of course, with Federal and State agencies to respond. It would involve the Department of Transportation and the Department of Energy. These procedures are already established.

Again, recognizing the movement of this waste over a period of time, there would be an increased degree of sophistication because, unlike military waste, which moves with little notice, clearly it would be known when nuclear waste was moving from reactors to the Yucca Mountain site so there would be special escorts, special procedures, and so forth, to safeguard it because it wouldn't be done without the knowledge, obviously, of the public.

What precautions are taken are outlined in the spent fuel transportation procedure, which has been put out by the Department of Energy, Office of Public Affairs. I would be happy to share this.

It is a lengthy list of what precautions the Government has taken in transportation routing. It covers routing, it covers security, it covers tracking, it covers coordination with State officials, as well as State participation. It involves training procedures. It involves what the Government is doing with emergency procedure assistance. It identifies the specific States, proposed routing, casks, and so forth. I am further advised there is a certification here by the Chairman, Mr. Meserve, of the Nuclear Regulatory Commission. It reads as follows:

Federal regulation of spent fuel transportation safety is shared by the U.S. Department of Transportation and the Nuclear Regulatory Commission.

It relates to the transportation of all hazardous materials. It further goes on to say:

For its part, NRC establishes design standards for the casks used to transport licensed spent fuel, reviews and certifies cask designs prior to their use. Further, cask design, fabrication, use and maintenance activities must be conducted under an NRC-approved Quality Assurance Program.

NRC has reviewed and certified a number of package designs. . . .

We believe the safety protection provided by the current transportation regulatory system is well established [and they] continually examine the transportation safety program.

I think that pretty much addresses the input, the testimony at the hearings by those responsible for oversight.

Mr. SPECTER. Mr. President, I thank the Senator from Alaska for those responses.

Mr. MURKOWSKI. I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). Who yields time?

Mr. ENSIGN. I wonder if the junior Senator from Alaska will yield for a question.

The PRESIDING OFFICER. The Senator from Alaska.

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

The PRESIDING OFFICER. Does the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. ENSIGN. While the Senator from Pennsylvania is still here—this was part of the hearing. I think it is something important for us to get cleared up.

The 175 shipments per year the Department of Energy—and you have mentioned this morning that has been a common number that has been tossed around. The piece of paper I have in my hand is page J-11. It is from the final EIS statement. I am sure your staff has a copy of this. This is part of the final EIS statement from the Department of Energy, table J-1, a summary of the estimated number of shipments for the various inventory, national transportation analysis scenario combinations.

They go through the various types of ways that we would ship and the minimums and maximums.

From what I understand, the 175 per year would be if every shipment was in dedicated trains, which the Department of Energy so far has been opposed to because of the expense of dedicated trains.

The other thing is that we have no rail built in Nevada to make possible the rail segment or the rail scenario. You have to have the rail built in Nevada to be able to go from rail to rail, and there is no rail leading to the Nevada Test Site.

The reason I bring this up, and the reason I would like at least to have this on the record as part of the Senate debate is because it is huge amounts

more of shipments, from what I understand, unless it is all dedicated trains. Is that the Senator's understanding?

Mr. MURKOWSKI. I think, in response to my good friend from Nevada, he has to understand where we are. The licensing plan will address the legitimate mass questions because there is no rail into the area. That is going to come under the licensing plan. But there is a Union Pacific route that is adjacent to the area. It would not be difficult to put a spur in. This was discussed in hearings and so forth.

Mr. ENSIGN. It is about 400 miles it has to go, 300-some depending on the route, it may have to go, from the Union Pacific to the Nevada Test Site.

Mr. MURKOWSKI. This line of consideration, while appropriate, is really part of the transportation plan which will come out of the licensing procedure. That is not what we are here for today. We are here to advance the process so the appropriate agencies can address whether they are going to issue a license. They might not issue a license. But what we are doing is giving the authority for the administration to proceed to try to obtain a license. That will be from the Department of Transportation, it will be from the Nuclear Regulatory Commission, and it will be from the Department of Energy. And they will address the questions of how access is provided, whether it be by rail or certainly truck is available as well; we can talk about these things, but these are all proposals that are going to be addressed in due course.

Mr. ENSIGN. Mr. President, if the Senator will continue to yield, the reason I brought it up and the reason I thought the question of the Senator from Pennsylvania was so appropriate is because this stuff that may be proposed is very important, first of all, because the cost of rail is not included in the Nuclear Waste Policy Act. The cost of the rail into the Nevada Test Site is not in the budgetary projections.

The second thing is that if a Senator is voting on whether this thing is going through—in other words, if I am a Senator from Pennsylvania, and I have a couple of nuclear powerplants, but I know I have a lot more shipments may be coming through my State—if I think there are only going to be 20 shipments a year through my State versus maybe 1,000 shipments through my State, that may make a difference on how I would vote.

Mr. MURKOWSKI. Mr. President, if I could point out, I do not mind responding to questions, but we are dividing time here. It is important, if the Senator from Nevada wants to speak, it is on his time.

Mr. ENSIGN. That is fine. If Senator REID has control of the time, it is fine with us.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator BOXER is due here any minute. I was waiting for her to speak. She is not here. I ask my friend from Nevada if he

wants an extra 5 minutes now, or would he rather wait.

Mr. ENSIGN. Mr. President, 5 minutes now I would really appreciate.

Mr. REID. Mr. President, let me say to my friend from Idaho that I hope the Senator from California will be here at that time. If she is not, I will yield. But Senator MURKOWSKI could yield some time. I yield 5 minutes to the Senator from Nevada.

Mr. MURKOWSKI. Mr. President, what is the remaining time on either side so we can start off anew relative to where we are?

The PRESIDING OFFICER. The Senator from Alaska controls 106 minutes, and the Senator from Nevada controls 125 minutes.

Mr. MURKOWSKI. Mr. President, I understand that after the Senator from Nevada speaks, the Chair will recognize the Senator from Idaho.

Mr. REID. When the Senator from California is here, I have explained to the Senator from Idaho that she would go first.

Mr. MURKOWSKI. That is fine.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, if the Senator from Alaska would engage, I think it is an important part of our discussion.

The point I was making was that if a Senator were worried about transportation coming through their State—it seems to be one of the biggest issues, and I think it should be one of the biggest issues, if people are thinking about the way to vote on this issue—it is important to know how many shipments, or approximately how many shipments, or the types of shipments that are going to be coming through the State.

As the Senator from Alaska has said, that is going to be determined in the future. But as was pointed out, the only chance for the Senator from Pennsylvania to vote is today. Today is the only chance to vote on whether or not I have 20 shipments coming through my State or whether I may have 100 shipments coming through my State. The numbers can be that different.

Once again, based on table J-1 on page J-11, in the final EIS report, if we have a mostly truck scenario just on one of those proposed actions, we would have 52,000 shipments over the period of time that Yucca Mountain is open. Under mostly rail, we would have around 11,000 shipments. When we have dedicated trains, the numbers go way down. But these aren't dealing with dedicated trains. In fact, the final EIS Department of Energy report did not contain dedicated trains.

That is the reason I was asking the question and why I wanted to get it cleared up. If we don't know we are going to be using dedicated trains, how can the Senator from Alaska and others, including the Senator from Pennsylvania, say there are 175 shipments per year? We toss that number around as if it is a fact when, in fact, it is not

a fact. It is something that is conjecture, pure conjecture, from the Department of Energy based on dedicated trains when they are not even putting that in their final EIS report.

The Senator can answer it on my time. If the Senator from Alaska would like to comment on that, I think it is very important to try to clear this up, because when the Department of Energy testified, they certainly didn't clear this up in the committee.

Mr. MURKOWSKI. This is an estimate. It is all it can possibly be at this time because, clearly, we do not ship this material. We have had experience in shipping in the United States. We had 2,996 shipments of spent fuel under the authority of the Nuclear Regulatory Commission from 1964 to the year 2000. We have shipped that waste 1.7 million miles. There it is on the chart. Low-level radioactive waste—you can see it on the chart—896 shipments. That is what we have done in the past.

I cannot in good conscience do anything more than submit what we have been given as an estimate of the number of shipments. I will not make a determination as to whether that is factual, but it is their best estimate. There is no reason to believe it should not be relatively accurate.

Mr. ENSIGN. Mr. President, reclaiming my time, the Senator said there were the 175 shipments as a statement of fact. He said, as a matter of fact, he is relatively sure of that statement. Because he said he was relatively sure of that statement—

Mr. MURKOWSKI. I think in this interpretation I used the word "estimate"—an estimate. It is all it can possibly be. It couldn't be anything else other than an estimate because it is has not shipped.

Mr. ENSIGN. Except, according to the EIS—and I don't know whether the Senator will address the EIS—on dedicated rail, it is around 175 shipments per year. According to their EIS, they don't use 175. That is only if it is dedicated rail.

Mr. MURKOWSKI. If I may respond to the Senator from Nevada, that may be only dedicated rail. There are other alternatives other than rail.

Mr. ENSIGN. Correct.

Mr. MURKOWSKI. What those might will be determined by the licensing process. But I would encourage my colleagues to recognize the reality here: Do we want this waste to stay where it is or do we want to move it to one central repository? You don't get it to a central repository and out of the States unless you move it.

Mr. ENSIGN. Mr. President, I understand my time is up. I think this is an important question which we will have to deal with a little more this afternoon. I yield the floor so the Senator from Idaho can be recognized.

Mr. REID. Mr. President, the Senator from California is not here. I ask the Senator from Alaska to yield time to the Senator from Idaho.

Mr. MURKOWSKI. Mr. President, might I ask how much time the Senator from Idaho is going to require?

Mr. CRAIG. I will consume the remainder of the time.

Mr. MURKOWSKI. I yield the remainder of the time for this morning to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 15 minutes.

Mr. CRAIG. Mr. President, already this morning we have seen an example of the kind of record that is attempting to be made in part by the Senator from Nevada who would, first, argue a procedural issue that I and others, including renown Parliamentarians, argue does not exist. Clearly, the Nuclear Waste Policy Act of 1982 established an extraordinary procedure—not a precedent-setting procedure. Parliamentarians have agreed that is the case.

But even today, as the Senator from Alaska has mentioned, we have been willing to shape that to accommodate the Senators from Nevada to allow debate on a motion to proceed prior to that vote. Clearly, the majority leader was not engaged on the floor. He already engaged us by saying he would not schedule a vote. He has walked away from his responsibility, if in fact it was there. I would argue that it was not there. Any Senator, by an act of Congress and by the law of the United States, could have done this.

When we talk about precedent-setting action on the floor of the Senate as it relates to the rules of the Senate, we talk about the normal processes of configuring the schedule. I agree with the junior Senator from Nevada on that statement. This is not a precedent-setting action today. In fact, I think those who have observed it have recognized the kind of flexibility and give and take and the responsibility that this Senate had to take under the 1982 law.

I believe the record will be complete. I do not believe that complete record in any way can or will demonstrate that future Parliamentarians would argue that a precedent has been set. Quite the opposite has happened. The Senate of the United States voted in 1982 to establish a process. Therefore, the Senate collectively spoke. It was clear in its speaking that a motion could be placed. And the reason they did that was very clear. They did not want a single person, a majority leader, Democrat or Republican, blocking the responsibility of the Federal Government as it related to a necessary step in the process of determining whether this Nation would establish a deep geologic, high-level waste nuclear repository; that it was more important than one Senator, in that case the majority leader.

It set in place a time schedule. It even gave the State of Nevada—the two Senators are on the floor speaking in behalf of phenomenal power—the power to veto. They have vetoed this. But even in that case, it did not allow a

total State prerogative because this is a national issue of very real importance. And that is why we are on the floor today.

We can debate procedure, if we want. But I think that is clear and it has been well established, and several Parliamentarians argue on either side of the case.

What is clear is a law, and a law clearly stating and a law being passed by the Congress itself and signed by a President. That is what is important. It is from that law that we act today. But because, as the Senator from Nevada has spoken, we wanted and we believed it most important to accommodate my colleagues from Nevada—as I would want to be accommodated if this were happening in my State—we have given that kind of flexibility inside the law by a unanimous consent. And it is under that action that we are currently debating Senate Joint Resolution 34.

What are we doing today? We are taking another step forward. This action today does not, in itself, establish a deep geologic repository for high-level nuclear waste at Yucca Mountain in Nevada. It says that we, the Senate, agree with the Department of Energy that a certification process has gone forward to determine the minimum standards and capabilities of geology and water tables and all of those kinds of things to meet tremendously high level protocol, and now we hand it forth into the next step, and that is licensure.

The Senator from Pennsylvania is concerned about transportation, as he should be. But the Senator from Alaska responded appropriately. That is part of a very meticulous effort at licensing a facility, how it will be constructed, under what conditions it will be constructed, how the waste will move from the State of Pennsylvania or from the State of Idaho to that facility.

Yes, we have ample oversight capacity and capability, and we ought to exercise it. I serve on the Energy Committee from which this resolution came. I want to make sure the Nuclear Regulatory Commission handles that transportation portion of the licensing well. We also have multiple jurisdictions—the Department of Transportation. Therefore, Environment and Public Works will have some say in oversight.

Will there be another action or another vote? No. That is not prescribed within the law. But I also know the State of Nevada is not through either. They will exert phenomenal oversight, as they should, as this process goes forward if—if—the Nuclear Regulatory Commission determines that a license is appropriate for this facility under all of these kinds of conditions.

I would suggest that we have also spent \$4 billion. And \$4 billion is an important figure. It was not our money. It was not taxpayer money. It was ratepayers' money from the 39 States that have commercial nuclear reactors op-

erating power-generating facilities who have paid into a fund to take us this far, a fund that continues to grow, and a fund that will, in large part, finance the construction and the operation of this facility.

So we are taking the next step, the important step. I must tell you, a vote today on a motion to proceed is a vote to take the step or to not step at all. If we do not, we step back 20 years—20 years—into a debate about how to manage high-level nuclear waste with commercial facilities, and temporary repositories filling up with waste as we speak.

Do we say, if we do not speak today, there will be no future for the nuclear industry in this country? Well, we certainly say we have no resolution of how to manage its high-level waste stream, except to leave it in well over 100 facilities spread across 39 States.

Will the States then respond by allowing additional repositories to be built in those States when they were promised that those were the only repositories and that high-level waste would move out and move to a permanent repository, as the Congress decided, in a single location? Those are the unknowns.

But what is known today is that the 20 percent of the electrical energy of this country that is generated through nuclear reactors is the cleanest electrical energy outside of hydro in the United States. Some who are concerned about climate change and want even cleaner energy—and this Nation demanding even higher volumes of high-quality electrical energy—are recognizing that, at least under current and immediate-future technology, the nuclear industry is the right industry to turn to for advanced generation.

So do we want to walk away from that industry today, as we will if we vote down a motion to proceed? Or do we want to take a step forward in a licensing process that says the whole industry can move to, potentially, a future opportunity of producing 25 or 30 or 40 percent of our electric energy needs of this country in a clean and responsible fashion?

Let me talk for a few moments about transportation. I do not fear transportation. The reason I do not fear transportation is the history of transportation of radioactive materials and high-level waste in this country. There have been 2,700 shipments, over the last 30 years, of spent nuclear fuel; some 300 million hazardous and radioactive shipments annually in this country; and there are currently about 3 million shipments annually of radioactive material in this country. So there is a lot of movement going on.

So why the alarm? It is a tactic. It is an alarmist political tactic to try to kill this very effort. Should we be concerned about transportation? You bet we should. But we have a very good record to date of a lot of movement of nuclear waste in this country and radioactive material in a safe and sound fashion.

The reason is quite clear: Because the Federal Government has demanded from day one that those shipments be done in extraordinary ways, extraordinary super-built containers, much of it traveling by rail. The high-level waste that comes to Idaho is naval waste. It comes by rail. But the low-level waste that leaves Idaho leaves by highways in very well designed, tremendously strong containers, and well-managed, selected routes, all of it guided and monitored by GPS. It is tremendously safe today as that waste goes from Idaho to the Waste Isolation Pilot Plant in Carlsbad, NM.

Yes, we have a right to be concerned, but we do not have a right to use alarm and fear where they should not exist. But we have a right to do what is responsible to keep it out of our populated areas, to move it in appropriate fashions in less populated ways.

The Senator from Nevada speaks about rail and an appropriate and safe way to handle it, well demonstrated, well proved. And the Nuclear Regulatory Commission may well want even enhanced containers. But what I would suggest is that if we fail to act today to determine the next step, and many of these utilities go to a private location and establish a private repository—as some are now contemplating—then there is a strong possibility that, in a much less regulated way, in a much less orchestrated and monitored way, we will see nuclear waste moving across this country simply because we failed to act and failed to organize and failed to respond to a highly regulated, highly controlled, and highly monitored transportation system.

Those are the realities of where we are today with this industry and where we are today with the volume of nuclear waste, high-level spent fuel nuclear waste that is building up in repositories across the country. It isn't damned if you do and damned if you don't. It is a responsible and important step to take to move this resolution through to a licensing procedure which will then have full transparency, which will then have the ability of the Senate of the United States and the House to do the kind of oversight necessary to make sure that we can recognize what both Senators from Nevada, who are in the Chamber, need: The best assurance possible, in a zero sum game, if you can get there, that this has been done to the maximum capability of the engineering talent of the best we have to offer.

The 10,000-year protocol established all of those kinds of things that meet the standards that are so critically necessary to do what is right and responsible for this country: store our high-level waste in a deep geologic repository; cause the next step to happen; advance the future of the nuclear industry; advance clean electrical energy for our country well into the future.

It is a responsible act that the Senate undertakes today to allow that

very kind of thing to happen. I hope this afternoon, when we have an opportunity to vote on the motion to proceed, which, in fact, is a vote on whether we will allow the process to go forward, a majority of the Senate will vote in favor of that motion to proceed. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. STABENOW).

APPROVAL OF YUCCA MOUNTAIN REPOSITORY—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I yield myself 15 minutes.

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

Mr. WELLSTONE. Madam President, the Senate today is faced with an important decision about whether to ship extremely hazardous, high-level nuclear waste to a permanent repository in Yucca Mountain. Let there be no doubt in anyone's mind, I would like to see this nuclear waste shipped safely out of Minnesota. I wish I could responsibly vote to support this resolution. I regret that I cannot today vote in favor.

I have consistently said that before the Department of Energy and the Congress make a final judgment that we are ready to begin shipping high-level nuclear waste to a repository, there should be a carefully thought out, detailed plan in place, approved by the NRC and the DOE, to transport this radioactive waste and to manage all of the risks associated with that transportation.

Although it has had over 30 years to do so, the Department of Energy has failed to develop such a safe—I emphasize "safe"—waste transportation plan.

While I want this high-level nuclear waste out of our State and think Yucca Mountain may very well be the most sensible location, I don't think we should move forward and commit ourselves irrevocably until we have all of the transportation and security issues addressed.

Therefore, I have come to the conclusion, through a careful examination of congressional testimony, meetings with DOE officials, including the Secretary of Energy, State energy officials and local leaders, that there are too many uncertainties, too many unresolved issues, and the risks are simply too high for the citizens of Minnesota.

I cannot now support this resolution. We urgently need to develop a comprehensive waste transportation plan and policy that protects the health and safety of local communities and all

Americans. We should have such a plan in place before moving forward on a permanent repository plan.

It is unacceptable to me as a Senator that the Department of Energy has ignored the very real and daunting task of developing a secure, comprehensive transportation plan before seeking to authorize the Yucca Mountain site.

The simple fact is, the Congress should not be considering nor should the DOE have recommended authorization of the Yucca Mountain site before State and local officials were consulted and a comprehensive transportation plan has been finalized which takes into account their concerns and the people they represent.

Madam President, even though the Department of Energy has had years to develop such a plan, they don't have one. By the way, I thank Secretary Abraham. I have talked with him over the phone. He has been very gracious, and I appreciate that. But when he testified May 16, 2002, that the "Department is just beginning to formulate its preliminary thoughts about a transportation plan," to me, that is not enough for my State or the country.

The Department spent \$7 billion looking into Yucca Mountain geology but less than \$2 million on the transportation of the nuclear waste. That works out at less than \$10 million a year for the last 20 years. This is a fundamental flaw in the Department's approach. So, to me, failing to plan for the safe and secure transport of nuclear waste before approving the repository site would be irresponsible.

I recognize the industry has had a generally safe record of transporting small amounts of nuclear waste over the last 35 years. But shipments to Yucca Mountain would be at an unprecedented level. The Department of Energy estimates that transportation to a central repository could involve the shipment of more than 46,000 tons of high-level radioactive nuclear waste across 40 States in 53,000 trucks or 20,000 railcars. It is worth noting that even if the shipments were to begin today, there are more than 200 million Americans living in the 700-plus counties that are traversed by DOE's potential roads and rail lines. The population is only going to grow, and grow more quickly, during the time DOE needs to move nuclear waste across the country.

Beginning in 2010, the DOE estimates that over 1,000 truck and rail shipments of nuclear waste could well travel through Minnesota, through our most populated cities and towns such as Minneapolis-St. Paul, Mankato, Rochester, and the Twin City suburbs. So 683,000—looking at the proposed route—Minnesotans would live within 1 mile; 2,213,612 Minnesotans would live within 5 miles; 3,121,718 Minnesotans would live within 20 miles. That is about half of the State's population.

This raises a very important and yet unanswered set of questions about the risks of possible accidents or terrorist

attacks, and how local communities through which the waste would travel would manage the risk. That is why the Conference of Mayors passed a resolution just this past June expressing serious concerns about the issue and urging the Congress to prohibit the transport of waste until all cities—I include Minnesota cities and towns—along the proposed transportation route have been consulted and have received adequate training and equipment to protect the public health and safety of the citizens in the event of an accident.

Again, I thank the Department of Energy and I thank the Secretary for his graciousness. Unfortunately, DOE has yet to hold any public meetings in recent years in Minnesota on the topic of, again, where is this going to go, what kind of training is there going to be, and how are we going to prevent an accident? To me, this is a key issue.

Example: The DOE environmental impact statement maintains that shipping high-level spent fuel casks on mixed general freight trains is acceptable. This would permit casks of high-level nuclear waste to be mixed among cars of corn, soybeans, autoparts, and other goods. I am concerned that the DOE's regulations appear to be market driven; mixed freight trains are cheaper than dedicated trains.

As the American Association of Railroads testified, DOE's position is "driven, no doubt, by economic consideration." But the safe transportation of these highly toxic materials must take precedence over any cost considerations. I agree with the American Association of Railroads that dedicated trains would be a safer and more prudent alternative. I would like to have that laid out for me before we have a final vote on the repository.

Madam President, I believe a transportation plan for nuclear waste shipments should have a "zero accident" goal, but as yet the DOE doesn't even have a plan. A zero accident goal would reflect a culture in which safety is paramount and drives all aspects of the transportation system. That goal encourages a culture of safety.

I know there are safety concerns about these materials being stored where they are. The Department of Energy has argued that we need to consolidate this waste in one location. But that argument overlooks the fact that authorization of Yucca Mountain as a permanent repository doesn't solve these concerns. The only reactors that will get rid of their waste completely, according to the DOE, are those that are closed today—and those are not in Minnesota.

According to the draft environmental impact statement prepared by DOE, the Monticello and Prairie Island reactors will still have 111 and 344 metric tons of high-level nuclear waste, respectively, onsite when Yucca Mountain is full.

Despite what the proponents would have us believe, the DOE's proposal

fails to eliminate Minnesota's nuclear waste. Nationwide, when the Yucca Mountain project is completed, there will roughly be the same amount of high-level nuclear waste at powerplants across the country as there is today. We simply cannot afford to overlook the real and pressing security concerns inherent with the transportation of this fuel, nor can we ignore the fact that the next generation will still be left with similar problems of what to do with the waste.

I will conclude this way. We urgently need to achieve a real solution to our storage problem with high-level nuclear waste, as opposed to forcing authorization of Yucca Mountain before there is a comprehensive plan for transporting the waste safely and securely before it is in place.

I believe the Department of Energy needs to immediately begin a true collaborative process, seeking broad-based stakeholder input on the real challenges of transportation safety and emergency preparedness. While the Department of Energy has elected to proceed with significant questions remaining unresolved, a comprehensive transportation plan developed through a consultative process would give DOE's proposal for Yucca Mountain the credibility it now lacks. The DOE should immediately organize a stakeholder task force to develop transportation recommendations that include the experts on the ground, such as Governors and their safety agencies, local elected officials of the large and small towns where the waste will travel, emergency preparedness experts, and public health and safety officials, and develop a responsible plan that would transport this waste safely before a final decision is made.

I believe there are a whole host of issues surrounding the transportation of nuclear waste material that must be addressed before final decisions are made on Yucca Mountain. We can make the decision next year or the year after. That would be fine with me—if these concerns can be met first.

Unfortunately, the administration has elected to force the issue before all these concerns can be sufficiently addressed. I want to be able to support this resolution. I would like to be able to vote to move the high-level nuclear waste out of Minnesota. But I cannot, in good conscience, do this before there is a comprehensive plan in place to protect Minnesotans as this radioactive waste is moved through our State to Yucca Mountain, and from our State to Yucca Mountain.

I think forcing the issue before such a comprehensive plan is in place would be a serious mistake, and that is why I intend to vote no on this resolution.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, while I have the attention of the Senator from Minnesota, the Department of Energy did a comprehensive analysis called "The Spent Nuclear Fuel Trans-

portation System," which I think encompasses a good deal of the concerns of the Senator from Minnesota. I encourage that he review it at his leisure.

I also remind my colleagues that the issue before us is simply licensing and the authority that this body gives the Department of Energy to proceed with the license. That licensing process will legitimately conclude in an evaluation of the adequacy of the transportation proposals either by rail, road, or a combination of both involving the Nuclear Regulatory Commission, the Department of Transportation, the Department of Energy, and the National Academy of Sciences. They are judged to be the best experts as opposed to those of us who obviously are not necessarily specialists but generalists in this area, although we have some expertise in legislation.

I also remind my colleagues that this is the formal process of some 20 years in evolution of addressing the procedure to address the waste.

I am sensitive to the needs of my colleagues from Nevada who obviously do not want the waste in their State, but I remind my friend from Minnesota that there are 835 metric tons of nuclear fuel stored in Minnesota in two locations, and that Minnesota has three nuclear units—Prairie Island 1 and 2 and Monticello.

As a consequence of the procedures we have initiated, there appears to be one of two solutions: We either proceed and let the experts in the agencies address a transportation plan in the sequence that has been laid out that follows after the licensing, or we are going to be right back where we were 20 years ago on what to do with the waste. I can assure my colleagues, nobody wants it, but we have created it, and we have an obligation to take care of it.

I would like to identify, so we can move along in sequence, those speakers who have requested time on our side. We have Senator BINGAMAN, who has asked for 10 minutes; Senator THOMAS, some 8 to 10 minutes; Senator CRAPO, 5 minutes; Senator KYL, 10 minutes. I would like to reserve some time for myself, about 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I will say quickly that this document about which my friend from Alaska refers is not worth the paper on which it is written. It talks about 4,300 shipments on trains—they have no trains at Yucca Mountain, 100 miles from any train. This piece of trash—and that is what it is—is typical of what the Department of Energy has done. It is one big lie after one big lie.

As indicated by anyone who looks at it, there are 292 reports that they did not even wait to see what the answers would be. The General Accounting Office said that, not some radical environmental group—the General Accounting Office. So the statements of my friend from Minnesota are directly on point. This means nothing.

Madam President, in keeping with having some degree of preciseness on the floor—I will be happy to yield some time to my friend—I am going to yield 10 minutes in a minute to the Senator from Minnesota and then it is my understanding the Senator from Alaska will yield 10 minutes to the Senator from New Mexico, and following that, I will yield 10 minutes to the Senator from California, Mrs. BOXER, who almost made it here this morning. Then if the Senator from Alaska has somebody who wishes to speak, that is fine; otherwise, I will yield time to the Presiding Officer, who will be out of the chair at that time, just to give an idea of how we are proceeding.

How much time does the Senator from Minnesota wish before I yield to his colleague?

Mr. WELLSTONE. I say to the Senator from Nevada, 1 minute.

Mr. REID. I yield my friend 2 minutes.

Mr. WELLSTONE. Mr. President, I say to my colleague from Alaska, I have over and over—my position is a somewhat different position than the Senator from Nevada—over and over I have said do not separate Yucca Mountain; you already put \$7 billion into it. Why not lay out a comprehensive plan about how you are going to transport this safely to Yucca Mountain? That has been my issue over and over. I have asked the Department of Energy when will there be such a plan? Two years? Three years? Four years? I think we are now talking about several years in the future.

I want to make it crystal clear to me that to vote for Yucca Mountain without those assurances, without the assurances about how it is going to be done safely, without the input of local communities, without the commitment that people will be trained, without any of those assurances whatsoever, it seems to me to be not responsible. That is my first point.

My second point is to one more time say to my colleague and say to all colleagues, though there are those who would have us believe Yucca Mountain will eliminate Minnesota's nuclear waste, as a matter of fact, according to the draft environmental impact statement by the DOE, we still will have 111 and 344 metric tons of high-level nuclear waste in Minnesota onsite at Monticello and Prairie Island.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, a little simple math: 77,000 tons now exist. They can move at most 3,000 tons to someplace; let's say Yucca Mountain. These reactors produce over 2,000 tons. I repeat, the math is not very much. The big lie has been the fact that they say they are going to have only one repository. They are still going to have 131 repositories. That is the way it is going to be. This is a big lie they have perpetuated for many years now, and it is absolutely false that they are going

to have one repository. They will continue to have 131, plus the mobile Chernobyls that will be all over America on trucks, barges, and trains.

I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the Chair.

Madam President, I thank my very distinguished colleague from Nevada for granting me time. I join with my senior colleague from the State of Minnesota who spoke very eloquently before me. I have come independently to the same conclusion as he that I will vote against designating Yucca Mountain as a national nuclear waste repository at this time.

I do so because there are simply too many unanswered questions, untested designs, and unproven procedures to approve a project that has such enormous consequences.

Building a safe and secure storage site at Yucca Mountain and then filling it with some 77,000 tons of nuclear waste will take the next 30 to 40 years. That is the rest of my generation's lifetime.

Throughout those three and four decades, the design, the construction, the loading, the unloading, and the safe transportation of over 150,000 pounds of extremely poisonous nuclear waste must all be done perfectly—at least almost perfectly. One accident, one rupture, one attack would have devastating effects on the lives of people today and for generations to follow, as one look at a victim of the Chernobyl nuclear accident would confirm.

That is the easy part, those 30 to 40 years. Now those 150,000 pounds or as much as 200,000 pounds of radioactive waste has to be stored, contained, and isolated perfectly—almost perfectly—for thousands of years.

That it must be nearly perfect does not mean it is unattainable or unsustainable, but it does mean that the standards for approval must be very high. The standards of reliability, of proven technology, of public safety must be extraordinarily high. They must be met and maintained with certainty, and that certainty must be guaranteed to the American people.

This project is nowhere near that standard today, not even close. That is why we should not even be considering the approval we are being required to give or to deny today. This is not what the law proscribes.

The law states, as it has for the last 20 years, that within 90 days after Congress's final approval, which will be today if this body so decides, the Department of Energy shall submit its application to the Nuclear Regulatory Commission.

According to the Secretary of the Department of Energy, the Department is at least 2 years or more away from being ready to submit that application. According to the private project manager, Bechtel Corporation, DOE is 4 years or more away from being able to submit an acceptable application.

I was not here in 1982 when the law was passed, but clearly the lawmakers intended, and I believe wisely so, that Congress's final review of this project would be within 90 days, or very shortly before the Department of Energy made its application to the Nuclear Regulatory Commission; in other words, after all the testing and design and evaluation had been completed. Today we can do nothing more, if we are so inclined, to say it looks OK or it does not look OK. A lot more has to be done.

As the Senator from Nevada pointed out correctly, the Department of Energy has still almost 200 tests and assessments remaining that it agreed, itself, with the Nuclear Regulatory Commission would have to be completed before the Department of Energy could even submit an acceptable application for site construction to the Nuclear Regulatory Commission. Just to develop an acceptable application, it has to complete some 200 more assessments. Then the Nuclear Regulatory Commission has up to 4 years to review. There is no one else who has the expertise beyond ours and is associated with this project who maintains it is even ready to begin to be considered. Why are we put in a position of acting on it today? Why even consider approving it today?

Given those high standards that are necessary, some of the recent critiques of expert advisory boards and commissions are truly alarming. A January 24 letter of this year to Congress by the U.S. Nuclear Waste Technical Review Board stated:

The Board's view is that the technical basis for DOE's repository performance estimates is weak to moderate at this time.

Weak to moderate is a long ways from perfect.

In a September 18, 2001, letter to the Chairman of the U.S. Nuclear Regulatory Commission, the Advisory Committee on Nuclear Waste documented its review of the Department of Energy's performance modeling called TSTA-SR. The committee's "principal findings are that this system does not lead to a realistic risk-informed result and does not inspire confidence in the TSTA-SR process. In particular, the TSTA-SR reflects the input and results of models and assumptions that are not founded on realistic assessment of the evidence. The consequence is that TSTA-SR does not provide a basis for estimating margins of safety."

Others who have written and raised similar questions and concerns. I believe we should say no to the Yucca Mountain site today, not to remove it from further consideration but we should not commit ourselves to a decision that will affect the lives of millions of Americans today and for generations and generations to follow based on insufficient evidence, inadequate testing, incomplete analyses, undocumented strategies. In a sense, the Senate would be put in a position to make that attestation today which

no one could responsibly make about this project, particularly given this level of assurance that the American people deserve.

Finally, as to the citizens of Nevada, they have been remarkably, extraordinarily well served by the two Senators from that State, Senators REID and ENSIGN. We preside in the Senate in inverse proportion to our seniority, which means I—being 100th in seniority—spend as much time presiding as anyone else; I therefore have a chance to observe what is going on in the Senate. The senior Senator from Nevada, Mr. REID, has been unbelievable in his tireless pursuit of every Member of this body to discuss and to reason and implore their recognition of the facts as he has so well articulated. Senator ENSIGN is in his first term and has encountered an enormous responsibility to his State which he has also performed remarkably well.

Regardless of the outcome of today's vote, I cannot imagine any two people who could have possibly done more, tried more, put more of themselves, heart and soul, into doing what they believe with all their fervor is the right thing for the people of Nevada, and I believe for the people of the United States, including the people of Minnesota, which is to vote no against Yucca Mountain as a site today.

I yield the floor.

Mr. MURKOWSKI. Madam President, before I yield to the chairman of the Energy and Natural Resources Committee 7 to 10 minutes, I point out that for the past several decades we have moved nuclear waste safely in this country. We have had 2,700 shipments in the past 30 years. We have shipped 1.7 million miles. We have not had a single harmful release of radioactivity. This is substantiated by the testimony in the committee. Both the Regulatory Commission and the Department of Transportation, the agencies responsible testified that the waste can be "safely and securely transported."

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I appreciate my colleague from Alaska yielding me a few minutes to express my views on this issue.

We are in a debate now about whether to proceed to consider S.J. Res. 34 which would approve President Bush's recommendation of Yucca Mountain as the site for the development of a nuclear waste repository. The resolution does not authorize construction of a repository. Similarly, it does not authorize the transportation of nuclear waste to Yucca Mountain. What the resolution does do is allow the Department of Energy to apply to the Nuclear Regulatory Commission for a license to begin construction of the repository. The Department of Energy still needs to persuade the Nuclear Regulatory Commission that the repository would be safe before construction could begin and before shipments to the repository

could begin. Failure to approve the resolution that we are talking about, S.J. Res. 34, would terminate the Nation's nuclear waste program.

The Nuclear Waste Policy Act of 1982, passed before I came to this Senate, gave the Governor of Nevada the power to veto the President's site recommendation, and the Governor of Nevada exercised that authority in April. If the President does not join the House of Representatives in voting to override the Governor's veto by the 27th of this month—this July—the Governor's veto stands. If the Governor's veto is sustained, either the waste will stay where it is, in temporary above-ground holding tanks at 72 nuclear powerplant sites and 4 Department of Energy nuclear weapons plants in 39 States, either it stays where it is in those locations from now on, or Congress will have to pass a new law to authorize the Department of Energy to search for a new site, leaving the waste where it is safe enough in the short run.

I am not one who is saying there is an imminent health risk or safety risk from leaving the waste where it currently is in the short run. However, it is not an acceptable long-term solution. It would require constant monitoring where it now is and frequent replacement of the storage containers for thousands of years, or the waste will escape into the environment. That is based on the expert testimony we received in the committee hearings.

Looking for another site, without allowing the Nuclear Regulatory Commission to consider Yucca Mountain, to consider an application for a license to use Yucca Mountain, is not a realistic course of action. We have spent 20 years; we spent \$4 billion looking at Yucca Mountain already. No one has found a technical or scientific reason that makes it unsuitable as yet. We are not likely to find a better site next time, but, of course, if the Nuclear Regulatory Commission determines that another site has to be found, then we can take on that task.

The Committee on Energy and Natural Resources, which I chair, of which my colleague from Alaska is the ranking member, carefully considered the arguments against the repository that have been raised by opponents of the project. I am the first to admit that not all of the questions that have been raised by the opponents have yet been adequately answered. They have not been. Many of those are questions, though, that are best answered by the Nuclear Regulatory Commission in its licensing procedures and nothing in the record before us justifies a decision, in my view, to terminate the program at this stage.

The hearing record that we compiled in the Energy Committee supports approval of the resolution and it supports allowing the waste program to continue. While not prejudging whether it will approve a license application for Yucca Mountain, the Nuclear Regu-

latory Commission itself—and we had the Commission members there testifying before our committee—testified that they believed nuclear waste can be safely transported and safely buried at a repository. Not necessarily this one—that will be a decision they will make in the future—but at a repository.

The Nuclear Waste Technical Review Board testified that:

No individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration.

The Environmental Protection Agency testified that the radiation protection standards that will apply to this repository are "among the most stringent in the world." If the repository complies with them it "will be fully protective of public health and the environment."

That is "if" the repository complies with these standards. As I say, that is a decision the Nuclear Regulatory Commission will make in the future.

In addition to these agencies of the Federal Government, we also heard from the U.S. Geological Survey. They stated:

The scientific work performed to date supports a decision to recommend Yucca Mountain for development of the nuclear waste repository [and that] no feature or characteristic of the site . . . would preclude recommending the site.

So based on this record, the committee found no reason to terminate the program.

The National Academy of Sciences has said:

[G]eological disposal remains the only scientifically and technically credible long-term solution available to meet the need for safety without reliance on active management.

We have a responsibility to dispose of these wastes rather than leave them for future generations to deal with. I do not favor just kicking this can down the road and leaving it for someone else to act.

In sum, a vote for the motion to proceed on the resolution is not a final vote to put nuclear waste in Yucca Mountain. It is a vote to let the Department of Energy apply for a license, a vote to let the technical experts at the Nuclear Regulatory Commission decide whether Yucca Mountain is, in fact, safe.

A vote against the resolution is a vote to stop the program in its tracks, to leave the waste where it is with no alternative strategy for finding another site, and, frankly, with little or no chance of putting together a political consensus to find another site in the foreseeable future.

On the basis of those reasons, I urge my colleagues to approve the motion to proceed and to approve the resolution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will yield to my friend from California in a minute, but this is another one of the fallacies of this

whole debate. Isn't it too bad we have worked on it all this time, and if it doesn't go through, what are we going to do?

Chairman Meserve of the Nuclear Regulatory Commission said less than a month ago:

If Yucca Mountain were to fail because of congressional action, that does not mean all of a sudden from a policy point of view that the country is at a stalemate and is confronting imminent disaster.

Of course he would say that. We have nuclear reactors around the country that are using their facilities to store the stuff onsite—safely, in dry cask storage containment. You don't have all the worries of transportation. It is safer than trying to haul this stuff past our schools and homes. This is an argument that is without foundation. It would not mean the end of the nuclear world at all.

I yield 10 minutes to the Senator from California who, I would state, is the chair of the environmental task force Senator DASCHLE has set up and who has done an outstanding job pointing up the environmental problems we have in America today.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, it is indeed an honor to stand with my friend from Nevada on this issue because there can be no higher calling that we have than to protect the health and safety of the people we represent—no higher calling.

It seems to me very interesting that, as we are about to address a very important subject of corporate irresponsibility and try to fix the mess that is happening on Wall Street, we would be disrupted from that task to go to an issue such as this, which is so very harmful to our people. I am going to take some time to explain it.

My State of California is one of the most affected by the Yucca Mountain project because Yucca Mountain is only 17 miles from the California border and from Death Valley National Park. Scientific studies have shown that the regional ground water aquifer surrounding Yucca Mountain discharges into Death Valley because Death Valley is down gradient from Yucca Mountain. If the ground water is contaminated, that will mean the demise of the park and the surrounding communities.

The tests that have been done on the site are not what we would want to see. We see leakage; we do not see dryness. We see problems with Yucca Mountain that would lead most people to assume there will be a problem with leakage into the ground water. It is an absolute travesty waiting to happen to my State.

The long-term viability of the fish, the wildlife, and the human population is dependent on this aquifer. Water is life in the desert. Water quality must be preserved. Given the threat posed by Yucca Mountain, I have opposed it, and that was before 9-11.

Since 9-11, we have a whole other area of concern and that is taking this waste from all over the country and putting it on trucks or trains and shipping it across this country. It is an absolute disaster waiting to happen. This is so hot that it has to be cooled for—I say to my friend from Nevada, Senator REID, am I correct in saying that waste is so hot that it has to be cooled? And for how long does it have to be cooled?

Mr. REID. I will respond to my friend from California. National Geographic this month has a wonderful article on nuclear waste. Among other things, it confirms what we have known for a long time. The nuclear reactors in America and around the world are 97 percent inefficient. That means you put in a fuel rod in a nuclear reactor and when they take it out, it still has 97 percent of its radioactivity. It has only used 3 percent.

The nuclear reactors are so inefficient they have to take them out of the reactors and put them in water. You cannot take them out of the water for at least 5 years for them to cool down.

Mrs. BOXER. Five years.

Mr. REID. Five years for them to cool down. So I say to my friend from California, all this talk about we need to have one site, we don't need to have 131 sites—the fact is, they are always going to have spent fuel at the sites of the power-generating facilities.

Mrs. BOXER. I thank my friend. I knew this waste was so hot that it would have to be cooled down, but I wasn't aware that it was for 5 years.

Post 9-11, you would think this administration would think twice, or three times, or six times, before they would go ahead and give the order for this waste to move. We have given the airlines billions of dollars. We are spending so much to make airports safe and here we have this administration, the one that tells us we are in a war—there is not a speech this President makes that he doesn't remind us that we are in a war—is ready to put this kind of material on our roads.

I am just incredulous. The only thing I can come up with is, who is really behind all of this?

I have a list of some of the people who are pushing for this. Let us put that on the floor since we are talking about corporate power this week.

We have the Nuclear Energy Institute. There are 260 companies in the Nuclear Energy Institute pushing this. They include Enron, First Energy, Bechtel, Duke Energy, and General Electric, to name a few. There are a lot of special interests—260, to be exact—pushing this.

But where are the people? The people will be living in fear, I guarantee you, when this starts.

Let me show you a map which I think my colleague must have shown before. Let me show you a map first of just one area, Sacramento. The red area is within 1 mile of one of the proposed routes. The yellow area is within

3 miles of the proposed route, and the light yellow is within 5 miles.

If you look at all of this, you see these little arrows. They are actually schoolhouses. These are the schools located so close to this traffic. The H's are the hospitals. We have 167 schools that are within 5 miles in this area. There are seven hospitals within 5 miles.

The PTA has sent us a letter against this project.

Where are my colleagues? You would think 9/11 never happened. You would think 9/11 was just something in a movie. The PTA has basically told us: Don't do this until you have a plan that you can prove is safe.

Mr. REID. Madam President, will the Senator yield for a question?

Mrs. BOXER. I would be happy to.

Mr. REID. The Senator mentioned the 260-plus companies that make up NEI. Is the Senator aware that there is a lawsuit now pending to have the Vice President of the United States divulge who he met with at those energy companies and what they talked about? Is the Senator aware of that?

Mrs. BOXER. I am certainly aware of that.

Mr. REID. I felt so strongly about that issue that I filed an amicus curiae brief joining with the GAO to have him divulge that information. I will bet a significant number of the 261-plus companies met with him to develop the energy policy this administration came up with. Does the Senator suggest that is probably true?

Mrs. BOXER. Given the track record of this administration in terms of its energy policy and the President's lack of anything very exciting in terms of how we are going to regain the confidence and trust of the people, it is very possible—indeed, probable, in fact—that these companies, or certainly their representatives, met with the Vice President.

I will tell you, when that comes out, we will know even more why, even after 9/11, they had this plan.

This is just one area—Sacramento. I want to show you Los Angeles. We are not talking philosophy or ideology. We are talking about the hottest, most dangerous waste known to humankind coming near schools and hospitals in my State and in almost every other State.

Again, the red area is within 1 mile of the route. The yellow area is within 3 miles. The light yellow area is within 5 miles. We have 446 schools within 5 miles of these routes. Is this what we owe those little kids? Is this what we owe them? Are they going to close the school down when they transport this near by? There are 23 hospitals within 5 miles.

I am amazed we are debating this issue. I am amazed we are debating this issue. The Department of Energy doesn't tell us what the final plan is. You know why? It is because of the outcry in the country when that final plan comes forward.

Attorney General Ashcroft has said we should worry about a "dirty" bomb. And we all do. We already know it has been disruptive. That is a "dirty" bomb. That is material that doesn't even come close to the danger of this material.

I want to give you the facts about what happens in California with the transportation of this waste.

We have 35 million people in our State. Seven million people in California live within 1 mile of the proposed route.

I ask my colleague for 5 more minutes.

Mr. REID. I yield the Senator from California 5 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 more minutes.

Mrs. BOXER. There are 231 hospitals within 1 mile of the proposed route. There are 3,500 schools within 1 mile of the proposed route. Nuclear waste shipments in California over the life of the project, if done by truck, will be 14,000-plus; if done by train, 13,000-plus; 2,040 metric tons of nuclear waste at facilities throughout California now—which means that even with the Yucca Mountain we are going to have nuclear waste in the State, which is also the case with most of our States.

Our Attorney General had a press conference about the potential of a "dirty" bomb. We worry about where the terrorists are going to get this material. This administration has been backing the transportation of the most dangerous nuclear waste and not even mentioning 9/11. It is almost like a Rip Van Winkle situation when it comes to Yucca Mountain. Well, we have done it; we spent the money; and, we have invested it. It doesn't matter—9/11, or anything else. You could have another terrorist and it would still be here for Yucca Mountain.

Loud special interests are behind this vote. That is the only way you can come to any other conclusion.

I will tell you some of the people who oppose this. I mentioned the PTA. I will give you some more: The Alliance for Nuclear Accountability, American Land Alliance, American Rivers, American Public Health Association, Clean Water Action, Environmental Action Foundation, Environmental Defense, Fellowship of Reconciliation, Friends of the Earth, and the Government Accountability Project. It goes on: League of Conservation Voters, International Association of Firefighters.

Do you want to be a fireman and get called to a fire when one of these accidents happens? The Department of Energy has said they know already there are going to be accidents. Is that 100 accidents? They predict that already.

The International Association of Firefighters knows what that could mean to their lives.

Who are we fighting for here? I say to my colleague, this is a moment of truth for every person here.

You could look at the United Church of Christ, United Methodist Church,

Wilderness Society, and the Women's Legislative Lobby in Washington. These are people who have spoken out.

I ask unanimous consent to have this entire list printed in the RECORD.

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

ORGANIZATIONS OPPOSED TO THE YUCCA MOUNTAIN NUCLEAR WASTE DUMP

Alliance for Nuclear Accountability, Seattle, Washington, American Lands Alliance, Washington, DC, Americans for Democratic Action, Washington, DC, American Rivers, Washington, DC, American Public Health Association, Washington, DC, Center for Safe Energy, Earth Island Institute, Berkeley, California, Clean Water Action, Washington, DC, Defenders of Wildlife, Washington, DC, Earthjustice, Oakland, CA, Environmental Action Foundation, Takoma Park, Maryland, Environmental Defense, New York, NY, Environmental Working Group, Washington, DC, Fellowship of Reconciliation, Nyack, NY, Free the Planet!, Washington, DC, Friends of the Earth, Washington, DC, Government Accountability Project, Seattle, WA, Grandmothers for Peace International, Elk Grove, CA.

Greenpeace, Washington, DC, Honor the Earth, St. Paul, Minnesota, Indigenous Environmental Network, Bemidji, MN, Institute for Energy and Environmental Research, Takoma Park, Maryland, International Association of Fire Fighters, Washington, DC, League of Conservation Voters, Washington, DC, League of United Latin American Citizens, Washington, DC, National Education Association, National Environmental Coalition of Native Americans, Prague, OK, National Environmental Trust, Washington, DC, National Parent Teacher Association, National Wildlife Federation, Washington, DC, Natural Resources Defense Council, Washington, DC, Nuclear Information and Resource Service, Washington, DC, Pax Christi USA, Erie, PA, Peace Action, Washington, DC, Physicians for Social Responsibility, Washington, DC.

Presbyterian Church (USA), National Ministries Division, Washington, DC, Psychologists for Social Responsibility, Washington, DC, Public Citizen, Washington, DC, The Safe Energy Communication Council, Washington, DC, Scenic America, Washington, DC, Sierra Club, Washington, DC, Union of American Hebrew Congregations/Religious Action Center of Reform Judaism, Washington, DC, United Church of Christ, Office for Church in Society, Washington, DC, The United Methodist Church, General Board of Church and Society, Washington, DC, U.S. Public Interest Research Group, Washington, DC, The Wilderness Society, Washington, DC, Women's International League for Peace and Freedom, Philadelphia, PA, The Women Legislators' Lobby (WILL), Washington, DC, Women's Action for New Directions (WAND), Washington, DC, 20/20 Vision, Washington, DC.

Mrs. BOXER. Madam President, I want to conclude and say I could show you other charts that show the impact on other States. But I have made my point. This nuclear waste is going to go by schools, it is going to go by hospitals, it is going to go by our families, it is going to go by our children, it is going to go by our homes, and it is going to go by our businesses. And post-9/11 we don't even have the final plan.

I am proud to stand with my friends from Nevada. I am going to be in this

fight if they need me because I believe there are some moments on this floor when you have to step up and realize you are here for a brief time, but decisions we make can come back to haunt us. I hope today people will think about that and vote with my colleague from Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, let me point out a couple of facts that perhaps some Members have not reflected upon.

There are no proposed routes. There are only potential routes.

While the Senator from California points out routes around Sacramento or Los Angeles, they have simply taken every major route that has the potential of moving nuclear waste and said this is, in fact, a proposed route.

That is hardly accurate. It is fair to say there is no Yucca transportation route yet. What opponents have done is they have selected every major highway in the U.S. and simply called it "proposed." That is certainly stretching things to suggest it is going to go by hospitals, it is going to go by schools.

Clearly, there are efforts being made by the responsible agencies. If we create these agencies, we have the oversight. If we do not have the faith in them to do their job—the Department of Transportation, the Department of Energy, the Nuclear Regulatory Commission—are we to micromanage, if you will, when waste has been moving safely across this country for decades, and to suggest that somehow we cannot move it safely?

California is 17-percent dependent on nuclear energy. I am looking at a spreadsheet. Cumulative spent fuel, in California, at the end of the year 2000, was 1,954 metric tons, not including 98 metric tons from the San Onofre Nuclear Reactor. There are 403 metric tons at shutdown reactors, 11 metric tons in dry storage. It is going to stay there unless it is going to be moved somewhere. It has to be moved by a route. It has to be moved safely. Is it going to be moved by train or by highway?

Clearly, we have moved 2,700 shipments in 30 years 1.7 million miles, and with not a single harmful release of radioactivity. We have had shipments to WIPP in New Mexico—900 shipments, since 1997, 900,000 shipment miles, and not a single harmful release of radioactivity.

Do you think we are the creators of moving this stuff? In Europe there has been 70,000 tons shipped safely over 25 years. So this isn't something that has just happened.

We have moved high-level nuclear waste across this country. Now we are talking about moving waste out of our reactors. We are talking about doing it responsibly.

Some of these arguments—we have heard the term "red herring." Well,

this is a "nuclear herring," if you will. Maybe it glows in the dark. But it certainly suggests, in this debate, that somehow we are doing something new in this country, that we are doing something that is high risk in which we have not had any experience.

Again, in reference to bringing this discussion in the parameters, we are not moving it to Yucca Mountain today. We are simply authorizing the administration to proceed with the license process which will address the legitimate transportation questions that are coming up in this debate.

I yield the floor to my good friend from Wyoming.

How much time would the Senator from Wyoming require?

Mr. THOMAS. I think about 10 minutes, please.

Mr. MURKOWSKI. I yield 10 minutes to the Senator.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, this is an issue we have talked about for a good long time. Some of the things I have heard today are quite different than what we have talked about before. Nevertheless, everyone is entitled to their own views.

I think, as has been mentioned, we ought to remind ourselves what the purpose of this particular vote is about. It is to make it possible for the Secretary to apply for a license to construct a site at Yucca Mountain. If this fails, then ever since the 1980s, 24 years of work, and \$4 billion worth of expenditures will be halted and nothing more will happen.

This is not the final issue to be talked about. This is not the issue of transportation. This is the issue of whether or not to move forward and license the site, which will then provide the opportunity and the necessity of moving on to other issues, such as defining the transportation routes and dealing with the safety of transportation.

I think we ought to keep in mind what we are doing here and that is to authorize them to move forward in licensing the site. The site, of course, is one of the most important issues before us. It has been said a number of times that there are 131 different sites where waste is stored. Not all of those sites will disappear, of course, but many of them will. Those that have been Government used, that are not continuing to be used, will be gone. We will have fewer sites.

I do not hear anyone talking about solving the problem. All I hear about is avoiding coming to a decision. I think we need to ask ourselves which is better in terms of safety: to have it generally in one place or to have 131 different sites?

Talking about trying to have protection and security, how much security do you think there is in every one of these sites? If you are talking about September 11, you have to talk a little

bit about having all these sites. We are trying to consolidate some.

So it has been interesting to hear the kinds of reactions that we have had. The site is there, of course, because Yucca Mountain is 90 miles from the nearest population centers. It is one of the most remote places in the country. The climate is conducive to storage. There are multiple national barriers in order that tunnels can be stored. There is great depth, 2,600 feet deep underneath, an isolated basin.

So this is something that has been selected with a very great deal of study from a number of places. This is the one that was decided upon to be the best. So that is where we are.

It is interesting, all we hear about are problems. I think it is up to us to talk about some solutions. I hope we can do that. In fact, I think to say this Energy Department material is not useful is a stretch. Certainly this material has been studied. Experts have put this information in there.

Some of the information we are hearing lacks a little bit. At the hearings we held, there was a gentleman who had been the past director of highway safety who was talking about highways. I asked him who he was working for. It turned out he had been paid by the State of Nevada. Talk about people being in support of the idea and causing people to have their positions the way they are.

Let me talk a minute, though, about transportation. Obviously, transportation could very well be going through our State of Wyoming, although, as the Senator from Alaska points out, those decisions have not been made. Everyone is talking about where it is going to go. That has not been decided. In fact, I have written a letter to the Secretary of Energy to ensure, as we move through this particular decision, that we will move on, then, to an equally difficult decision about transportation, and also to get assurance—which he has assured us—that the Governors and officials in the States will coordinate and will be cooperative workers in terms of deciding what the routes are.

In any event, we have talked a little bit about the history of transportation. It is very impressive. We have had 30 years of transportation of nuclear waste of various kinds without an incident. We have had that over 1.5 million miles. It is handled safely.

I was surprised. At the hearing, they had a sample on the floor of the kinds of containers that spent nuclear material is in. I had no idea, frankly, what it was. But they are in solid pellets, approximately the size of a pencil eraser. And they are secured in multiple layer metal tubes. They are hard, and they are solid.

Nuclear waste is not fluid. It is not a gas. It will not pour or evaporate. It is in these big, hard vats that are set up for it. Nuclear waste, nuclear fuel does not burn, as a matter of fact. It is not flammable, even if it is engulfed in fire.

Spent nuclear fuel cannot explode. We sort of get the notion that it is

going to go up in a big puff. That is not the case. It is transported in strong thick-walled casks, casks that have been dropped from 30 feet in a free fall from helicopters to be tested. And they have a puncture test with a special way to do it. They have flatbed trucks that have been smashed into a 700-ton concrete wall at 80 miles an hour.

There is safety here. Safety, of course, is a high issue for all of us. No one would suggest it should not be. Most of it will be done by train, not on the highways. These are the things we will have to deal with and we will deal with over a period of time.

We should start, of course, with dealing with the question. We have agreed, in 1982, to take care of this waste, particularly in the commercial uses that have been there. They have been taxed \$17 billion to do something with it. What they are doing with it now is not the safest thing that can be done.

I know when you talk about nuclear, everybody swells up, but it is interesting to also recall that Illinois, for example, generates over 30 percent of their electricity with nuclear. Of course, there is nuclear waste. But we need to do something with it. We are going to be moving more toward it.

On the other side, it is one of the cleanest kinds of electric generating fuels we can have. I guess if I have been impressed by anything in this discussion, it is that we haven't really dealt with the problem. How do we solve it? What we have talked about, what we hear about almost all the time, is how do we avoid making a decision on an issue that is there, and one that is obviously going to be there until we do something about it, until we follow through on what we agreed to do in 1982 and have not done since, and haven't heard much about, as a matter of fact. We spent \$4 billion in Nevada. We didn't hear much about that. Fine.

I hope we can go ahead and deal with this, support this portion of the total decision that needs to be made, move forward on this site, and then deal with the other issues that come before us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will yield to my friend from Michigan in a second. I do want to say, however, that of course the routes Senator BOXER talked about are the routes proposed by the DOE in their final environmental impact statement. They have said they are not sure this is the final transportation plan they will have, but that is what they have said so far.

Jim Hall, former head of the National Transportation Safety Board, said in testimony: What I find more shocking about the Yucca Mountain project is that DOE has no plan to transport spent nuclear fuel to its proposed repository.

Secretary Abraham testified last week that DOE is just beginning to formulate preliminary thoughts about a transportation plan, even though in

the final environmental impact statement they did give us these routes about which Senator BOXER and others have talked.

Puncture tests? Sure, there are puncture tests. We know a shoulder-fired weapon will go through one of those canisters of spent fuel rods. We know that. The tests have been proven. We also know they don't withstand fire. Diesel fuel burns at 1,400 degrees. They have only had these tests go up to 1,200 degrees. If you have a fire and a diesel truck is carrying this, it will breach the container.

The things we are being told simply have no validity. We talk all the time about all this dangerous stuff that has been hauled. Let me tell you about the WIPP facility. The WIPP facility is the waste isolation project in New Mexico. WIPP is the most highly planned nuclear shipment we have ever had. Yet the first shipment went the wrong way, 28 miles the wrong way, and was turned around by the local police department. The DOE satellite tracking system didn't work. The truck was going 28 miles the wrong way. It turned around. It was 56 miles on a road on which they were not supposed to be.

Eighty percent of all traffic accidents are not as a result of anything going wrong with the equipment; it is human factors. That is what this is all about.

No harmful releases of radiation? That is laughable, Mr. President. There have been accidents, and there have been releases over these 2,700 shipments. Some of those have dealt with pounds of stuff, not tons. On one of these trucks, the cannister alone was 10 tons. There have been releases over the years that they have been doing this. The DOE itself says there will be at least 100 accidents. That is in their proposed findings in the environmental impact statement.

Someone can vote against this with goodness in their heart. They are doing the right thing. This is not good for the country.

My friend mentioned France and Germany. They may have hauled a lot of stuff, but they haven't hauled a lot of stuff lately because it has been stopped in its tracks. Germany has given up trying to haul it because people lie down in the streets and chain themselves to railroad tracks.

I yield 10 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Ms. STABENOW. Mr. President, I thank my colleagues from Nevada for their leadership on this very important issue for all of us. I know my colleagues on both sides of the aisle will join me in saying there is not a more revered Member of this body than our senior Senator from Nevada. I thank him for his leadership, his intelligence, his compassion, and his advocacy on this particular issue as well as many others.

When I was in the Michigan Senate, I helped to lead an effort to stop putting casks along Lake Michigan and our nuclear facilities because of my concern about the waste being along Lake Michigan. I certainly still have that concern. We lost that, and the waste is there.

On first blush, when I was in the House of Representatives, I thought supporting a permanent nuclear storage site at Yucca Mountain was a good idea. I want the waste out of Michigan. There is no question about it. My preference, if we could say, "Beam me up, Scottie," would be to move the waste out of Michigan.

Unfortunately, by very close examination of the facts and information from the Department of Energy, their current documents, I have come to the conclusion that this proposal not only will maintain existing threats to the Great Lakes but will create new ones, new security risks, new environmental threats for the Great Lakes and for Michigan families. I am deeply concerned about that and frustrated because fundamentally I want the waste out of Michigan. But I do not want to create more threats in the process.

It goes without saying that the world has changed since September 11. We know that. We hear that all the time from our President. We say that on the floor of the Senate practically every day. The world has changed since September 11.

Since the tragedies in New York and Pennsylvania and the Pentagon, we have administration officials who daily tell us that we are going to see further attacks. On May 19 of this year, the Vice President stated on "Meet the Press" that the prospects of a future terrorist attack against the United States are almost certain and not a matter of if but when. That should be a concern—and I know it is—for all of us. It should in some way be a shadow over every decision we make today in this body for our families, for the families we represent.

On June 10, as we all know—just a month ago—the American people became aware of a plot to potentially detonate a so-called "dirty" bomb which could kill thousands of people and send poisonous nuclear matter throughout the air, exposing hundreds of thousands more people to nuclear radiation. This causes me to pause and look at what we are doing in a new light. September 11 and the ongoing war against terrorism has, in fact, put this in a new light for me. I have examined how the nuclear waste from Michigan's storage sites would be transported across Michigan to Yucca Mountain and, unfortunately, I am very concerned there is not a plan by the Department of Energy to protect those shipments from terrorist attack.

I have asked the questions of our State government, I have asked the questions of our Department of Energy, and I am told, as we have heard over and over again, that the Department is

only beginning to look at developing a transportation plan and designating transportation routes. Yet we are asked to decide today on this project without that information.

I am also very concerned the Department has not implemented any additional security requirements for transporting nuclear waste since 9-11 to ensure safety and protect the shipments from terrorist attack. In addition, I am very deeply concerned to find that there is no Government agency that has conducted full-scale physical tests of the casks that would be used to transport high-level nuclear waste to Yucca Mountain; nor have these test requirements been reviewed or strengthened to take into account how the casks would perform under a potential terrorist attack.

This is a new day. There are new questions and new tests that need to take place in light of our current reality as Americans.

I am very concerned today, when I pick up the Washington Post and find that they further reveal that the EPA has been keeping under wraps a February 2002 report that concludes that they are not fully prepared to handle a large-scale nuclear, biological, or chemical attack. The EPA is the primary agency for providing support to State and local governments in response to a discharge of nuclear or hazardous materials, and they are not fully prepared to deal with current security threats.

How well prepared will they be once thousands of nuclear shipments begin to travel by our schools, our hospitals, through our communities, our residential neighborhoods, en route to Yucca Mountain.

I also discovered, Mr. President, in my examination of the Department of Energy's own documents, that most of the waste stored in Michigan will never make it to Yucca Mountain. That is a pretty big discovery for me. Most of the waste in Michigan will never make it to Yucca Mountain. As long as nuclear powerplants operate in Michigan, new nuclear waste will have to be stored in cooling pools, as indicated by my colleagues, on the shores of the Great Lakes for 5 years at a time so they can be cooled before they are transported anywhere. Much of the nuclear waste in Michigan will not be moved to Yucca Mountain because Yucca Mountain will reach its full capacity within the first 25 years of operation.

While I want the waste out of Michigan, away from its shores, We have a worst case scenario for the people of Michigan. The nuclear waste will continue to sit on the shores of the Great Lakes and also be traveling on our roads and railways—and, Heaven forbid, even barges on the Great Lakes—past our communities, neighborhoods and schools.

Let me speak to that new threat that, unfortunately, is in the environmental impact statement the Department released just a few months ago,

which raised a tremendous red flag for me. The Department of Energy's final environmental impact statement describes barging nuclear waste on the Great Lakes as a transportation option. Now, in fairness, they indicate that while there could be as many as 431 barge shipments of nuclear waste on Lake Michigan, that is not their preferred option. I am glad that is not their preferred option, but, unfortunately, when writing the Secretary, he would not take it off the table as an option. In fact, he indicated that the Department of Energy "has made no decision on the matter."

I cannot imagine putting high-level nuclear waste on barges and sending it across Lake Michigan. There is not a plan in the world that I would support to do that. The answer of the Department on this issue is simply not good enough. I cannot support any plan that includes a transportation option that endangers one-fifth of the world's freshwater supply and the source of drinking water for the entire Great Lakes region.

Mr. President, today's vote, unfortunately, will be the last time Congress will have a real voice on this issue. We certainly can express ourselves as it moves through the regulatory process, but this is the time for us to say, yes, we know enough to move forward or, no, we do not. If we say no, we can ask that more information be given to us, that more tests be done, and that we receive assurances, such as I need, to know that there will not be, under any circumstances, barging on the Great Lakes. We can get that information and then we can proceed again.

This is not the end. We can proceed further—those of us who want more information, more assurances, and want to know that our communities will be safe and the environment will be safe. There is no reason we cannot work on getting those assurances and the plans in place first.

Based on my examination of the Department of Energy's own documents, as well as further information, I do not believe this administration has a safety plan for transporting waste to Yucca Mountain that protects my citizens, Michigan families, or the Great Lakes. Therefore, I cannot support the Yucca Mountain resolution.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, let me point out that the State of Michigan is currently 18.2 percent dependent on nuclear energy. Currently, in the State of Michigan, there are 1,627 metric tons of spent fuel of which 58 tons is in shutdown reactors, and 177 tons is in dry storage.

As a consequence of the alternatives we face, the recognition is obvious that if we do not move this waste, it is going to stay where it is. The nuclear power generation in Michigan consists of four nuclear units: Cook 1 and 2,

Fermi 2, and Palisades. As a consequence of the recognition that there are six storage locations covering the 1,625 metric tons, we have to address the reality of how much longer the nuclear plants can continue to operate without a permanent repository. That is what the contemplated vote is all about.

Questions have been raised by Members concerning the routing. Again, I point out the Nuclear Regulatory Commission approves all routes and security plans with States and tribes, including the Department of Transportation, Department of Energy and, of course, the Nuclear Regulatory Commission. For security, armed guards are required through heavily populated metropolitan areas if they are indeed selected. At the discretion of the Governor of each State, all shipments are required to have 24-hour escorts.

Tracking: The Governor of each State is notified in advance of spent fuel shipments. These shipments are required to have an escort into the central transportation command facility every 2 hours to ensure that problems do not exist. All shipments are closely coordinated with local and Federal law enforcement agencies.

As far as training, States and tribes have and will continue to receive Federal support for specific training. On the question of what is the Government doing with emergency preparedness assistance, since 1950, the Federal Government has had its own experienced teams of emergency responders. Emergency responders receive assistance and training from the Department of Energy, Department of Transportation, FEMA, and others, and are specially trained and prepared to respond to a variety of incidents and accidents, and DOD will continue to provide training to emergency responders. The Department has directly trained over 1,200 responders.

In addition, DOE has trained instructors and have provided training to additional emergency personnel in the State, tribal, and local response groups. Training materials have been distributed.

It is fair to say efforts are made to train local government entities. There is a misconception somehow that if there is an accident, there is likely to be a fire, some kind of an explosion. That is not the case. If, indeed, there is a penetration of a cask, which is extraordinarily unlikely, there will obviously be an awareness, and the area will be roped off. The material is very heavy. It does not blow around in the wind. Unless you get in and mess with it, why, it can be cleaned up by experienced personnel.

This is not a matter, as some suggest, that if there is a penetration, there is going to be a nuclear explosion of some kind.

Mr. President, I yield the floor and ask how much time is remaining on this side.

The PRESIDING OFFICER. The Senator has 62½ minutes remaining.

Mr. MURKOWSKI. I thank the Chair.

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Missouri, Mrs. CARNAHAN.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mrs. CARNAHAN. Mr. President, when I speak to people throughout Missouri, security continues to be their primary concern. They are concerned about threats from abroad and about security in their daily lives—job security, health care security, retirement security.

In this day and age, when we are making extraordinary efforts to protect ourselves, people are more fearful than ever about shipments of nuclear waste through their neighborhoods and communities.

In Missouri, this is especially a sensitive issue because of our recent history of nuclear waste shipments. Two summers ago, Governor Carnahan succeeded in getting a shipment rerouted around Missouri. But last year, the Department of Energy scheduled another shipment to go through Missouri. The route the Government selected went through the most populated areas in the State, through the heavily populated suburbs of St. Louis, straight through Columbia, past Independence, and then on through Kansas City.

The Government's plan would ship nuclear waste along Interstate 70 and other roads that are crowded and in disrepair. Interstate 70 through Missouri is one of the oldest stretches of Federal interstate highway in the Nation. The newest stretch is 37 years old. The oldest stretch is 46 years old. But the original design life was only 20 years.

I-70 is one of the most vital transportation corridors in the Nation. It is in need of more than just basic maintenance. It is in need of total reconstruction.

Everyone who travels over I-70 knows it is in horrible condition. The number and severity of traffic-related accidents along I-70 between Kansas City and St. Louis have grown steadily in recent years and will continue to grow with projected increases in travel. Unless the road is repaired and expanded, conditions will continue to deteriorate, congestion will increase, and transportation costs will rise.

There are two scenarios: Either I-70 will remain in poor condition or, as I would prefer, it will undergo massive reconstruction over the next decade. Either way, I-70 should not be the superhighway for nuclear waste.

If Yucca Mountain is built, that is exactly what will happen. Preliminary estimates by the Department of Energy show that within a 25-year period, over 19,000 truck and 4,000 rail shipments of nuclear waste will go through Missouri on their way to Yucca Mountain. That is two trucks a day every day passing through St. Louis, Boone County, Jackson County, and many other counties across the State.

Unfortunately, the manner in which last year's shipment of nuclear waste through Missouri was conducted does not inspire confidence in the way the Department of Energy handles these shipments. While the State of Missouri and the Department of Energy were negotiating about this shipment, the Department announced that it would not allow waste from a research reactor in Columbia, MO, to be shipped out of State.

The linkage of these two issues was inappropriate. While Governor Holden was negotiating safety protocols, the Department was playing politics with nuclear waste.

I intervened to ensure these issues would be handled separately so that the Governor could continue to insist upon proper safety arrangements for the shipment.

After all this, the shipments showed up in St. Louis at rush hour and would have passed through Kansas City during a Royals baseball game. The shipment had to be held at the border for a number of hours.

In my view, we have not focused enough on the transportation issue to approve the Yucca Mountain site at this time. The transportation casks have not been thoroughly tested for possible terrorist attack. The final transportation routes have not been selected, and security of the truck and train shipments has not been studied. There are no concrete plans for training emergency responders in local communities along transportation routes. And, as I mentioned, the roads remain in sad repair.

All these issues need to be properly addressed before I will consider voting to approve the Yucca Mountain site. It is more important to make the right decision than it is to make a quick decision.

Every nuclear reactor in the country has onsite spent fuel. These storage facilities will continue to be used even if the repository at Yucca Mountain is built because the spent fuel that comes out of the reactor must cool for approximately 5 years. Most of these facilities will be upgraded and expanded if and when necessary, and in Missouri our single nuclear powerplant will not experience shortage difficulties until 2024. So there is plenty of time to upgrade and further expand its storage facility if necessary.

Before committing to ship tons of nuclear waste through the heartland, I believe we should spend much more time in determining whether we can transport this waste safely and keep these shipments away from our most densely populated communities. I am confident that is what the people of Missouri want.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I see a couple of Senators, Mr. CRAPO and Mr. KYL. I want to point out to the Senator from Missouri that nuclear energy includes about 13 percent of the

power generated in Missouri. Coal is 82 percent. It is about 95 percent in combination.

Mr. President, 388 metric tons of spent fuel are currently in the State of Missouri. As a consequence, I think it is important—and if I can have the attention of the Senator from Missouri—to point out this transportation route because currently the shipment of waste, this transuranic waste, goes out of Missouri and routes under this highway system into New Mexico. There is no proposed existing transportation route that will be taking the waste through Missouri. This waste is currently at the University of Missouri research reactor. It goes out on 70, up on 55, comes over on 880, and down on 25 into New Mexico.

My point is, while it is obviously possible that the Department of Energy, the Nuclear Regulatory Commission, and the Department of Transportation would choose other routes, it is clear to point out that currently there has been and there is no logic to suggest there would be a movement of waste through the State of Missouri when currently transportation routes to WIPP do not go through Missouri; they actually remove waste from the State of Missouri.

We should keep these discussions in the context of accuracy relative to what is contemplated vis-a-vis the current transportation route.

I yield to my friend from Idaho for 10 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. CRAPO. Thank you, Mr. President. I thank the Senator from Alaska for his graciousness in yielding me this time.

I rise today to add my voice and my strong, unequivocal support for Senate Joint Resolution 34, a resolution approving development of a permanent nuclear waste repository at Yucca Mountain, NV, notwithstanding the disapproval of the Governor of Nevada.

Before I get into my main remarks, I wish to talk a moment about my colleague from Idaho, Senator LARRY CRAIG, who, as a member of the Energy Committee in the Senate, has been tireless in his efforts to make certain that the procedural maneuvers and the substantive debate over this issue move forward expeditiously and that we address the issues that the law provides so we can make certain the Yucca Mountain facility is able to maneuver forward into the permitting process.

As many of those who have debated today have already stated, this debate is not about whether to open the Yucca Mountain facility so much as it is about allowing the process of permitting to begin to take place. As my colleagues know, this is the required legislative procedure spelled out by the Nuclear Waste Policy Act of 1982.

In 1982, 20 years ago, Congress made the decision we should begin resolving

this issue and set forth a series of legislative and other procedures that must be followed to assure that every question—that of national security, safety, of individual State rights, and all the other issues—were adequately addressed as we deal with this critical issue. Over those 20 years, the importance of dealing with this issue has grown.

Now the issue of the role of nuclear power in the portfolio of America's energy policy and the manner in which we will resolve the handling of the spent nuclear fuel has become a national security issue, in my opinion.

I come to this debate with a long history of working on this issue. The State of Idaho, which I have the honor to represent, hosts the Department of Energy's Idaho National Engineering and Environmental Laboratory, NEEL, which currently stores a large volume of spent nuclear fuel and high level nuclear waste.

The INEEL now has 56.5 percent by volume and 11 percent by weight of all spent nuclear fuel in the DOE complex. This spent nuclear fuel includes the Navy's spent nuclear fuel, the spent fuel and rubble from Three Mile Island and other commercial power plants, foreign research reactor fuel that is coming to the United States from other countries for nonproliferation reasons, and spent fuel from the dozens of reactors operated at the INEEL, Argonne-West, and other DOE facilities throughout the country. Under the Idaho Settlement Agreement, the Navy's spent nuclear fuel in Idaho must be some of the first fuel to go into Yucca Mountain.

Defense high-level waste is the waste that resulted from reprocessing spent nuclear fuel. At the INEEL, this high level waste is in granulated "calcline" form. DOE is currently deciding how this high level waste can be prepared and shipped to Yucca Mountain. In the past, DOE looked at turning this waste into glass logs in a vitrification plant as required by law, but Bechtel and DOE now hope they can make direct shipments of the calcline waste to Yucca Mountain using a standard package similar to that used for spent fuel.

The INEEL also manages the DOE National Spent Nuclear Fuel program. This program performs the analysis and technology development to support inclusion of DOE-owned spent nuclear fuel in the repository license application. As Yucca opens, this program will play a larger role for DOE and the INEEL.

Because of the history of the INEEL, located near my hometown of Idaho Falls, I have been involved in nuclear issues for many years. I visited Yucca Mountain and I have seen the dry, isolated location President Bush has recommended as the site for our Nation's permanent repository for spent nuclear fuel and high-level waste.

Right now, across the Nation spent nuclear fuel is stored in temporary facilities near cities, homes, schools, rivers, lakes, and oceans. These temporary storage facilities were never intended for long-term storage, but they have become that because our Nation has bent over backwards to do all of the science needed to ensure permanent storage of nuclear waste at Yucca Mountain can be done safely. After spending billions of dollars, our Nation's best scientists say nuclear waste can be stored safely at Yucca Mountain. No one can dispute the logic that it makes more sense for the environment, for national security, and for our Nation's energy policy to store spent nuclear fuel in one isolated location in the desert of Nevada instead of leaving it scattered across the country at over 130 temporary facilities.

Some of the opponents of Yucca Mountain say we should not support S.J. Res. 34 and development of Yucca Mountain because we cannot safely transport this material. To these opponents I say we have safely sent thousands of shipments of nuclear waste across the country for decades.

I know other speakers have already repeated this information before. But it is critical to reiterate that in this country we have seen 1.7 million miles of shipments conducted safely without a release of radioactivity. That is over 2,700 shipments. As the Senator from Alaska said earlier, in Europe where they have been doing this for two and a half decades, they have had over 70,000 tons of radioactive material safely transported. Compare that record to the risk that we would face if we do not transport it.

For those in favor of stopping the development of Yucca Mountain, the issue of terrorism has been raised. If we have over 131 sites across this country where much of this material is not stored safely—in a remote underground facility—the risk of terrorism would rise. Even the risk from a hypothetical earthquake would be much greater at the 131 sites if they were left untreated or unresolved than at one central underground location that is safe, secure, and protected.

Whether one is looking at the safety record of transportation or the risk of leaving these facilities with the stored nuclear fuel in them spread throughout the country in unsafe conditions, the conclusion must be that for our safety, for the environment, and for our national security, we must move toward one underground, safe depository.

There is also an equity issue before the Senate. For decades, energy users across this country who have received their electricity from nuclear power have paid a surcharge on their energy bill to pay the Federal Government to dispose of this waste. The Federal Government faithfully collected these fees and assumed the responsibility under law for developing a nuclear repository. Now after collecting these fees and doing the necessary science, the

Federal Government has an obligation to provide for the permanent disposition of spent nuclear fuel.

Development of the repository at Yucca Mountain will greatly enhance our Nation's energy balance by demonstrating that we can dispose of nuclear waste created by nuclear power. Today, with our dependence on foreign oil for so much of our energy supply, it is critical we broaden our energy portfolio in this country. When one looks at the amount of money we pay to nations such as Iraq for oil, when we could expand our reliance on other sources of energy, including nuclear power, one has to recognize the national security implications of this vote today.

Nuclear power should play a greater role in our Nation's energy portfolio. A path forward for spent nuclear fuel will remove one bottleneck in the nuclear energy fuel cycle. Under the Nuclear Waste Policy Act, if Congress does not approve this resolution, the Yucca Mountain project cannot go forward. There will not be a nuclear repository at Yucca Mountain and nuclear waste in 39 States across this country will stay where it is.

I ask my colleagues, Are we going to vote today to leave spent nuclear fuel and nuclear waste in New York, Vermont, Illinois, Georgia, Michigan, Connecticut, Washington, Idaho, and the many other States in which it is now located or are we going to move forward with a permanent repository for spent nuclear fuel that makes sense for this Nation and the environment? I urge strongly my colleagues to vote in favor of S.J. Res. 34.

I yield the floor.

Mr. REID. Mr. President, my friend from Alaska said if something happens and one of these casks is breached, there will be an explosion. But understand, standing within 3 feet of a spent fuel rod is a lethal dose—three feet. It will kill you. It may not kill you immediately. But you are dead. It will kill you pretty quickly.

As has been brought out by my friend from Nevada, the shipments are not dangerous, relatively speaking.

I yield 2 minutes to my friend from Nevada to talk about that.

Mr. ENSIGN. Mr. President, I do want to address the map that the junior Senator from Alaska has put up over here. When he was talking to the Senator from Missouri, talking about the transportation through Missouri, he was saying these things are already happening, going through Missouri, going through her State, because that was the major reason she was voting against the Yucca Mountain proposal.

This is not the same kind of waste that is going to Yucca Mountain; otherwise, you would need a different kind of repository. This is not as high a level of nuclear waste as is coming to Nevada. So to equate the two is irresponsible, I believe. We should not even have that map on the floor.

I want to clear up two other quick things. The first is, the Senator from

Idaho just said, Isn't it better to have one site? If, in fact, we had one site, and we are going to have all the nuclear waste at one site, that would be true. Except we are not going to have just one site. We are going to continue to have sites all over the United States with nuclear waste. Here is a very simple graph to understand.

Currently we have 45,000 metric tons of nuclear waste in America. By the time Yucca Mountain is supposed to start receiving waste in 2010, we will have 65,000 metric tons. When Yucca Mountain is completed in 2036, it will have 70,000 metric tons in Yucca Mountain, but because we are producing new nuclear waste every year, spread around the country still will be 47,000 metric tons, virtually the same as we have today spread out all over the country.

The Senator from Idaho has a very good argument to get the stuff out of his State. He has one of the few good arguments, but everybody else does not: If you have nuclear powerplants in your State, you will continue to have nuclear waste in your State for as long as you have nuclear powerplants operating.

It is not a question of national security. It is going to be safer to have it in one site. But we are still going to have all these other sites, so national security is focused on transportation more than it is anything else.

I thank the Senator for yielding.

Mr. REID. Mr. President, I am going to yield 10 minutes to the Presiding Officer in a second.

Another thing my friend from Alaska said is it is not going to travel through Missouri. This is one of the problems. It is like the "immaculate reception." One day we will wake up and it is suddenly going to be there. I don't know, there are no transportation routes, but it will get there because the DOE says it will.

It can only go by train, truck, or barge, and for barge transportation, according to the Nuclear Regulatory Commission, the only tests that have been done are by computer. They have never stuck one of them in the water. It has all been done by computer.

I yield 10 minutes to the Senator from Delaware.

(Mr. REID assumed the chair.)

Mr. CARPER. Mr. President, I thank the deputy majority leader for yielding this time to me.

On the floor this afternoon I see three, maybe four Senators—four of whom I have been privileged to serve with in the House of Representatives, one of whom I have just been privileged to serve with for the last year and a half.

The senior Senator from Nevada knows the great affection I hold for him. He and I were elected to the House of Representatives in 1982. We came to Congress together in 1982. We began our first years in the House of Representatives many mornings working out together in the House gym. I

have had the privilege of knowing his family and watching his kids grow up. For me, and I know for many of us, this important policy decision is also a decision that is intertwined with the respect and admiration we have for our colleagues. I have great respect and admiration for both the senior and junior Senator from Nevada.

As some of you know, I spent a fair number of my years in the Navy, 5 years on active duty, another 18 years as a Reserve naval flight officer, most of that time on airplanes but other times on ships. I have been on ships that are nuclear powered. They included aircraft carriers and submarines. I have known hundreds of people who lived many years of their lives on nuclear-powered vessels. When you have that kind of background, you are maybe more comfortable with nuclear power than those who have not literally lived on a floating nuclear powerplant.

I acknowledge there are a lot of people who have legitimate concerns about the various aspects of nuclear power—a few of them have been pretty well vetted here today. One of them is transportation: how to move this nuclear waste through dozens of States and do so safely, especially in an age of terrorism.

There are concerns about the terrorists themselves and whether or not they might strike, either at a site such as Yucca Mountain or at a barge or a railroad or a highway.

Before I served in the Senate a year and a half ago, I served as Governor of Delaware. During those years, I became all the more mindful of the transportation of hazardous waste through my State and alongside my State via the Delaware River and the bay which divides the State of the Presiding Officer and my State. Every day hazardous materials make their way up and down the Delaware River. Throughout I-95/I-495, which crosses my State and the railroads of my State, the Norfolk Southern and CSX, we have dangerous materials every day traverse throughout Delaware—sometimes hazardous materials, sometimes explosive materials. We have learned to deal with them and deal with them safely. In Europe, they have shown a record over time of being able to transport nuclear waste in a way that is safe as well.

I know people who are concerned about nuclear power because of the possibility there will be an accident at a nuclear powerplant. I acknowledge those concerns are not illegitimate. The safety record of the nuclear power industry has been better in the last 10 years than probably in all the years before, and it continues to improve.

While I acknowledge, on the one hand, the legitimate concerns about nuclear power being a viable, growing part of the generation of electricity in our country, I want to talk briefly about the virtues, the advantages of nuclear power. We had a great debate on energy policy over the earlier part

of this year. We talked about the growing demand, the rise in price of foreign oil, now up 50 percent. We talked about the huge and growing trade deficit we have in this country, over \$300 billion last year, maybe \$400 billion this year, and a significant part of that is oil imports.

I think we have begun a serious discussion and debate about what to do with respect to air emissions, how we can curtail sulfur dioxide, mercury, carbon dioxide, and nitrogen oxide from powerplants in this country and other sources.

Nuclear power, whether we like it or not, does not create sulfur dioxide emissions. It doesn't create mercury emissions. It doesn't create nitrogen oxide emissions. It doesn't create carbon dioxide emissions—it doesn't contribute to those. With respect to our environment and the quality of our air, I think nuclear power is, if anything, a friend.

I, as have a number of my colleagues, had a chance to go to Yucca Mountain. I visited the place. I talked to people who worked on that project for any number of years. I met with people in Nevada who oppose the designation of Yucca Mountain and those who favor it. I have had the opportunity along with many of my colleagues to participate in hours of hearings and other meetings with advocates and opponents of designating Yucca Mountain and licensing Yucca Mountain.

In the end it comes down to maybe two votes: one, a procedural vote as to whether or not we are going to vote to proceed to the final vote and that is one that would carry on to the licensing of Yucca Mountain. I said to my colleagues on the Energy Committee a month or so ago, I have agonized with this vote probably as much as any in my memory, trying to do, on the one hand, what I think is the right thing for my country and trying to treat my dear colleagues the way I would want to be treated. It is a tough call. It is tough for me and I know it is for many of us.

We have two votes. On the first vote, on the motion to proceed, if my vote is needed—and I am going to stand in the well there—if my vote is needed in order to be able to proceed to the final vote, I will vote yes—if my vote is needed.

On the final vote, if the motion to proceed is approved, I will vote yes on the designation of Yucca Mountain.

With that, I thank the deputy majority leader for yielding his time to me.

Mr. MURKOWSKI. Mr. President, to respond very briefly, under the agreement, there will be a rollcall vote on the motion to proceed; then the agreement is that there will be a voice vote on the final resolution.

Mr. CARPER. I appreciate that. When we vote, I will be here to vote. When the yeas and nays are asked for, my voice will say yes on that final vote.

Mr. REID. Mr. President, the Senator from Alaska, having served here as

long as he has, has certainly on occasion when there has been a voice vote wanted to be listed as voting yes or no. That certainly can be stated in the RECORD. I have done it on a number of occasions myself.

Senator ENSIGN and I wish to speak longer. Senator KYL is here. It is my understanding you would like to yield some time to him.

Mr. MURKOWSKI. Mr. President, would you advise me on how much time is remaining on our side?

The PRESIDING OFFICER (Mr. CORZINE). The Senator has 50 minutes.

Mr. REID. How about here?

The PRESIDING OFFICER. Forty-five minutes remains for the Senator from Nevada.

Mr. MURKOWSKI. I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

Let me make a general statement, and also preliminarily comment on the debate that has been conducted by the two Senators from the State of Nevada. They have been tenacious in the representation of their position. I take no pleasure in opposing their position. They are both fine Senators and are extraordinarily good at representing the interests of their constituents in this particular case. I know it is not just a matter of representing the people who have spoken out from the State of Nevada. I have talked to Senator ENSIGN a lot, and he has argued his case with a lot of personal conviction that you don't always see in this body. I commend both of them and make the point that I take no pleasure in opposing them.

I do, however, strongly believe it is time for us to move forward with this process, and the next step in the process is the approval of this legislation. Then there are other things that have to be done, including the Department of Energy action.

I want to make a comment about this issue of the storage of nuclear waste because the Palo Verde nuclear-generating station just west of the city of Phoenix is the biggest in the country. It is a huge, successful, good nuclear-generating station. It stores an awful lot of waste. In fact, I believe, according to the Nuclear Energy Institute, more than 45,000 metric tons of high-level radioactive waste are housed at the 131 sites in 39 States—sites such as Palo Verde.

If we don't use a storage facility such as Yucca Mountain, the problem only gets worse. Each year, about 2,000 more tons of radioactive waste are being added to the total.

Senator ENSIGN made the point that even if we have a site such as Yucca Mountain, of course, we are still going to have the other storage sites around the country. That is very true. But I think it begs the question of what we are going to do with the majority of this waste.

It is a little like saying since every Wednesday morning everybody in my

area of Phoenix is going to put their garbage out, and because we keep producing garbage, we should not have a dump to where all of that garbage is taken. It is certainly true that every Wednesday everybody is going to put their garbage out. We produce more garbage, and to store it onsite is in effect storing it on the curb. That doesn't argue for the proposition that there should not be a central repository where that material is taken and disposed of in a proper way.

That is what we are talking about here. We are going to continue to produce waste. There will have to be a place to temporarily store it at each of these nuclear-generating facilities around the country. But eventually, when it cools off, it is put into these casks and transported to Yucca Mountain. That is where most of the scientists have decided is the right place to put it.

As a matter of fact, the scientific reports of the Department of Energy conclude that a repository at Yucca Mountain would protect the public health and safety in accordance with the EPA and NRC guidelines. The Nuclear Regulatory Commission is in support. The Nuclear Waste Technical Review Board is in support. The experts on the National Academy of Sciences panel who recommended the site note that there is "worldwide scientific consensus" for the idea.

I might also add that there is now a new element that is injected into the debate. That is the element of terrorism. We can't talk about that a lot on the floor of the Senate. I am on the Intelligence Committee. I can assure my colleagues that it is a significant issue to have this waste dispersed at a variety of sites around the country in the conditions that currently pertain. It would be much better if we were able to take a majority of it, when we could, to one site that is clearly safe from terrorism. Yucca Mountain is a remote location. It is 100 miles away from the nearest metropolitan area. It has the highest security—again, because of its general proximity to the Nevada Test Site and Nellis Air Force Range. Those are reasons we think it is important to go ahead with the next step of the process and get this material to Yucca.

With respect to transportation, we know that there have been a lot of questions raised. But the truth is we have had 45 years of experience and 3,000 successful shipments of used nuclear fuel. That is not exactly the same as this fuel, but we have much better casks now—these steel casks that have been described in detail here on the floor that will be used for the transportation of the material.

There have been no radiation releases, fatalities, or injuries, nor any environmental damage that has occurred as a result of the transportation of this radioactive cargo in the past.

I am a little distressed by the fact that people have been scared. I am very

disappointed that some people—clearly not those on the floor of the Senate today—but there are some who have really attempted to scare people in individual communities with the notion that somehow there will be some great catastrophe as a result of the transportation of this material. That is so unlikely as to be something that should not be of concern to us as we move forward with this legislation.

I urge my colleagues to recognize that at some point something has to be done. We can't just allow the waste to sit where it is. There is a safe, scientifically proven location where the material can be stored. The transportation has also been thoroughly considered by the scientific community. A method for transporting it has been developed. Sandia Laboratories, which has done a lot of testing, assures us it would withstand the most extreme accident scenarios.

For all of these reasons, I think it is important for us to move on, get beyond this next step, and allow the DOE now to look at this Yucca Mountain site for licensing.

Again, I commend all of my colleagues for the way in which this debate has been conducted. This is an emotional issue with a lot of people around this country. But the debate has been responsible and serious and based upon good science. I commend both the proponents and the opponents for the way they have conducted this debate.

Thank you, Mr. President.

Mr. DODD. Mr. President, today, I am prepared to vote in support of S.J. Res. 34 which approves the site at Yucca Mountain for the development of a repository for spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982, but I do so with great caution.

The vote we cast today does not give carte blanche to move this waste. Instead, it signals a continuation of a process begun in Congress more than two decades ago. The risks are not insignificant and in the coming months and years many steps must be satisfied and many scientific tests undertaken before a license is issued by the Nuclear Regulator Commission and a single shipment of waste is moved. In addition, there must be open dialogue among industry, organizations, transportation experts, and government entities at the Federal, State, and local level to determine a safe and workable transportation system. If the ongoing scientific, environmental, or public safety tests are not satisfactory, or a transportation system is deemed unworkable, then the site should not be licensed.

For Congress to stop the process today with no viable, permanent alternative solution on the table is shortsighted and wrong. I recognize the limitations on the amount of waste that Yucca Mountain can accept and the length of time it will take to transport the waste. I further understand that some waste will necessarily remain on

site at individual facilities even if Yucca Mountain is licensed, as nuclear reactors continue to operate and generate waste.

But to keep all of the current and future waste on-site at approximately 100 sites in above ground storage is not a prudent long-term solution. In fact, many facilities will be reaching their storage capacity long before their licenses expire. For these reasons, while we continue to move forward with Yucca Mountain, we must also step up our security at all the nuclear facilities sites around the country. If all systems are a go with Yucca, it will be at least 10 years before any waste is moved.

My record is clear. I have supported nuclear power and the obligation of the Federal Government to take responsibility for nuclear waste. I am one of a handful of current Senators who was here in 1982 to vote on the National Nuclear Waste Policy Act of 1982. I supported that initiative and again in 1987, I supported amendments to the 1982 act which singled out Yucca Mountain to be examined as a nuclear waste repository. However, I have voted against both the idea of interim, above ground consolidated storage and moving forward with the process before the Secretary of Energy formally recommended Yucca Mountain.

No one knows the costs and benefits of nuclear energy more than the residents of my State. Connecticut has two operating nuclear facilities and two permanently shut down facilities that are undergoing decommissioning. Nuclear energy provides more than 45 percent of the electricity generated in Connecticut. Only Vermont, New Hampshire, New Jersey, Illinois and South Carolina have a larger percentage of electricity generated by nuclear power.

It is a fact that while I have supported nuclear power, I have also been one of its most vocal critics when I believed the industry and oversight agencies failed to exercise appropriate controls over the facilities in my State.

I have also been a champion of the need for alternative energy sources, including renewables, to meet our growing energy needs and offset our dependence on energy sources that generate waste, pollute our environment and cause public health concerns. I applaud people, including many of my colleagues, who champion these issues, drive fuel efficient and cleaner burning automobiles, and make personal choices to use alternative energy sources in their daily lives.

We will be judged by future generations not only by the decisions we make in the coming months and years regarding nuclear waste, but also by the bold choices we make regarding our future energy security and the health and welfare of our planet.

This is not a perfect solution, but a reasonable step if the risks can be managed. I hope that it will be looked upon as such in years to come.

Having said that, while I support the substance of this resolution, I voted against the motion to proceed. As chairman of the Rules Committee, I take the rules of the Senate very seriously. It is my belief that despite what may have been written into the Nuclear Waste Policy Act of 1982 and 1987, I believe it is the fundamental prerogative of the Majority Leader to set the agenda of the Senate. My understanding is that at no time in the recent history of the Senate has that prerogative been violated. Moreover, I fail to see why my colleagues felt the need to violate that prerogative today. There are still more than 2 weeks to bring this matter to the floor under established practices of the Senate. Furthermore, it is worth noting that this matter was brought up by the minority during the middle of a very important debate to address wrongdoings and shortcomings in the accounting industry and corporate sector. I want to make this very clear, my vote against the motion to proceed was not against S.J. Resolution 34, but out of respect for the practices and prerogatives of the Senate. If there had been a recorded vote on S.J. Res. 34, I would have voted aye.

Mr. VOINOVICH. Mr. President, I rise today in support of establishing a permanent nuclear repository at Nevada's Yucca Mountain. Establishing a single site for high-level nuclear waste is the best thing we can do to meet our growing energy needs in an environmentally sound manner, support our domestic economy, and protect our national security.

One of my goals in coming to the Senate was to enact a comprehensive U.S. energy policy that harmonizes our energy and environmental needs. I worked hard with my colleagues on the Energy bill and after 6 weeks of debate, this body finally passed legislation that does just that. Our challenge in the energy bill was to encourage development of domestic energy sources in a balanced way that respects seemingly competing needs, the economy and the environment. These are not competing needs, however. A sustainable environment is critical to a strong economy, and a sustainable economy is critical to providing the funding necessary to improve our environment.

In order to maintain a strong economy, we will have to produce more energy to keep up with the growing demand. According to the Department of Energy, we need to increase by 30 percent the amount of energy we produce in the United States by 2015 in order to meet our country's demand. To ensure that consumers have access to low-cost, reliable energy, we must make use of every available resource instead of putting all of our eggs in one basket. We need to increase our production of oil, gas, coal, nuclear energy, and renewables. Keep in mind that only two-tenths of 1 percent of our total electricity comes from wind and solar power. At the same time, we need to

continue to increase conservation efforts which have already substantially contributed to reducing our reliance on imports. We simply must diversify the source of our energy supply and we can do so while protecting our precious natural resources.

One of our great untapped resources is nuclear energy. It is an important part of meeting our Nation's energy needs and harmonizing our energy and environmental policies. Over the past 40 years, we have seen how safe and reliable nuclear energy can be. We use it today. Nationally, we obtain 20 percent of our electricity from nuclear energy plants and in my State of Ohio, nuclear power provides 12 percent of our total.

But this level is far below what other countries do. For example, France derives 70 percent of its electricity from nuclear power; Sweden uses 39 percent; South Korea 41 percent; and Japan uses 34 percent.

One of the reasons these countries use so much nuclear energy is that it produces zero harmful air emissions. None. I am not sure that many people realize this. Throughout my career, I have been actively involved in the debate concerning how to reduce emissions from power plants and continue to provide safe and reliable electricity to consumers. This has been difficult, however, because so many so-called environmentalists raise issue with all of our energy alternatives.

For example, here's what they say: coal, which supplies 52 percent of our energy, is too dirty. Hydropower, which supplies 7.3 percent of our total energy, is criticized because the dams can disrupt the ecosystem. Due to lengthy and complicated environmental regulations, it is nearly impossible to build new pipelines for natural gas, which supplies 16 percent of our energy. Even windmills, the source so many of my colleagues point to, has sitting difficulties due to their noise and unsightly appearance. Nuclear power, which supplies 20 percent, has been demonized because of the waste issue, which can be solved.

The science for using nuclear energy has been rapidly developing over the past several decades and nuclear energy offers one of the best alternatives for the future: a clean-burning and reliable source of energy.

Since 1973, the use of nuclear energy has prevented 62 million tons of sulfur dioxide and 32 million tons of nitrogen oxide from being released into the atmosphere. Nuclear energy also releases none of the so-called greenhouse gas emissions, such as carbon dioxide. In fact, according to the Energy Information Administration, nuclear power has offset more than 3.1 billion metric tons of carbon emissions between 1960 and 2000 that would have been generated by fossil fuels.

Nuclear energy has incredible potential as an efficient and clean source of energy, yet we face some major impediments that prevent us from taking full advantage of its benefits. During con-

sideration of the energy bill, I offered two amendments to address these problems and promote the growth of nuclear energy. Both amendments were included in the Senate version of the energy bill, and I hope the conferees will keep them in the final version.

The first amendment reauthorizes the Price-Anderson program, which provides liability protection to the public paid by the industry. The second amendment provides needed Nuclear Regulatory Commission reforms to address the human capital crisis that is impacting the NRC, improves licensing and decommissioning oversight, and strengthens anti-trust protections by moving the review process from the NRC to the Justice Department.

But the biggest impediment to the growth of nuclear energy could not be addressed in the energy bill and that is what brings us here today. Congress recognized the importance and necessity of having one storage site for spent nuclear fuel in 1982 with the passage of the Nuclear Waste Policy Act, which was signed into law. That law required the Department of Energy to locate, build, and operate a deep, mined geologic repository for high-level nuclear waste.

In response to this law, the Energy Department identified, studied, and selected viable potential sites for this purpose. In 1987, Congress then amended the law and designated Nevada's Yucca Mountain as the only site that could be considered and stipulated the further study was required to determine whether that site was suitable.

Congress stipulated that the nuclear waste storage facility was to be completed by January 31, 1998. Obviously, this deadline has not been met because the Energy Department wanted to be thorough and base their decision on science. Some of my colleagues would have you believe that this was a rash decision. On the contrary, Secretary Abraham recommended Yucca Mountain after two decades and \$7 billion of scientific research.

In addition, President Bush affirmed this recommendation. The House of Representatives affirmed this recommendation overwhelmingly by a vote of 306 to 117 in May. The Senate Committee on Energy and Natural Resources affirmed this recommendation by a vote of 13 to 10 in June. Now it is the Senate's turn.

All of this support is based on science. This is exactly what we want to see in the formation of public policy; science driving the policy.

Yucca Mountain is located approximately 90 miles from Las Vegas in an area that averages about seven inches of rainfall a year. The Energy Department does not expect water to come into contact with any of the nuclear material that will be stored there for more than 10,000 years. Surrounded by unsaturated rock layers, nuclear waste would be stored approximately 1,000 feet above any water, which is still about 1,000 feet below ground.

Even if water somehow infiltrated Yucca Mountain and corroded the seal and then penetrated the robust fuel containers before 10,000 years passed, natural and engineered barriers would prevent or limit any release of radiation. Furthermore, Yucca Mountain is located in a hydrologic basin, in which water does not connect to any rivers, oceans, or the groundwater system that serves Las Vegas. Through years of scientific research, it has been determined that the site is secure and that radiation exposure to the public would be well below both the stringent EPA limits and natural background radiation levels.

Let me emphasize: The resolution we are considering allows the Yucca Mountain program to continue to the next step; it is not the end of the process. The site must still go through a rigorous licensing review, which is expected to last up to five years. Moreover, the NRC still must address a whole host of issues including monitoring and testing programs, quality assurance, personnel training, and certification, emergency planning, and more.

Additionally, the NRC must use standards adopted by the EPA specifically and exclusively for Yucca Mountain. These strict standards provide that an engineered barrier system should be designed to work in combination with natural barriers so that, for 10,000 years following disposal, the expected radiation dose to an individual would not exceed 15 millirems total effective dose equivalent per year, and 4 millirems per year for groundwater exposure.

These are exceedingly stringent standards designed to protect the public from any harmful exposure, now or in the future. To illustrate what the numbers mean, let me offer two examples. In Denver, Colorado, due to the higher altitude and cosmic radiation from the sun and stars, residents are subject to at least 15 millirems of radiation more per year than people who live in my hometown of Cleveland. On average, Americans are exposed to 4 millirems of radiation per year through the naturally occurring radioactive potassium in the 140 pounds of potatoes that an individual eats on average each year.

This rigorous licensing process combined with the full completion of the site is expected to take 10 years. Therefore, unlike most of the attention this matter has received in the media, our action in the Senate will not begin the transportation of nuclear waste to the repository. Instead, this resolution simply affirms the science behind the project and allows the experts to continue to move ahead with their analyses and reviews.

While some people have concerns about the transportation of nuclear waste, many people may not realize that nuclear waste has been shipped across our country since 1964 and that it has an amazing track record of safe-

ty. During this period, more than 3,000 shipments have traveled 1.7 million miles on roads and railways with only eight minor accidents: no injuries, fatalities, or release of any radiation.

There are two reasons for this success. First, the containers for the waste have been tested rigorously under extreme conditions, including being dropped from buildings, hit by trains, and burned at high temperatures. Second, there are numerous safety measures that federal agencies and state and local governments have developed, including satellite positioning, designation of special routes, police escorts, inspections, and emergency response planning.

Over the next 10 years as new scientific discoveries are made, it is likely that new regulations, procedures, and technology will offer further improvements to the safety and security of transporting spent nuclear fuel to Yucca Mountain. And the NRC in conjunction with other federal agencies will continue to examine the safest and most effective means of transport and storage.

Failure to approve this resolution will have serious costs to our economy and national security. Our nation has already spent \$7 billion over 20 years researching this specific site. The greater cost is the current danger we face across our nation with 131 facilities in 39 states storing more than 40,000 tons of spent nuclear material. To put these numbers in perspective, about 160 million Americans live within 75 miles of these sites.

Establishment of a repository at Yucca Mountain would allow all of the nuclear waste to be stored in one place, underground in a remote location. The site is on federal property with restricted access to the land and airspace, and as a further safeguard, the Nellis Air Force Range is nearby. From a national security perspective, one site is easier to defend than many facilities scattered throughout the nation.

The current situation is also costly in terms of capacity. The facilities which currently store this spent fuel are only designed to be used on an interim basis and space is limited. The Energy Department estimates that replacement facilities at each interim site would have to be built every 100 years with major repairs every half century.

Nuclear power is a necessary and sound part of our energy future that makes sense for our environment and our economy. Furthermore, because it protects national security and the safety of all Americans, I urge my colleagues to listen to the science and support this resolution to affirm the President's recommendation to establish a permanent nuclear repository at Yucca Mountain.

Mr. ALLARD. In 1982, Congress passed the Nuclear Waste Policy Act. In 1987, after being ranked as the site that possessed the best technical and

scientific characteristics to serve as a repository, the Nuclear Waste Policy Act was amended to direct the Department of Energy to study Yucca Mountain as a potential storage site.

The Federal Government has spent over 20 years and \$8 billion analyzing and studying potential sites for disposal of nuclear waste. This serious investment of money and human capital has led to the clear conclusion that Yucca Mountain is indeed scientifically and technically suitable for development.

As a result of this massive effort, on February 14, 2002, Secretary of Energy Spencer Abraham formally recommended to President Bush that the Yucca Mountain site in Nevada be developed as the Nation's first long-term geologic repository for high-level radioactive waste. I fully support this designation, and I will vote to move forward with the process, allowing the bipartisan regulatory experts at the Nuclear Regulatory Commission to make a final determination of whether to allow storage at the site.

Colorado, and indeed the Nation, has much to gain from the opening of Yucca Mountain. Material that is currently scattered throughout the United States will finally find a safe long-term shelter at Yucca Mountain—isolated in the remote Nevada desert.

Those opposed to opening Yucca continue to argue about the method of delivery to Yucca Mountain. Much has already been said in this respect, but I would like to point out that in the last 40 years, more than 3,000 shipments of spent nuclear fuel have traveled 1.6 million miles in the United States with no radiation related injuries or deaths. The Nuclear Regulatory Commission has performed numerous safety tests on the multi-layered containers that carry the nuclear substance. These tests, often exceeding regulatory requirements, have never yielded any negative or potentially harmful results. Additionally, nuclear waste is a solid that is not flammable and cannot explode. The casks have surpassed expectations during rigid drop tests, puncture tests, heat exposure trials and submergence drills.

Public safety has always been a priority, but has become even more important in this unprecedented time of threat to our national security. I believe that the centralization of our used nuclear waste 1,000 feet beneath the earth's surface in a single, highly secure location is preferable to the current scattered distribution of nuclear waste in 131 temporary surface facilities in 39 States.

Without Yucca Mountain, the fuel at the Fort St. Vrain facility will remain there indefinitely. This means that the 2.6 million people in Colorado that live within 75 miles of a nuclear facility will continue to live in close proximity; our citizens will be forced to wait another 20 years and spend 8 billion more taxpayer dollars to find another suitable site. Without Yucca

Mountain, major metropolitan areas in my State will still have only 20 miles between their town limits and a nuclear facility that stores fuel above ground. Without Yucca Mountain, waste being stored at facilities that are safely designed to hold waste for 50 to 100 years will have to wait untold years for a new destination, costing billions of dollars. Without a favorable decision on Yucca Mountain, a facility that is designed to store nuclear material safely for 10,000 years will shut down.

It is important to note that this vote does not mean that Yucca Mountain will open tomorrow. What it does mean, is that the next phase of science can begin in earnest—highly skilled nuclear experts will determine whether the facility merits a license to begin accepting the material. After that, any shipping is subject to strict Nuclear Regulatory Commission and U.S. Department of Transportation guidelines and regulations, and would not begin, if Yucca is finally approved, until 2010.

I support the Yucca Mountain Project, and will continue to be an active participant in the debate. I encourage my fellow colleagues to support the project, and fulfill the requirements of the law imposed by Congress some 20 years ago.

Mr. DOMENICI. Mr. President, I am pleased that the Senate is preparing to vote on the resolution that would allow continued evaluation of Yucca Mountain's suitability for a high-level nuclear waste repository. I compliment Senator BINGAMAN on his resolution and on his success in reporting that resolution out of the Energy and Natural Resources Committee.

Members don't need to be reminded of the vital role that nuclear energy plays in our national security. There is no question that it directly impacts our environmental security and our energy security. Without nuclear energy, we would have far dirtier skies and be far more dependent on foreign energy supplies.

I have argued repeatedly that our nation must maintain nuclear energy as a viable energy source far into the future. With advanced technologies, it can become a fuel for centuries into the future. Its clean reliable baseload power will be essential in powering our economic growth for future generations, just as it is a vital component of today's economic successes.

For nuclear energy to continue to support our economy, we must address the waste issue. There is no denying that these wastes represent an area of risk but every energy source requires a balance of benefits and risks. The risks associated with nuclear waste are ones that we can fully control.

I am well aware that hundreds of outstanding issues have been identified by the Nuclear Regulatory Commission. And the Department is well aware that they must address each and every one of the NRC issues before the Commission is going to move towards a final license.

In many meetings with the NRC chairman, as well as many of the commissioners, I have always been impressed with their intent to deal with this, or any licensing issue, through careful study of the relevant scientific facts. The NRC has the expertise to evaluate these outstanding issues, and I am confident that they will do so with great care.

It is not up to the U.S. Senate to decide on the complex scientific issues that will eventually determine the fate of a license for Yucca Mountain. Our vote today is solely on the question of whether the licensing process continues.

I have been very sorry to see the overblown concerns on transportation by those who wish to block further evaluation of Yucca Mountain. Apparently the opponents of Yucca Mountain are so intent on winning this battle that they are willing to use transportation issues to frighten the American people into abandoning nuclear energy. That would be a colossal mistake for our nation and would seriously undermine national security.

The simple fact is that transportation of nuclear materials is a challenging and risky operation, but it is also an operation that has been extensively studied and engineered for success. In the United States, as well as in other countries, the record for transporting spent fuel is superb. Opponents need to remember that the shipping casks for spent fuel are designed to withstand the most rigorous conditions, and routes will be carefully chosen to further limit risks.

In the United States, since 1960, we have shipped spent fuel about 2700 times and it's traveled over 1.6 million miles. Sure, there have been a few accidents. But no radiation has ever been released in any of them.

The record at the Waste Isolation Pilot Project is also spectacular. In their 3 years of operations, they have logged about 700 shipments traveling over 1.5 million miles. And in Europe, over 70,000 metric tons of spent fuel have been shipped, an amount roughly equal to the total authorized limit for Yucca Mountain.

Furthermore, in any debate about transportation, the simple fact is that route selection and detailed planning will begin at least 5 years before the first shipment and that the total number of shipments in a year will be around 175, a far cry from the 300 million annual shipments of hazardous materials that are currently moving around the country. There will be plenty of time to debate and optimize shipping plans before any spent fuel moves.

In responding to the outstanding issues raised by the NRC, I'm sure the Department will continue to analyze the mountain and improve their modeling and simulation. That is certainly important research that I fully support. But I want to note that other research is also vital.

I have spoken on many occasions with my concern that the Nation's pol-

icy of simply treating spent fuel as "waste" deserves careful debate. Spent fuel has immense residual energy content. I am not convinced that we should be making a decision today that future generations will have no interest in this superb energy source.

I have noted that alternative spent fuel management strategies should be carefully studied and evaluated. Reprocessing and transmutation could not only recover residual energy, but could also vastly reduce the toxicity of the final waste products.

I am pleased that the Department plans for all spent fuel in Yucca Mountain to be fully retrievable for at least 50 years. We may find that these new approaches can even be applied to the spent fuel in Yucca Mountain and they certainly will influence any additional repositories that we may need.

In my view, the Nation is far better served by beginning to move spent fuel into a single well-secured repository than to leave it stored in temporary facilities at 131 sites in 39 States. I support the joint resolution to override the veto of the Governor of Nevada and continue evaluation of Yucca Mountain as our Nation's future repository.

Mr. HATCH. Mr. President, I rise today to speak regarding the proposed national nuclear waste repository at Yucca Mountain, NV. After serious consideration of this issue over the last several years and after carefully studying the track record of the nuclear industry in the United States, I have concluded that I will not stand in the way of sending this waste to a permanent repository at Yucca Mountain. I also understand the reservations expressed by many of my colleagues in this Chamber, and I have certainly taken such considerations into account in making my decision.

Utahns have a right to be skeptical about government promises with regard to the handling of nuclear materials. In Utah, we have had more than our share of victims from government activities relating to atomic testing and the uranium industry. I have met with too many Utahns who are suffering needlessly. These Utahns were my inspiration when I passed the Radiation Exposure Compensation Act through Congress and when I improved this legislation a few years ago. Over the years, the act has provided compensation to thousands of downwinder victims.

One of the top considerations in my decision on this issue has been the future of a proposal for a temporary storage site on the Skull Valley Goshute Indian reservation in Utah. Skull Valley has been targeted by a private consortium of nuclear electric generators as a temporary site for nuclear waste en route to Yucca Mountain, NV. I have concluded that if the plan to send high level nuclear waste to Yucca Mountain is not approved, Skull Valley will likely become the targeted alternative for permanent storage even though it is a private project only

being considered as a temporary facility.

I have many concerns regarding the proposed Skull Valley site. Chief among these is that it would pose a serious threat to the nearby Utah Test and Training Range, which is one of the most important bombing ranges available to our military. The dangers involving live ordnance or aviation accidents in the vicinity of the proposed above-ground nuclear storage casks present an unacceptable risk. Secretary Abraham of the Department of Energy has made it clear to me that the Department will not reimburse the nuclear industry for storing nuclear waste at Skull Valley. By not funding the Skull Valley site, the Department of Energy provides a significant incentive for generators of high level nuclear waste to find solutions to storage problems either on-site or to send materials directly to the permanent site proposed at Yucca Mountain.

Also a top concern for me and many Utahns has been the issue of the safe and secure transportation of these materials through Utah as they travel to Yucca Mountain, NV. As you may be aware, well over 80 percent of the high level nuclear waste proposed to be stored in Yucca Mountain is projected to travel through populated areas of Utah.

Only after receiving a firm commitment from Secretary Abraham that the Department of Energy will work with the State of Utah to formulate an enhanced and updated transportation plan do I feel confident in casting this vote today. The plan will address operational procedures, additional emergency first responder training, and coordination efforts between State governments and the Department of Energy regarding the safe transit of nuclear materials to Yucca Mountain. I would like to make it clear that the Utah congressional delegation will closely monitor the development of this updated transportation plan.

In closing, I want to underscore how difficult this decision has been for me. I could never support any policy that would place Utahns at risk, and I believe that my decision to support the Yucca Mountain project is consistent with that. This decision has come down to my commitment to fight against the ill-advised and under-equipped facility proposed for Skull Valley, UT, and a firm commitment from the Department of Energy concerning the safe and secure transportation of these materials. With these strong commitments from Secretary Abraham, I have decided that I should not stand in the way of sending this waste to its permanent resting place in Yucca Mountain.

Mr. CAMPBELL. Mr. President, I rise today to speak on designating Yucca Mountain as the Nation's waste repository in the State of Nevada.

But before I start, I would like to get a few things clear. First, I don't oppose nuclear power. Nuclear power is an efficient and clean way to generate elec-

tricity. The obvious downside to nuclear power is that its waste is harmful to people. Yet, several States benefit from the relative clean power that nuclear plants generate. Clean air, clean water, and efficient power are significant benefits that some enjoy.

My opposition to designating Yucca Mountain is deeply rooted in my strongly held belief in States' rights. I believe that States should determine their own destiny—when States elect or choose to benefit from a program or policy, then those States should correspondingly assume the costs, costs that might not only be monetary.

My State of Colorado did not choose to build nuclear power plants. My State of Colorado did not choose to enjoy the benefits that nuclear power offers. Correspondingly, my State of Colorado never chose to assume the responsibility of storing nuclear waste and, therefore, we do not.

Some States favor storing nuclear waste and enjoy the economic benefits of doing so. My neighbor to the south, New Mexico, for example, chose to store nuclear waste in Carlsbad. The WIPP facility there is a major source of revenue for the community and the State. Although it has some detractors, I think that it is widely regarded as a big plus. The State of Nevada, however, unequivocally opposes storing waste at Yucca Mountain. It objects for a variety of reasons. Whereas the State of New Mexico considers storing nuclear waste good for business, the State of Nevada believes that storing nuclear waste at Yucca will kill business. Nevada's economy relies, perhaps more than any other State in the Nation, on tourism.

I cannot, in good conscience, vote to override a Governor's veto, when the long-term effect has the potential to destroy that State's economy. During hearings before the Committee on Energy and Natural Resources on designating Yucca, I noted my moral opposition. Today, I reiterate that argument.

I likened the issue to a homeowner who builds his big house on a small lot, and then realizes that he failed to build a septic tank for the house. Rather than change his design, the homeowner just puts the septic tank on his neighbor's property. I don't want someone else's septic tank on my property. The State of Colorado doesn't want a septic tank. We shouldn't force Nevada to be a septic tank for other States.

Furthermore, I am concerned about the routing of nuclear waste shipments going through Colorado toward Yucca. I realize that the routes that have been referred to are not certainties, but they are certain possibilities. After this vote, the Congress will have a very limited voice in choosing routes. I share many of the same transportation concerns some of my colleagues have expressed. I don't want to restate all of their points. Rather, I just want to note that if Yucca mountain moves forward, Colorado will likely be a major transit route for nuclear waste with

nearly 13,000 rail shipments over 38 years, one of the highest in the Nation.

And what is not transported by rail will be transported by truck in I-70 and through Vail Pass, a difficult mountain road winding through Colorado's Rocky Mountains. Trucks wreck all the time on I-70. I am happy to know that we have not had any major nuclear waste accidents by truck, but am troubled by the possibility, just the same.

A colleague made a logical argument about the benefits and risk. For him, the benefits of designating Yucca mountain make the risks tolerable. I am unable to make the determination. Because I don't know what the transportation routes will be and my Governor does not have authority to designate or oppose routes, I can't engage in a cost-benefit analysis.

In the absence of state oversight authority to regulate, and without sufficient information on route designations, the risks are too great for this Senator to approve Yucca Mountain.

Mr. KERRY. Mr. President, I represent a State with one active nuclear reactor powerplant and a second decommissioned nuclear power plant, both of which are storing nuclear waste far beyond their initial design limits. I can assure you there is much concern within my State over what the government plans to do with nuclear waste and a sense of urgency to get something done. I cannot in good conscience however vote to make Yucca Mountain the destination for all of our nuclear waste when a number of studies urge caution and further study to make sure that we are not making a mistake, a mistake that could plague the people of Nevada and potentially more than 40 other States in which we will transport this nuclear waste in the years to come.

In the late-1970s President Carter, himself a nuclear engineer, initiated an Interagency Review Group, IRG, to solve once and for all the high-level nuclear waste problem in the United States. The IRG tasked the Department of Energy with finding the best sites in the country for storing our nuclear waste. At the same time, the Environmental Protection Agency, EPA, and the Nuclear Regulatory Commission, NRC, were tasked with developing criteria for the selection of sites. Then, in 1982, Congress enacted the Nuclear Waste Policy Act, NWPA, which included a commitment to identifying two sites. Between 1982 and today, however, the process was changed. In 1987, Congress amended the NWPA by directing DOE to develop only one site, Yucca Mountain. Yucca Mountain was selected as the only site for purely political reasons.

Over the years, the EPA has lowered standards when they discovered that Yucca Mountain could not meet the existing ones. They abandoned a collective radiation dose limit when it was discovered that the Yucca site could not meet it, and, just last year, the

EPA promulgated final standards for licensing Yucca Mountain that rely on dilution of nuclear waste as opposed to containment. In other words, we changed the standards so that we did not have to change the site. Yucca Mountain was picked, in part, because it is an arid, unpopulated area already owned by the federal government, which used it as a nuclear test site from the 1950s to the early 1990s. The original theory was that, if canisters deteriorated, there would be little water in the dry ground to carry the radioactive waste to other areas. But that theory has already been thrown as Chlorine-36, a radioactive isotope created during nuclear weapons tests over the Pacific Ocean in the 1950s, was recently discovered 1,000 feet below ground at Yucca Mountain. In just 50 years, that material traveled in the atmosphere to Nevada, was delivered as rain at Yucca Mountain and traveled at least 1,000 feet below the surface—the level where the nuclear waste would be stored. Such rapid movement was completely unexpected and required a revision of models of water flow in the area.

Because of this Chlorine-36, the DOE plans to bury the waste in canisters made of Alloy 22—a new composite metal containing nickel, chromium and molybdenum—and then lined on the inside with stainless steel. Alloy 22 is resistant to corrosion from water, but it is a manmade substance that has existed for only about 20 years. The DOE has only about 2 years of data on the effects of corrosion on it. Using such limited data, the government is predicting the life expectancy of the canisters 10,000 years into the future. No other nation is planning to use Alloy 22 to bury its nuclear waste, and the material does not exist in nature, so there is no way of naturally predicting how strong it will prove to be. Clearly, further study is needed before reliable predictions can be made.

I am concerned that President Bush approved Yucca Mountain despite the fact that the General Accounting Office back in December of last year, identified more than 200 important scientific and technical questions about Yucca Mountain that remain to be answered. This is especially troubling because Presidential candidate Bush promised back in 2000 that “sound science, not politics, must prevail” in determining whether to bury nuclear waste at Yucca Mountain. The GAO report urged the administration to postpone a decision until these questions could be answered. I am disappointed that the administration has failed to listen to the GAO.

There are transportation issues as well. I am not entirely convinced that we have a well-thought-out plan for moving all of this nuclear waste from around the country. The safety record of nuclear waste transportation should give us pause. Between 1964 and 1997, the DOE made approximately 2,913 shipments of used nuclear fuel. During

this time, there were 47 safety incidents involving nuclear shipments, including six accidents. Much is left to be decided on transportation and I for one am reluctant to proceed until we have answers as to how this material will be shipped, on what routes, by what means and near what major cities. None of these questions have been answered, and I believe we should know if we can move this radioactive waste safely before we designate a national repository.

The routes for transporting nuclear waste to Yucca Mountain have not been finalized by DOE. The DOE is currently considering three modes of transportation, rail, truck and barge, but the DOE has not finalized the modes nor the routes. In the Final Environmental Impact Statement, EIS, for the Yucca Mountain project, DOE proposed a set of truck, barge and rail routes. These routes make use of major highways and pass through several of the Nation's largest metropolitan areas. The EIS for Massachusetts shows that if trucks are used to move the waste, 456 truck trips would originate in the Bay State and another 1,469 trips would transit the state en route to Yucca Mountain. Under the rail scenario, the EIS showed that 39 rail trips would originate in Massachusetts and another 511 would pass through the state en route to Yucca. In addition, the NRC is responsible for testing the containers that the waste will be shipped in. Thus far, all of the NRC tests relied exclusively on computer simulation to test the storage containers against fire and water damage. I think we can all agree that more testing is needed with actual storage containers to ensure the safety of all Americans.

Because of this lack of testing and with real concern for their cities, the Conference of Mayors recently passed a resolution calling on the Federal Government to oppose the Yucca Mountain repository until the serious safety concerns in the transport of nuclear waste were answered. Some of these concerns include the lack of physical testing of the transport casks and the lack of money and knowledge in our cities needed to deal with an accident involving nuclear waste. I believe we would be wise to listen to our mayors.

None of us here today want this waste to stay onsite forever, but we need a safe and responsible solution for disposal of the waste we have created. And we urgently need to develop a policy that protects the health and safety of local communities and all Americans. There are too many unanswered questions about the long-term effects of storing the waste at Yucca Mountain and the means by which we transport that waste there, and that is why I am voting no today.

Mr. LIEBERMAN. Mr. President, I vote today against the motion to proceed to the consideration of the Yucca Mountain resolution. I have cast this vote for several reasons. First, on pro-

cedural grounds, I agree with the majority leader that to consider the issue now would be an unacceptable divergence from Senate practice and procedure. It is the right of the majority leader to schedule the consideration of legislation on the floor of the Senate, and for me to vote for this motion would be to sanction what I view as an inappropriate procedure.

But the biggest problem is the substance of this plan. I don't believe that the Yucca Mountain site is ready to be approved by the Congress. There is an old saying: “underpromise, overperform.” Unfortunately, the Yucca Mountain nuclear waste storage plan overpromises and underperforms for the people of my State. I have studied this issue carefully, mindful of how important nuclear power is to Connecticut, and of how concerned Connecticut families are about the health and safety effects of storing nuclear waste on site. They are right to be concerned. But after many months of deliberation, I have decided that the plans aren't ready. Voting to create a waste repository at Yucca Mountain today would solve no problems and create a few new ones for the people of my state. It is not wise policy.

I believe the most obvious indication of this fact is the Department of Energy's plans to apply for a license from the Nuclear Regulatory Commission. Even though the Nuclear Waste Policy Act instructs the Energy Department to submit an application to the Nuclear Regulatory Commission 90 days after Congress acts, Secretary Abraham has stated that his agency will not submit an application until December 2004 at the earliest. Obviously, the Energy Department is not ready to make their case for this site. Why should we be endorsing the project long before the Department is ready?

From studying the plans for the site, I believe that the reason that the Energy Department is not ready to submit its application is because, simply, too many unanswered questions remain. In dealing with nuclear waste, we should first do no harm.

It is too soon to say conclusively that the Yucca Mountain plans meet that standard. Consider the storage problems. In a December 2001 report to members of Congress, the General Accounting Office wrote of “uncertainties” relating to the “longevity of [engineered] waste containers,” and noted that “significant work is needed” before the safety of the containers can be substantiated. The GAO also felt that more studies needed to be completed before the physical characteristics of the site could be declared suitable for the project. Most notably, the report stated the GAO's uncertainty on “how the combination of heat, water, and chemical processes caused by the presence of nuclear waste . . . would affect the flow of water through the repository.” Among the remaining physical “uncertainties,” the GAO prominently listed: faulting and fracturing of the

repository rock; the flow of water through the repository rock; and the stability of the repository rock under heated conditions and conditions involving seismic events as main concerns.

The GAO's view of uncertainties was seconded by the Nuclear Waste Technical Review Board—an independent review board that acts as a check for the Energy Department's view of the science. In a January 24, 2002 letter to Congress, the Review Board offered criticisms of the DOE study, finding that, "as a whole . . . the technical basis for the DOE's repository performance estimates is weak to moderate."

But, the most important point for my home state of Connecticut is that, even if Yucca Mountain worked perfectly, with none of the potential problems that many experts have raised, it would not answer our problem of nuclear waste storage. It gives the people of my State the false hope of a solution to this serious problem. In fact, the plan may well create new problems in many areas of the state that are now free of nuclear waste problems.

It is not as if, if we were to approve this site, the tons of nuclear waste in Connecticut would be instantly transported to Nevada. Rather, it would take 40 years and thousands of shipments to transport that waste across the country, and by the time Yucca was filled, we would have generated just as much waste at each of Connecticut's nuclear sites. So the opening of Yucca Mountain will not free us of the terrorist threat at each of the sites. To the contrary, it will disperse the waste even more than it is currently dispersed.

And the most dangerous waste of all—the "hot" waste that has just been removed from the reactors—cannot be moved off of our sites in Connecticut until it has cooled for at least 5 years. Thus, as long as we are operating nuclear plants in Connecticut, we will have dangerous nuclear waste at those plants. In other words, the current Yucca storage plans do not resolve Connecticut storage issues.

Finally, I am concerned that the transportation of the waste would bring new problems to regions of Connecticut that do not face them. The Energy Department has formulated no logical and systematic plan regarding the transportation of waste. To transport the approximately 40,000 tons of nuclear waste to Yucca Mountain, over 100,000 truck shipments or 36,000 combined rail and truck shipments would be needed, to be spread over the next 40 or so years. This would include waste from other States coming across on Connecticut highways and railroads. The attacks on September 11 have created major new questions about the transport of this waste, which could have a major effect on my State and which have not been addressed. Until some safe and proven plan to transport this waste is offered, I am troubled by the danger on our roads and rails.

We need to deal with this nuclear waste—but no one has demonstrated yet that Yucca Mountain is the answer. With technology advancing every day, perhaps it will be the answer tomorrow. Or perhaps in the future we will find another, much better solution. Until then, the imperfect status quo is better than a highly uncertain and incomplete plan such as this one.

This proposal is simply not yet ready for our consideration. Unfortunately, the Energy Department has stated that it will not continue to consider the site if this vote does not go its way. I think that is the wrong approach—the questions I have raised today may be able to be answered satisfactorily with more planning and better technology, and if they are, I would probably support the site. But this proposal is not ready for prime-time, and I am concerned that it will not be responsible to proceed to its consideration at this point.

Mr. JEFFORDS. Mr. President, we are voting today on whether to move forward on development of Yucca Mountain as a permanent disposal site for our Nation's nuclear waste.

Nuclear power provides an emissions free energy source. My State of Vermont, along with 39 other States, relies on nuclear power for a large portion of its electricity generation. It is an important part of our energy mix.

Nonetheless, we must be realistic in dealing with the downsides associated with nuclear power. Over 30 years ago, as Vermont's Attorney General, I was concerned about the impact of nuclear waste on our environment and the health of Vermonters. As Attorney General, I fought to improve the safety standards at Vermont Yankee by calling for the use of new technology that dramatically reduced airborne radiation. When the industry resisted, I required Vermont Yankee to enter into a contract with the State to use the best available technology to control radiation and to accept State monitoring, protecting the Connecticut River and the people of Vermont. The Atomic Energy Commission later accepted these technologies as their industry standard.

Throughout my time in Congress I have continued to work for a comprehensive solution to our nuclear waste problem. Back in 1977, I introduced a bill in the House calling for a comprehensive nuclear waste disposal strategy. I maintained then, as I do now, that finding an effective solution to the waste problem is critical to the future of nuclear power in this country.

So I have been working on this problem for a long time. I have supported the Yucca Mountain proposal in the past, in the belief that it would resolve the problem, and contain both our past and future nuclear waste.

However, the truth is that Yucca Mountain will not provide this solution. It is now clear that Yucca Mountain will only take part of the waste,

leaving some, if not most, of the future waste that will be produced sitting along the banks of rivers, beside both our small local communities and our largest population centers. This is not adequate. This is not acceptable.

Therefore, despite my past voting record on this issue, I will cast my vote today against the sitting resolution for Yucca Mountain, because it does not finish the job we must do. Unlike my previous understanding, the Yucca site will not provide a sound, permanent and comprehensive solution to the problem of our nuclear waste disposal. All it does it provide a partial measure, one that can lull us into a false sense of security that the issue is taken care of. It is not.

I understand that Yucca Mountain, if approved today as I assume it will be, will take some of the waste, both from my State and others. That is of course helpful, as far as it goes.

But Americans should not be misled into believing that the Yucca Mountain site will solve America's waste problem. I would be derelict in my duties were I not to dispel this motion. I do so with my vote today in opposition to the Yucca Mountain proposal, under its current limitations. I do so not because I don't recognize that Yucca has the potential to provide some relief to storage concerns at Vermont Yankee and other sites. I take this vote instead because we cannot allow it to be viewed as the panacea to our nuclear waste storage problem.

We must continue to work with the nuclear industry and with the administration to find a safe and comprehensive solution to this extremely vexing problem. We cannot rest on our laurels for the next 10, 20 or 30 years, only to wake up to expanded nuclear waste piles with nowhere to go.

I trust my vote today will help emphasize this continuing need, and our continuing obligation.

I take this vote only after many long hours of carefully examining the facts of this matter. The truth is, I am more concerned than ever that we are just delaying the problem. Vermonters need to know that under the Yucca "solution" high-level waste is still likely to be stored forever on the banks of the Connecticut River. All Americans need to know similar waste storage problems will still exist on our Nation's waterways.

Over the years, I have consistently supported a central storage solution for nuclear waste. I continue to believe that it is essential that we find a permanent, central storage site if we are to continue to produce nuclear power.

The current proposal before us is merely a partial, interim step, and must be recognized as such. We must not just blindly continue to produce nuclear power, without a comprehensive and safe solution to the disposal of the waste we produce.

I urge my colleagues and this administration to not relax our diligence in focusing on the next step, a real and

comprehensive solution to nuclear waste disposal.

Mrs. FEINSTEIN. Mr. President, I am voting against this resolution. I support the development of a long-term strategy of storing our Nation's nuclear waste. However, a single storage repository is not the answer to our nuclear waste problem.

I have three major concerns about the proposed Yucca Mountain nuclear waste repository: first, the repository's inadequate storage capacity, second, the environmental risks of storing nuclear waste at the site, and third, the risks of transporting nuclear waste to the site.

Based on these factors, I believe it would be a mistake to bring all of our Nation's nuclear waste to Yucca Mountain. Instead of a single repository, it would be better to develop regional nuclear waste permanent storage facilities which would increase overall storage capacity and reduce risks associated with transporting waste great distances.

Today nuclear waste is stored at 131 facilities in 39 States. These facilities hold nearly 47,500 metric tons of nuclear waste. This amount is growing rapidly. Within 40 years, it is estimated that our country will have generated nearly 108,000 metric tons of nuclear waste.

The Yucca Mountain repository, as I understand it, is authorized to hold only 70,000 metric tons. So at our current rate of nuclear waste production, we will have generated this amount by the earliest estimated date of the repository's opening in 2010. In fact, we may generate the full 70,000 metric tons of nuclear waste before the site ever opens.

What is the point of creating a storage site that will be filled to capacity before it even opens?

I am very concerned about the environmental risks surrounding the site storage. DOE was supposed to recommend or reject the Yucca Mountain repository with geologic considerations to be the primary criteria. I find it disturbing that the suitability of the Yucca Mountain repository has instead focused on container material.

These titanium waste containers are DOE's principal method of providing safety and security of the nuclear waste and repository and ensuring the protection of surrounding areas.

Yet how can we be so confident in our support of such containers when we don't know about their longevity and durability?

The Nuclear Waste Technical Review Board, which was established by Congress specifically to ensure that a repository adequately protects the public health and the environment and it has voiced similar concerns. Last year, the board termed the technical basis for DOE's repository performance estimates as "weak to moderate."

As a result, the NWTRB has limited confidence in current performance estimates generated by the DOE's perform-

ance assessment model. The board has found that high temperatures in the DOE's repository design increase uncertainties and decrease confidence in the performance of these metal storage containers.

According to Dr. Jared Cohon, the chairman of the board, "gaps in data and basic understanding cause important uncertainties in the concepts and assumptions on which the DOE's performance estimates are now based."

The half-life of these titanium storage containers is still unknown. Scientists have found that the first container failures could occur after 10,000 years, although one board member said it was "hopeless" to know how long the container would last, given just a few years of research. Perhaps failure could occur much sooner.

In comparison, Uranium 235, the basic fuel used by nuclear reactors, has a half-life of 704 million years.

It would be simply irresponsible for us to bury such hazardous nuclear waste when we don't have a good idea about how long the containers could hold up.

One of the most significant problems found at the site is the amount of subsurface water present under Yucca Mountain. Water promotes corrosion and movement of radioactive material and its presence in a repository is a serious drawback. As the titanium casks erode over time, we could face a potential disaster as this water becomes contaminated and flows into the water table.

California counties have expressed their rightful concerns of subsurface water at Yucca Mountain surfacing at populated areas downstream of the site.

For instance, Inyo County in California, with a population of 17,945, lies downstream of the proposed repository. Contaminated water could very easily spread from the repository directly into their towns and homes.

Death Valley, one of our Nation's ecological and environmental treasures, is also only about 20 miles from the repository. Water contaminated with nuclear waste could destroy one of the jewels of our National Park System.

DOE refutes the idea of possible harm of water contamination based on the titanium casks the Department has proposed to store the nuclear waste.

Yet in March of 2001, the NWTRB wrote to DOE expressing its concern that important water flow processes around Yucca Mountain remain poorly understood and should be further studied.

The board has criticized the lack of critical corrosion data on the titanium casks in the DOE's basic design concept. According to the board, "We are betting the performance of the systems on the long term performance of these effectively new materials."

The fact is we simply do not know enough about the durability of these containers and how they will hold up under intense natural conditions for thousands of years.

If we are so confident of the safety and durability of these titanium storage casks, why not use them to store nuclear waste at or near existing reactor sites and thereby eliminate the risk of transporting these hazardous materials across the country?

The most immediate question that need to be answered, however, is, how will we transport all of our nuclear waste to Yucca Mountain? While some argue that the repository will increase national security by decreasing the number of storage sites, the transportation of nuclear waste to the site would actually create thousands of moving targets.

In order to move the Nation's nuclear waste to the Yucca Mountain repository, DOE would have to transport thousands of metric tons of nuclear waste across the country and those shipments would take decades just to move the waste that has already been generated.

Keep in mind that nuclear power provides a quarter of our Nation's energy needs and we generate hundreds of spent nuclear fuel rods each day and nearly 2,200 metric tons of nuclear waste each year.

If we had a way to magically move all of the nuclear waste to Yucca Mountain, it might be safer to have a single repository. However, this is not the case and the transportation of nuclear waste poses unnecessary risks for accidents and attacks.

According to DOE, it would take an estimated 24 years for the full 70,000 metric tons of nuclear waste to be transported to Yucca Mountain.

DOE has not yet determined exactly how this nuclear waste would be transported. The Department estimates that it would take 53,000 trips by truck over the proposed 24-year time period. If the nuclear waste traveled by train, that scenario would involve an estimated 10,700 rail shipments.

The site is scheduled to open in 2010 according to DOE's earliest predictions and at the end of all shipments in 2034, there would still be: nearly 42,000 metric tons of commercial nuclear waste stored in 63 nuclear power plant sites in 31 States; and about 7,000 metric tons of DOE generated waste stored in 4 states.

This is why I believe a single repository is not capable of meeting our long-term nuclear waste storage needs.

Such shipments present unnecessary risks in transporting numerous shipments of hazardous materials from New England to Nevada.

As a result of this plan, significant amounts of nuclear waste will undoubtedly move through or near populated urban areas, potentially jeopardizing the safety of millions of Americans.

And commercial spent nuclear fuel from nuclear power reactors would comprise about 90 percent of the waste shipped to the repository. DOE has acknowledged that this waste is "usually intensely radioactive."

According to DOE's Final Environmental Impact Statement, (FEIS)

more than 123 million people currently live in 703 counties traversed by DOE's proposed highway routes and 106 million live in counties along DOE's proposed rail routes.

Using potential truck and rail transportation routes identified by DOE, the Environmental Working Group, a national environmental research organization, estimated that waste shipments to the Yucca Mountain repository could pass within a mile or less of 14,510 schools, 933 hospitals and the homes of 38.5 million people.

When the distance from routes is expanded to 5 miles, waste shipments could pass 36,228 schools, 1,831 hospitals and the homes of 109 million people.

Preliminary routes in Southern California slate waste from the Diablo Canyon powerplant to be shipped about 200 miles on a barge to Port Hueneme in suburban Ventura County just north of Los Angeles, which is one of California's five busiest ports and the nation's biggest export site for citrus.

These shipments pose potential threats to some of the most densely populated areas in the U.S.

Additionally, routine radiation from shipping casks poses a significant health threat to workers handling such shipments.

In the most extreme example, motor carrier safety inspectors could receive cumulative doses large enough to increase their risk of cancer death by 10 percent or more and their risk of other serious health effects by 40 percent or more.

According to the Nevada Agency for Nuclear Projects, public perception of transportation risks could also result in economic costs to those communities along shipping routes. Even without an accident or incident, property values near these routes could decline by 3 percent or more. In the event of an accident, residential property values along shipping routes could decline between 8 percent and 34 percent, depending on the severity of the accident.

DOE takes great pride in its record of safe transportation of hazardous materials for over more than 30 years. During that time, there have been only eight accidents and none of them resulted in the harmful release of radioactive material.

However, during that time period, we were moving fewer than 100 shipments per year.

Over the next 24 years, there would be an estimated 2,200 shipments per year heading to the Yucca Mountain repository alone. There would also be more than 10,700 cross-country shipments occurring at an average of 450 per year.

This enormous increase in shipments would greatly increase potential accidents.

According to the National Highway Traffic Safety Administration, 457,000 large trucks were involved in traffic crashes in the year 2000 alone.

According to the FEIS, a very severe highway or rail accident could release

radioactive materials from a shipping container, resulting in radiation exposures to members of the public and latent cancer fatalities among the exposed population.

The July 2001 Baltimore rail tunnel fire has been cited as an example of the dangers of shipping nuclear waste by train.

The fire burned for 3 days with temperatures as high as 1500 degrees Fahrenheit. A single rail cask in such an accident could have released enough radioactive material to contaminate an area of 32 square miles.

In addition to the harm inflicting surrounding populations, the FEIS estimates the clean-up costs of such an accident could potentially reach \$10 billion.

Failure to clean up the contamination of such an accident could cause 4,000 to 28,000 cancer deaths over the next 50 years. Between 200 and 1,400 latent cancer fatalities would be expected from exposures during the first year.

A successful terrorist attack using high energy explosives could result in similar destruction and damage.

The FEIS concedes that a high-energy explosive device could rupture the wall of a truck cask, leading to the dispersal of contaminants into the environment. A single blast resulting in 90 percent penetration of a truck cask could lead to 300 to 1,800 cancer fatalities. Full perforation of a cask could cause 3,000 to 18,000 cancer fatalities. Cleanup and recovery costs of such an incident would exceed \$10 billion.

These threats should be taken very seriously and this assessment furthers my belief that the long and complex transportation of nuclear waste to a single site is a threat to our national security.

Based on these concerns, I do not believe that Yucca Mountain is the answer to our current nuclear waste security nor our long term nuclear waste storage problem.

According to Dr. Victor Gilinsky, a former Commissioner of the Nuclear Regulatory Commission, Yucca Mountain is not needed to continue, or even expand, nuclear power use. There is ample opportunity to expand existing, NRC-approved, on-site storage. As he testified before the Senate Energy Committee:

the important thing now is to recognize that there is no immediate crisis, that there is time to do this and to do a good job and responsible job in terms of safety and security, and to do it at a much lower cost to taxpayers than Yucca Mountain represents.

I believe a regional system will provide us with both immediate and long-term results. Immediate in the sense that we can explore expanding storage at current NRC-approved sites. Long-term in the sense that it will produce a system of regional permanent storage sites that will meet our long-term nuclear waste storage needs.

I cannot support a site that does not have the capacity to meet our Nation's

long-term nuclear waste storage needs and poses serious risks to our environment and national security. A system of regional storage repositories could eliminate these risks and provide the adequate and safe permanent storage of nuclear waste that our country needs.

Mr. AKAKA. Mr. President, I rise today in opposition to House Joint Resolution 87, the Yucca Mountain resolution, to approve the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

Since the advent of nuclear power nearly 50 years ago, we have been concerned about the problem of waste generated by the production of electricity. Today we are considering a decisive step towards a solution to the dilemma of high-level nuclear waste as mandated by the act. But the path forward is not risk-free.

There are problems associated with the siting. The General Accounting Office has raised serious questions regarding the seismology, stability of the repository, and long-term effects of heat, water and chemical processes in and around the waste containers.

I am concerned about dangers posed by transporting thousands of tons, and thousands of shipments, of high-level nuclear waste through 43 States. Each truck could potentially carry more long-lived radioactivity than released at Hiroshima. I am sympathetic to those States that face the risk of transportation-related accidents or terrorist attacks. Because of our experience in the Pacific with nuclear testing and resulting exposure to radioactivity, I urge caution when dealing with long-lived radioactive material.

We have similar transport problems on the world's sea lanes. Last week, Japan returned a shipment of mixed plutonium-uranium oxide fuel, MOX, to the United Kingdom because it was sent to Japan with falsified safety data and without proper safety checks. The safety and security of nuclear waste, whether transported on the highways or the high seas, should be of great concern to Americans. During my tenure in the Senate, I have closely monitored the safety and security of shipments of MOX from Europe to Japan for nuclear power purposes. On numerous occasions I have voiced concerns with transportation plans and associated security measures for the shipments of nuclear material in the Pacific. Recent warnings and alarm over the threat of procurement and use of nuclear materials for crude explosive devices known as "dirty bombs" heightens the need to be vigilant and careful in the transport of nuclear material.

I am not convinced that the plan proposed by the administration has addressed all of these risks. Clearly, we can't walk away from the nuclear waste dilemma, and the nation must address this intractable problem. We need a scientific rather than a political

solution. In a new approach, Congress should not pre-select a site but provide a process that leads to a scientifically sound solution. I will oppose the motion to proceed, as I am not convinced that this is the best path forward.

Mr. DURBIN. Mr. President, the advent of nuclear power more than 50 years ago brought with it both great promise and great responsibility. Our ability to harness the power of the atom has paid substantial dividends for our society, but it has also left us with the formidable challenge of safely storing the byproducts of nuclear power generation. This is a challenge our Nation must meet so that future generations are not endangered by today's nuclear waste.

Presently, all of the spent fuel from nuclear power plants and research reactors throughout the country remains on-site at each reactor. None of these facilities was designed to safely store that waste on a permanent basis, and leaving spent fuel in temporary storage around the Nation poses both a security threat and an environmental hazard. In Illinois, nearly half of our electricity is generated from nuclear power. Our State contains seven nuclear powerplants, two nuclear research reactors, and more commercial nuclear waste than any other State.

We need to find a safe and permanent way to store this material, and such a storage site has been proposed at Yucca Mountain in Nevada. I have been to Yucca Mountain, which is located 90 miles from Las Vegas on Federal land at the remote Nevada nuclear test site. The waste would be stored more than 600 feet underground but more than 500 feet above the water table, sealed in steel containers placed under a titanium shield. A security force at the Nevada test site is in place to protect the area, and the airspace around Yucca Mountain is already restricted.

When this issue has come before Congress in the past, I have opposed efforts to move waste to a temporary facility at Yucca Mountain before there was a scientific determination of whether waste could be safely stored there on a permanent basis. I had no interest in moving this waste to a temporary place, only to move it again when a permanent repository is finally determined. I also opposed earlier measures that would have mandated dangerously low standards for environmental protection at the site.

Recently, however, I have been encouraged by the fact that the Environmental Protection Agency has established radiation and groundwater contamination standards for the Yucca Mountain storage site. These standards were derived from recommendations by experts at the National Academy of Sciences and were developed after extensive public comment and scientific analysis. All of these standards greatly exceed the standards debated by Congress in the two previous bills I opposed. Under three bills Congress considered in the past on this issue, the

EPA would have been required to issue a single standard limiting the lifetime risk of premature cancer death to 1 in 1,000, or .001. The current EPA standard assumes a risk of 8.5 in 1,000,000, or .0000085. Furthermore, these bills would have prohibited a standard for groundwater, which EPA has now put in place. If the Department of Energy is able to move forward with a licensing application for Yucca Mountain, the Nuclear Regulatory Commission will be charged with making sure that the Department of Energy proves it can meet the EPA's standards. If it cannot prove this, the Yucca Mountain project cannot move forward.

No site will ever be perfect for the storage of high-level nuclear waste, but I believe the studies which have already been conducted and the Nuclear Regulatory Commission review still to come provide sufficient assurances that Yucca Mountain is the most appropriate site available and should be used as the permanent national nuclear waste repository.

I am still concerned, however, with the movement of thousands of tons of nuclear waste across the country to Nevada. According to the U.S. Department of Energy, Illinois would rank seventh in truck shipments in what is called the "mostly truck scenario." The same Energy Department analysis concludes that Illinois would rank sixth in rail shipments in the "mostly rail scenario." Although waste has been shipped through Illinois and other states in the past, approving Yucca Mountain would initiate the largest waste shipping campaign in the history of our country, both in terms of the number of shipments and the amount of miles traveled for high level nuclear waste.

Unless we scrutinize safety factors and security risks, the large-scale transportation of radioactive materials has the potential to cause a host of serious challenges to cities and communities along shipping routes. The U.S. Conference of Mayors has expressed concerns about the transportation plan, and I am submitting for the RECORD a letter sent to President Bush on this matter, signed by Mayor Richard M. Daley of Chicago and 17 other mayors. This issue is all the more important in light of the terrorist threats we are likely to face in the years ahead.

Illinois is home to one of the busiest transportation corridors in the Nation, putting our State squarely at the intersection of the nuclear crossroads. With the safety of Illinoisans at stake, finding the safest way to move nuclear waste to a location where it poses the least risk is imperative.

That is why I am introducing legislation in the Senate that would direct the Federal Government to develop a comprehensive safety program for nuclear waste transportation. This legislation would require the waste containment casks to be tested to ensure they could withstand intense fires, high-

speed collisions and other threats that may occur during transport. My bill also would require States to be consulted on the selection of transportation routes and would require a 2-week advance notification of waste shipments. I also would ban inland waterway shipments of nuclear waste, require dedicated trains and establish a minimum number of trained escorts to accompany each nuclear waste convoy. I am looking forward to working with my colleagues who share my interest in this legislation.

Congress should move forward with making Yucca Mountain the central repository for our Nation's nuclear waste. It is, I am convinced, the best solution to a complicated problem we have debated for decades. But before shipments to Yucca Mountain begin, we need to establish a transportation plan to ensure the safety and security of the communities that lie in the path of those shipments, and we must begin that work today.

I ask unanimous consent to print the letter in the RECORD.

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

THE U.S. CONFERENCE OF MAYORS,
February 23, 2002.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Your approval of Yucca Mountain in Nevada as a nuclear waste repository was a historic moment in the history of the project. Quite literally, it is the culmination of over 50 years of scientific research and analysis. Since the Atomic Energy Act was passed in 1954, the federal government has been searching for methods to dispose of spent nuclear fuel and high-level radioactive waste.

As a single largest federal government project in the history of the United States, we acknowledge that the Yucca Mountain project has detractors and supporters. Regardless of the final repository location, we have serious concerns about the transportation of spent nuclear fuel from reactors all over the country to Yucca Mountain or any other repository.

So far, the preliminary estimates that have been released call for up to 10 shipments of nuclear fuel each day for close to 40 years. These shipments will travel through America's cities past our schools, homes and places of business.

In 1996, The United States Conference of Mayors adopted policy on the transportation of radioactive waste that calls for the federal government to fund training and equipment that will be needed by local emergency response personnel along transportation routes, to upgrade medical facilities which would treat victims of transportation accidents, and to upgrade highway and railroad or highway bypasses to ensure safe transportation corridors. It also calls on the Nuclear Regulatory Commission to certify shipping transportation containers after a public process that includes both physical testing and computer modeling to ensure that the containers can withstand severe accidents.

As mayors, we are concerned that the Department of Energy (DOE) has not yet fully researched the methods for the transportation of nuclear waste. A recent incident that illustrates our concern is the 2001 Baltimore Tunnel fire. Five days passed before fire fighters could gain access to the blaze

and control the flames. Several studies have been done to determine the environmental impact if that train had been carrying spent nuclear fuel—and the results have been disturbing.

Given the long-term nature of the Yucca project, it seems only natural that the DOE would include transportation analysis and an environmental impact study in its final report. We respectfully request that the Office of the President of the United States initiate one.

As the mayors of potentially affected cities, we urge you to continue your dedication to public safety and homeland security by supporting a thorough study on nuclear waste transportation to the final repository.

We look forward to working with you on this very important issue.

Sincerely,

(Signed by 18 mayors.)

Ms. SNOWE. Mr. President, I rise today in support of S.J. Res. 34, a joint resolution approving the site at Yucca Mountain, NV, for the development of a repository for the disposal of spent nuclear fuel and high-level radioactive waste, pursuant to the Nuclear Waste Policy Act of 1982.

As we are aware, under current law, Energy Secretary Abraham recommended the Yucca Mountain geologic site as the repository for the Nation's spent nuclear fuel and high-level radioactive waste to the President on February 14, 2002, and the President then recommended the site to Congress the next day. Under law, on April 8, Nevada Governor Guinn exercised his right to veto the Yucca Mountain site. This veto will block further development of the site unless the Congress acts by passing an approval resolution that is signed by the President by July 27.

In 1982, legislation was crafted in response to the need to dispose of the Nation's spent nuclear fuel and high-level radioactive waste that has been collecting since the growth of the nuclear power industry started in the 1950s. The waste is now being stored in various ways in 131 locations across the country.

The Nuclear Waste Policy Act of 1982, the NWPA, called for disposal of this spent nuclear fuel in a repository in a deep geologic formation that would not be disturbed for thousands of years. An office was established in the Department of Energy to develop such a storage repository, the costs of which would be covered by a fee on nuclear-generated electricity and paid into the Nuclear Waste Fund.

My experience with the storage of the Nation's high-level nuclear waste covers the entire 20 year lifetime of the NWPA. In the 99th Congress, I introduced a bill in the House, H.R. 4664, with 23 other Representatives to amend the NWPA. The bill called for the disposal of high-level radioactive waste and spent nuclear fuel in a single national repository. At that time, the NWPA called for two repositories, one in the East and one in the West. I was also a cosponsor of H.R. 4668, the Broyhill bill that removed the requirement of a second repository for the disposal

of high-level radioactive waste and spent nuclear fuel.

Our successes came in the next Congress, the 100th Congress, when language I developed with then Representative Mo Udall was ultimately included in the fiscal year 1988 Concurrent Budget Resolution that went on to be signed into law as Public Law 100-203. The language called for the establishment of one national repository. Language was also added at that time that established Yucca Mountain as the only site to be considered for the repository.

Through all of those years, and especially since 9/11, I have continued to believe that the Nation's spent nuclear fuel could be more safely stored at one secure federally guarded facility than at temporary storage facilities all around the country. It would also be less expensive to State governments, which have already taken on the responsibility of dealing with the storage of low-level radioactive waste within their borders.

I do not believe that leaving the spent fuel at commercial and DOE sites for 10,000 years while having each site take the necessary security precautions and storage upgrades is the best approach, especially as the DOE itself has predicted that leaving the spent fuel stored on all of the numerous sites throughout the country would result in a radioactive material release, contaminating soil, surface water, and groundwater.

In Maine, we have a nuclear plant being decommissioned—Maine Yankee—that has been waiting for the Federal Government to take the waste that it should have taken by law by 1998, but has still failed to do so since no facility is ready to store the waste. In fact, Maine Yankee is seeking \$120 million through a lawsuit against DOE because the Federal Government has not lived up to their part of the bargain.

The nuclear power plant stopped operating in 1997, but 1,434 spent fuel assemblies still sit at the site waiting for a permanent Federal solution. The company has now spent about \$60 million to build a dry cask storage facility and will spend at least \$4 million per year to operate it. This is not a unique case as there are a total of 26 power plants no longer in operation that also have waste waiting to be shipped. By 2006, 60 reactors will run out of original storage space, with 78 running out by 2010.

Even after we pass this resolution and the President signs it, the repository will still need to meet the strict requirements of the Nuclear Regulatory Commission to be licensed, and if the Yucca Mountain site receives approval, it will not even be ready to accept spent fuel before 2010 at the earliest. We simply cannot wait any longer to move this issue forward.

I understand that concerns have been raised about the transportation of the spent fuel—and these should be raised

and the public should be assured that security plans are in place for safe transportation. We do, however, have a decade to assure that the waste will be safely and securely shipped to the Yucca Mountain site from all parts of the country. Indeed, history tells us that past shipments have been carefully managed. The nuclear industry has completed 3,000 shipments of spent fuel over 1.7 million miles by highways and railroads since 1964. Eight accidents have occurred, four of which had fuel in the shipping containers, but no radiation was released. In the next decade, we can expect even greater safety of shipments through improved technology.

I was pleased to support Senator CARNAHAN's amendment to the recently passed Senate energy bill that calls for a National Academy of Sciences study on how DOE chooses spent nuclear fuel transportation routes, and to do risk assessments of all of the potential routes. This should clarify the transportation issue even more for the public and I urge the conferees to keep this provision in the conference report.

The Federal Government has already spent \$7 billion on the Yucca Mountain site, and will ultimately spend about \$50 billion more up to the time when the site is expected to reach capacity and is closed in 2019. We must move forward responsibly to once and for all safely and securely store the Nation's highly radioactive spent fuel and nuclear waste at a single national location or, as the DOE has projected, the cost will climb to the trillions of dollars. We can neither afford this or afford to wait any longer.

Mr. GRASSLEY. Mr. President, in 1982, Congress required the Federal Government to find a permanent repository for the disposal of spent nuclear fuel. Now, 20 years later, we are finally taking the necessary action to move ahead with this plan.

Yucca Mountain was recently designated as a suitable site for development as the Nation's permanent repository, with over 24 years of Federal research and scientific evaluation. The Secretary of Energy, after thoroughly examining the relevant scientific and technical materials, concluded that the site is scientifically and technically suitable for construction of a repository. Now, it is up to Congress to ensure that we provide a safe, permanent storage facility.

In this time of heightened terrorist threats, it is absolutely necessary that the Government provide safe and secure permanent storage for our spent nuclear fuel. Currently, spent nuclear fuel and high-level radioactive waste is stored at 131 sites in 39 States.

We can no longer afford to continue storing nuclear waste in temporary sites that are too often located near densely populated areas and water supplies. It seems only logical to want to safeguard public health and safety by storing nuclear waste at a site that

would be highly guarded against any terrorist activity.

Even in my home State of Iowa, spent nuclear fuel from the Duane Arnold plant is stored just outside of Cedar Rapids near the town of Palo. Like too many other facilities in the United States, the plant is being forced to construct temporary storage because of the Federal Government's lack of action on a permanent facility.

And, just 10 miles from the Iowa border, at a plant that ceased operation in 1987, sits 42 tons of nuclear waste in a waterpool that is designed for temporary storage during operation, not permanent storage. It's for these reasons that it is crucial the Senate move forward in designating Yucca Mountain as a permanent storage facility. Storing nuclear waste at Yucca Mountain would protect public safety, health and the Nation's security.

Opponents continue to raise questions concerning the safety of the transportation of this material to Nevada. For over 30 years, there have been 2,700 shipments of spent nuclear fuel without a single release of radioactive material harmful to the public or the environment. It is important to remember that because spent fuel is stored at over 100 temporary sites across the Nation, shipments of spent fuel will cross the country whether or not Yucca Mountain is approved.

Secretary Abraham has assured that the Department of Energy will develop a transportation plan and work with State and tribal governments regarding shipments to Yucca Mountain. Iowa's Governor, Tom Vilsack, has also shared with me his support for designating Yucca Mountain, based on the outstanding record of safely transporting nuclear material. Given Iowa's geographic position across major transportation routes, Governor Vilsack relayed that Iowa has consistently met its responsibilities in this regard.

Lastly, those who oppose the transportation of the waste across the country because it could be a terrorist target have clearly disregarded the fact that spent fuel in secure transit to a permanent repository is far less of a target than the spent fuel scattered across the country at over 100 temporary, stationary sites.

With over 2,000 tons of spent nuclear fuel in Iowa or on it is borders, it's imperative that the Senate take the necessary action today to finally begin the process of developing a permanent repository. To protect our national security, enhance our energy security, and ensure the safety of the public, we must support this resolution and move ahead on this project.

I request that a copy of Governor Vilsack's letter to me dated May 8, 2002, be printed in the RECORD.

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

STATE OF IOWA,
OFFICE OF THE GOVERNOR,
Des Moines, May 8, 2002.

Hon. CHARLES E. GRASSLEY,
U.S. Senator, Hart Senate Office Bldg., Washington, DC.

I am writing to encourage your support for the recent decision to go forward with development of Yucca Mountain, Nevada as a permanent repository for our nation's used commercial nuclear fuel and defense nuclear fuel and defense nuclear waste. The State of Nevada has exercised its right to object to the decision. As a result, it is now your responsibility, as a member of Congress, to evaluate, considering the effects on national interest, the decision and affirm its wisdom.

In 1982 Congress established our nation's policy on managing used commercial nuclear fuel and defense waste, i.e., interim storage by commercial reactor operators at their sites and permanent storage at one or more national, geologic repositories by the Federal government. Further, Congress provided for the collection of a fee, levied on customers of electricity generated by nuclear power plants, to be paid into the Federal Treasury and appropriated by Congress for the study and development of a permanent repository. In 1987, Congress, acting to focus the U.S. Department of Energy's efforts, instructed the DOE to exclusively study the site at Yucca Mountain, Nevada.

The DOE acting in accordance with Congress' instructions, studied the Yucca Mountain site in extensive detail. This study validated the scientific wisdom that led to focusing on the Yucca Mountain site in 1987. We should now move on to the next phase of activities and begin the processes of design, licensing, construction and operation of a permanent repository. This is with the full understanding that the licensing and operation of Yucca Mountain still must withstand the detailed scrutiny and additional questioning by the U.S. Nuclear Regulatory Commission which is charged by law to decide whether or not to issue a license to the DOE before a single bundle of used nuclear fuel can move to Yucca Mountain.

Used nuclear fuel is currently stored at commercial reactor sites within and on the borders of the state of Iowa. While this storage has been and continues to be accomplished responsibly, these facilities were never intended as sites for permanent storage and are operated on the presumption that the Federal government will go forward with its responsibility for providing a permanent repository. These same reactor sites provide nearly 25% of Iowa's electric energy.

Customers have paid into the federal fund for the purposes of developing a repository. Study is but a single step towards the final end of developing a useful facility. With the completion of that study there is a "light at the end of the tunnel" for those same customers who are bearing the expense of the interim storage within or on the borders of our state.

Congress, in 1982, when it enacted the policy of a national repository, recognized that used nuclear fuel and defense nuclear waste must be transported to that repository. History provides us an outstanding record of transportation of nuclear material. The state of Iowa, with its geographical position across major transportation routes, has consistently met its responsibilities in this regard. The same 1982 act provides for federal support to states to insure that the safety record of future transportation is equally good, if not better.

The decision to move forward on Yucca Mountain and the subsequent objection by Nevada have turned the issue back to Congress to fulfill the national policy it established in 1982: providing a permanent Federal

repository for used nuclear fuel and defense nuclear waste. Science affirms the wisdom of Congress' decision in 1987 to focus on Yucca Mountain. Customers and our nuclear reactor operators have provided money and interim storage while waiting for a permanent repository.

It is now time for Congress to stand behind its original decision and vote to move forward with Yucca Mountain. I ask for your support on this important issue.

Sincerely,

THOMAS J. VILSACK,
Governor.

Mr. KOHL. Mr. President, today the long struggle to find a permanent repository for nuclear waste came one step closer to completion. The Senate has decided to over rule Nevada's objection to storing nuclear waste at Yucca Mountain with a strong majority. This is a victory I supported, but not one I can be happy about because it forced me to vote against my leadership.

I supported moving the waste to Yucca Mountain for three main reasons. First, the opening of Yucca Mountain means that Wisconsin will have one less site storing nuclear waste as the Dairyland Power Cooperative's decommissioned reactor will finally be able to get rid of the waste stored at its defunct reactor. Second the site has been proven safe after 20 years of study by the Department of Energy and the National Academy of Sciences. Third, the electricity rate payers of Wisconsin have paid more than \$250 million over the years for this site, and the Federal Government should fulfill its side of the bargain by providing the repository it promised.

I still have concerns regarding transportation of the waste through our population centers. This is a high stakes situation and every effort needs to be made to choose the best routes, prepare the local emergency response units, and continue to improve the casks in which the waste will be moved. However, the industry's record of thousands of shipments of nuclear waste around the country and around the world without an accidental release of radiation leads me to believe that these concerns will be adequately addressed.

I understand the concerns some of my colleagues have on the safety of the Yucca Mountain site. What we are asking science to do by proving that this site will be safe for tens of thousands of years is unheard of, and may well be beyond our current capabilities. But this site, on the Nevada Nuclear Test site, is certainly safer than leaving this waste at 132 sites nationwide. Sites scattered around the country that were never designed to be a permanent solution. This mountain has been carefully studied and will continue to be closely monitored. We will not walk away from Yucca Mountain but will watch it closely for generations to come.

Burying our waste problems for future generations to deal with is not something we should be proud of. I hope the Congress and the administration will continue to fund nuclear research that will investigate ways to

neutralize this waste. The repository at Yucca Mountain doesn't have to be the last word on nuclear waste, and I hope we can do better in the future.

Mr. FEINGOLD. Mr. President, I want to share my views on the Yucca Mountain resolution. Specifically, I want to review the issues that I have considered in examining this legislation that have led me to vote against the motion to proceed to this measure. In short, while I believe that Yucca Mountain ultimately may be the appropriate place to permanently store our country's nuclear waste, the Senate is considering proceeding to this resolution today without having addressed two key concerns: the Congress has not ensured that the Yucca Mountain site is of sufficient size to house our country's nuclear waste and the Congress does not yet know the Administration's plans for ensuring that the transportation of waste to that site is safe and secure. In addition, considering this premature resolution does nothing to get the waste to Yucca Mountain more quickly because the Federal Government must complete a number of remaining regulatory steps and build the site.

Let me first express my grave concern about the process by which this resolution has been brought to the floor. The Nuclear Waste Policy Act of 1982, amended in 1987, establishes a process for the Federal Government to designate a site for a permanent repository for civilian nuclear waste. In February 2002, this process culminated in a Presidential recommendation for a repository at Yucca Mountain, NV. On April 8, 2002, the State of Nevada exercised its authority under the law to disapprove the site. As a result of this State disapproval, the site may be approved only if a joint resolution of repository siting approval, which we are now considering, becomes law.

The Nuclear Waste Policy Act also establishes an expedited procedure for congressional consideration of the Yucca resolution. The purpose of an expedited procedure is to facilitate the ability of Congress to dispose of the matter specified in a timely and definitive way. To this end, it establishes a means for Congress to take up, and complete action on, the resolution of approval or disapproval within a limited period of time. I am concerned that we are taking this action today and we are still several years away from a final siting decision on Yucca. The Nuclear Regulatory Commission is still several years away from issuing a construction license for Yucca, there is no transportation plan, and the transportation containers to be used for waste shipments to a permanent storage site have also not been approved by the Nuclear Regulatory Commission. Thus, while Yucca may be the right site, this is the wrong time to have Congress "approve" the site while so many regulatory questions are yet unanswered.

I have always felt that we should be certain that Yucca is the final site be-

fore we proceed with final Congressional approval. For those of us who represent states that are grappling with nuclear waste storage questions, the short time frame mandated in law for the consideration of this resolution has made it extremely difficult to analyze its full effects on behalf of our constituents. The issues raised by this resolution are serious policy issues. The Bush Administration knows the resolution approval process is designated by law and has statutorily defined deadlines for Congressional consideration. The Administration should not have jumped the gun and set the clock in motion while there is still a possibility that Yucca might not receive final siting approval in the regulatory process.

During my time in the Senate, I have consistently said that I would prefer that once nuclear waste leaves the State, it leaves permanently. Wisconsin wants nuclear waste removed from our State and stored in a permanent geologic repository out of State so that it has no chance of coming back to Wisconsin. I opposed nuclear waste legislation in the last Congress that sought to build large scale interim storage facilities before the permanent storage site was ready and would have jeopardized consideration of the permanent site. This resolution commits the Federal Government, at least for the near term, to build one such large scale permanent site.

I have heard concerns, however, from some constituents that this resolution to build at Yucca makes Wisconsin more likely to be the next permanent geologic storage site. I am concerned that Yucca, as currently authorized, will not be of sufficient size to take all of Wisconsin's waste. In previous Congresses, though I did not ultimately support interim storage legislation for other reasons, I supported provisions in interim storage bills to expand the size and capacity of the Yucca site. At best, when Yucca is opened, it will leave nearly a quarter of the waste currently in Wisconsin still sitting at our plants. Moreover, if our nuclear plants in Southeast Wisconsin re-fuel in the next few years, the Yucca site is not currently expected to take any new waste.

Yucca's size is an important issue for Wisconsin because Congress is required under law to approve the study and construction of a second waste site, if one is needed. This resolution does nothing to change that provision of law, and it remains unclear whether the Department of Energy would look again at Wisconsin or the other sites considered in the 1970s and 1980s. If it needed more storage capacity, the Department of Energy could ask Congress to expand Yucca's size or recommend another alternative geologic site. As a Wisconsin Senator, I have serious concerns regarding the construction of a geologic storage site in Wisconsin. In the past I have opposed legislation opening up the possibility of a second site, and would express those concerns

strongly in any discussion of a second permanent location.

One of my main concerns has always been the safety and security of shipping nuclear materials from their current locations to a permanent geologic storage site outside of the State. Obviously, there is a risk that, during the transportation, accidents may occur. While many have suggested that waste has been shipped safely across the country during the history of nuclear power in this country, there has never been a coordinated efforts to ship waste to a centralized storage location. The opening of Yucca Mountain would initiate an unprecedented shipping program. I am concerned that the Final Environmental Impact Statement for Yucca Mountain now includes barge transport on the Great Lakes and extensive truck transport on highways as potential transportation routes in addition to rail transport.

This resolution does not enhance our transportation safety, and our current transportation regulatory program must be strengthened. In fact, I believe that additional legislation may be needed to address a number of transportation issues. I still feel that the Senate must act in the near term to ensure that state and local governments have the financial and equipment resources they need to respond to accidents and protect public safety. Congress must insist on a comprehensive safety program for nuclear waste transportation. We must require the waste containment casks to be tested to ensure they could withstand intense fires, high-speed collisions and other threats that may occur during transport. It is also essential that states be consulted on the selection of transportation routes and are given longer advance notification of waste shipments. Other measures that need to be addressed include banning both open water and inland waterway shipments of nuclear waste, requiring dedicated means of shipping, and establishing a minimum number of armed escorts to accompany each nuclear waste convoy.

In conclusion, I cannot support this proceeding to this legislation which purports to provide an interim fix to the country's nuclear waste problem. I realize that this action is not the final say on Yucca Mountain and that we have many more steps to go before Yucca is built. But this site cannot serve its national purpose if we cannot get the waste there safely or if it is too small to hold the waste. We should have addressed these important considerations before proceeding to this resolution.

Mr. LEVIN. Mr. President, I am supporting the Yucca Mountain Resolution today because we need to take the next step in resolving the problem of nuclear waste in this country. It makes more sense to store the Nation's high-level nuclear waste in a single place than it does to leave it at 131 sites spread all around the country, many close to significant population centers

and all located on bodies of water, including the Great Lakes and major river systems. I do not feel that it is environmentally responsible to allow spent nuclear fuel to sit indefinitely in temporary facilities on the shores of the Great Lakes. We set up a procedure 20 years ago to deal with this problem, and we should use it.

I have heard from citizens all over Michigan on both sides of this issue. The Michigan Municipal League, the Michigan House of Representatives, and over 75 counties and communities have contacted me to express their support for the effort to establish a permanent repository at Yucca Mountain. This resolution will permit the Department of Energy to submit an application to the Nuclear Regulatory Commission so that the Commission can determine whether established regulatory requirements for the protection of public health, safety and the environment have been satisfied. The Nuclear Waste Policy Act, which was passed 20 years ago, did not leave it up to Congress to decide whether or not Yucca Mountain is a suitable location for our nuclear waste. Rather, it left this decision up to the Nuclear Regulatory Commission. If this resolution is approved, a license application will be submitted by the Department of Energy for Yucca Mountain and over the next several years, the Nuclear Regulatory Commission will go through all of the scientific and environmental data and look at the design of the repository to make sure that it can meet environmental and safety standards. This will be done by scientists and technical experts.

I share the concerns of many people regarding the storage and shipment of nuclear waste. Terrorism and transportation issues need to be thoroughly addressed in the licensing process. Transportation plans will be developed in a staged process over time and all plans will go public with opportunities for input from the States and local communities. The actual transportation routes are a long way from being determined. Further, the Department of Energy assures us that there are no plans to use barges to transport waste, and I will oppose any effort to do so.

Since 1983, the people of Michigan have committed more than \$400 million to the Nuclear Waste Fund for environmental protection that they have not received. The Palisades nuclear power plant near South Haven has a total of 432 spent fuel assemblies stored in 18 dry casks located on site. An additional 649 spent fuel assemblies remain in the spent fuel pool and will ultimately be transferred to dry casks. The Big Rock Point nuclear plant near Charlevoix retains all of its spent fuel in a pool inside the containment building. The plant is permanently shut down and is in the process of being decommissioned. Beginning early next year, the plant's 441 spent fuel bundles will be loaded into 7 dry casks and stored on site. These casks are de-

signed to be an interim measure. They are not a permanent solution. Each nuclear plant site in the U.S. has become a de facto spent fuel storage facility. It would be more efficient and more secure to move all of the spent fuel to one central facility where it can be safely stored indefinitely. Further, in the case of Big Rock Point located near Charlevoix, the plant and equipment will be completely removed from the property within the next few years. All that will remain will be the spent fuel, sitting on a large concrete pad about one-half mile from the lake. Re-use of the property cannot be accommodated until the spent fuel is removed.

Finally, a permanent repository is also important to support the cleanup of contamination and waste generated by the cold war production of nuclear weapons and materials for these weapons. Currently the Department of Energy is treating high level waste materials, stabilizing them and getting them into other safe configurations so that the waste can ultimately be shipped to a permanent repository. Moving the treated and stabilized waste is particularly key to the cleanup of sites such as the Savannah River Site in South Carolina and the Hanford Site in Richland, WA.

If this resolution does not become law, the only alternative for getting waste out of these many temporary storage sites into a permanent site will be terminated, which would move us in the wrong direction. Leaving the nuclear waste at temporary sites and leaving this decision to future generations is not the responsible thing to do and is not a solution to this problem.

In supporting this resolution, I am supporting an open and rigorous process for answering the concerns raised by so many. Only through this process will we be able to protect the health of the people and the environment.

Mr. LEAHY. Mr. President, since my first days in the U.S. Senate, I have expressed strong concerns about nuclear power. The claims made in the 1970s that nuclear power was going to bring our country cheap, reliable and clean energy have turned out—as many warned at the time—to be far from the truth. While electricity from nuclear power has been reliable, it is neither cheap nor clean. The waste from these plants is an enormous and undisputed economic liability for the Nation, and it is far from environmentally clean.

After all these years of coasting on these false promises about nuclear power, the bill has come due. Today we have 29 years of nuclear waste in Vermont in the form of spent fuel in temporary storage on the banks of the Connecticut River, and we cannot ignore that it needs to be managed. Part of that management, especially since September 11 and all of our heightened security since then, is to better secure on-site waste until it can be transported to a safer location. And part of that management is to create that safer location, officially designating

Yucca Mountain as the single, high-security site for the bulk of nuclear waste that is now dispersed across our country.

While I know that some waste will always be located on-site at operating nuclear plants, we must locate the bulk of the waste at a single, secure site. Governor Dean and the Vermont Public Service Department have consistently called on me to support the repository, and today I again respect the wishes and long-term interests of my State.

The vote in the Senate today was about establishing a single national repository for tons of hazardous nuclear waste. I voted in favor. But the question of how nuclear material is safely transported to the Yucca Mountain site brings up a new set of difficult decisions that Congress has yet to face. For the past several months, I have expressed my strong concerns about prematurely transporting nuclear waste across the Nation without a plan that addresses growing concerns of State governments and local communities.

Especially in light of fears after September 11, nuclear waste transportation concerns need to be discussed, debated and addressed by our Nation's leaders. Congress has worked with the administration to improve security at airports, border crossings and public buildings. Yet throughout this Yucca Mountain debate, the Bush administration has failed to fully inform Congress about security improvements envisioned for shipping nuclear waste. It has failed to respond to repeated questions from the American people and their local communities, and that is unacceptable.

Vermonters, in the tradition that has so distinguished our State, have actively studied the issues involved in the Yucca decision. Many have shared their views and suggestions with me, on both sides of this question, and I deeply appreciate their counsel. The approval of Yucca as a repository is one issue that has taken years for Congress to debate and address. This vote does not end the federal government's obligation, by any means. I believe the administration must answer the concerns raised by many Americans in many States about nuclear waste transportation security before any material moves across the country and through hundreds of large cities and small towns. Until then—and until the Yucca Mountain site is truly operational—we must focus our energy on ensuring that all nuclear waste is secured in the safest, strongest on-site storage facilities possible.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I thank the Senator from Arizona. The Senator from Idaho I think would require some 15 minutes.

Mr. REID. Mr. President, I say to my friend, the Senator from Idaho spoke to me and indicated he would like to go now. Senator ENSIGN and I have to be

here, and you have to be here. He doesn't have to be here all the time.

Mr. MURKOWSKI. I am sure he is relieved to hear that, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you.

I thank my colleague for allowing me some additional time to visit with you about what is probably one of the most important environmental votes we will have this session in both the short-term and the long-term perspective of good government policy dealing with the waste stream of our nuclear era and hopefully dealing with it in a way that allows us to move forward to new reactor design.

Ultimately, ensuring America it will continue to have a nuclear industry that will provide the quality of electrical power on which our country will so depend in an environmentally sound way is really an underlying premise of this debate.

Before I discuss that a little more, I thought I would add to the RECORD an interesting fact about precedent. I know my colleague from Nevada is concerned about that as it relates to procedural activity on the floor and what this motion to proceed may or may not mean.

As you know, the comment was made that if anyone other than a majority leader were to make a motion to proceed, the Senate would be seriously harmed. Let me give you a small excerpt of history.

On July 8, 1957, Senator Knowland of California, the Republican minority leader of the Senate, rose and made the motion to proceed to the consideration of H.R. 6127, which was being blocked by the majority and the majority leader.

On July 16, 1957, after a week of debate on just that issue, the Senate voted 71 to 18 to take up the legislation. In other words, they voted on a motion to proceed proposed by the Republican minority leader.

This legislation was the Civil Rights Act of 1957. The majority leader was the then-Senator Lyndon Johnson. And he survived the assault on his leadership very well. I think history will certainly attest to that. The Senate itself has also survived very well.

But what we got through that fight was probably one of the most critical pieces of legislation of a generation if not in the history of this country; and that was the Civil Rights Act of 1957.

The procedures we are following and that set forth in the Nuclear Waste Policy Act are a part of the Senate rules. By the term of the statute, those procedures could be amended in the same fashion as any other rule.

For 20 years, no one has complained about the procedures developed by Senators Jackson, Johnston, Proxmire, and McClure, and others, and eventually put forward by Congressman Joe Moakley, the chairman of the House Committee on Rules.

No damage was done to the Senate in 1957, and it was that precedent that found its way into the 1982 act. Failure to not proceed to and not approve the resolution will not, obviously, in my opinion, advance the issue at hand.

Having said that, I ask unanimous consent that the RECORD of July 8, 1957, be printed in the RECORD.

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

[Excerpt from the RECORD of July 8, 1957]

CIVIL RIGHTS

Mr. KNOWLAND. Mr. President, the motion I am about to make is to enable the Senate of the United States to perform its legislative function to consider, debate, and vote upon such amendments as may be offered and upon H.R. 6127, otherwise known as the civil-rights bill.

I hope that within this week the Senate of the United States will be allowed to vote on the motion to proceed to the consideration of this important bill.

I feel certain that the Members of this body are both reasonable and fair. If the opponents of the proposed legislation will argue the merits of their case on the bill itself and on the amendments when the bill is before the Senate, they will find that we who favor the Senate's functioning as a legislative body will not be unfair in our judgments or unreasonable in our actions.

The mere fact that a majority may favor bringing this bill up for consideration will not cause us to depart from a procedure of parliamentary conduct that we would consider fair and equitable if applied to us if we were in the minority on this or any similar measure.

Again I appeal to my colleagues to permit the Senate as a part of a coordinate branch of the Government of the United States, to function under section 1, article I of the Constitution, which reads as follows:

"All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Mr. President, I move that the Senate now proceed to the consideration of Calendar No. 485, H.R. 6127.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from California.

Mr. DOUGLAS. Mr. President, what the Senator from California has moved is merely that the Senate proceed to consider the civil rights bill. He is not, at this time, moving its passage. He is simply trying to bring the issue up before the Senate, so that we may then have the chance to discuss and to vote on it.

If the motion of the Senator from California prevails, then, and only then, will it be germane for us to debate the merits of the bill itself and to consider such amendments as may be proposed. But for the present, all that is before us is that we take a prior step and clear the decks so that we can thereafter consider the all-important question of civil rights.

This very simple parliamentary fact creates two guides for action. First, that to filibuster against such a preliminary step as deciding that we will later consider the bill

would be a purely negative and obstructive act. The second consequence is equally clear. Until this motion is adopted, it is inappropriate and premature to discuss at any length either the merits of the bill or to consider any amendments thereto. All this will properly come later. But for the moment, all we are contending for is the right of the Senate to take the earlier step, which is logically prior to the discussion of amendments.

Let this immediate issue be crystal clear, and let it be not confused by a deluge of words and a multitude of false leads. It should not need any argument on our part.

Since the motives of those who are supporting this proposed legislation have, however, been called into question, it may be proper if we briefly restate our purpose. What we are trying to do is to make effective in actual life the constitutional rights of all citizens—regardless of race and color—primarily the right to vote. As we all know, this right is guaranteed by the 15th amendment in the following words:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

"The Congress shall have the power to enforce this article by appropriate legislation."

Not only does Congress have the power, but it also has the duty to protect this right to vote against interference by State officials under not only the 15th but also the "equal protection of the laws" clause of the 14th amendment.

Furthermore, the Supreme Court has held (*U.S. v. Classic* (313 U.S. 299)) that this right to vote in Federal elections is also guaranteed by article I, section 2 of the Constitution, and can be protected by the Federal Government against infringement by individuals as well as by State or local bodies.

All of us know—and this knowledge is supported by statistics and press accounts—that the right to vote is denied to vast numbers of Negroes, particularly in those areas where they are found in large numbers, namely the Southern States. Frequently, this is done by legal and procedural subterfuge, often by social pressure, sometimes by economic pressure, and—upon occasion—by outright coercion. The net effect of all these methods is the practical disenfranchisement of the vast proportion of potential Negro voters of the South.

We believe this is to be a denial not only of constitutional rights, but also of the principles of true religion and of the ideals upon which our Republic was founded. We seek to realize those ideals not by criminal prosecutions after the fact, but by the preventive use of injunctions to prevent such abuses from occurring. All that is asked is that officials and citizens should conform to the law and to the Constitution. If this is done, nothing else need follow, since our aim is prevention, not punishment.

We are concentrating our efforts upon making the right to vote effective, because if this right is guaranteed then many other abuses which are now practices upon the disenfranchised will be self-correcting.

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES], the Senator from Maine [Mr. PAYNE], and the Senator from Kansas [Mr. SCHOEPPPEL] are absent because of illness.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

If present and voting, the Senator from Maine [Mr. PAYNE] and the Senator from Kansas [Mr. SCHOEPPPEL] would each vote "yea."

The result was announced—yeas 71, nays 18, as follows:

YEAS—71

Aiken	Frear	Martin, Pa.
Allott	Goldwater	McNamara
Anderson	Gore	Monroney
Barrett	Green	Morse
Beall	Hayden	Morton
Bennett	Hickenlooper	Mundt
Bible	Hruska	Murray
Bricker	Humphrey	Neely
Bush	Ives	Neuberger
Butler	Jackson	O'Mahoney
Capehart	Javits	Pastore
Carlson	Jenner	Potter
Carroll	Johnson, Tex.	Purtell
Case, N.J.	Kefauver	Revercomb
Case, S. Dak.	Kennedy	Saltonstall
Chavez	Kerr	Smith, Maine
Church	Knowland	Smith, N.J.
Cooper	Kuchel	Symington
Cotton	Langer	Thye
Curtis	Lausche	Watkins
Dirksen	Magnuson	Wiley
Douglas	Malone	Williams
Dworshak	Mansfield	Yarborough
Flanders	Martin, Iowa	

NAYS—18

Byrd	Holland	Scott
Eastland	Johnston, S.C.	Smathers
Ellender	Long	Sparkman
Ervin	McClellan	Stennis
Fulbright	Robertson	Talmadge
Hill	Russell	Thurmond

NOT VOTING—6

Bridges	Hennings	Schoeppel
Clark	Payne	Young

So Mr. KNOWLAND's motion was agreed to; and the Senate proceeded to the consideration of the bill (H.R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. DIRKSEN. Mr. President, I move that the Senate reconsider the vote by which the motion was agreed to.

Mr. KNOWLAND. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from California [Mr. KNOWLAND].

The motion to lay on the table was agreed to.

Mr. CRAIG. Let me also talk about one other issue that we discussed when we talk about the capacity of Yucca Mountain and, therefore, that there will always be waste out there somewhere in these temporary repositories at these nuclear reactors generating our commercial power.

Yes, there will be temporary storage for periods of cooling pretransportation. There would be anyway under any circumstance. But what we are talking about—and the Senator from Nevada showed a dip—is that you can just double the numbers at each one of those, if you want. And doubling the numbers, in my opinion, does have a risk factor, certainly a management factor.

What is most important is that many of these temporary repositories were licensed under State authority for a certain volume. To exceed that means you have to go back to the same State authority that was granted 15 or 20 years ago, versus today, and the politics have changed a great deal, and we know that, because those States were led to believe that the Federal Government would react responsibly in building a permanent repository and the temporary facility would be just that—it would not become a permanent facility. Therefore, it would be a point to cool and a point to transfer. That is

what those temporary repositories were always intended to be.

So this really was the hand-in-glove scenario. Do not suggest that one goes without the other at all because they were licensed not for permanency but for temporary status while the Federal Government moved through that time of establishing a permanent repository.

In that context, when we talk about the 70,000 ton cap at Yucca Mountain as a statutory limitation, it may be statutory but it is not physical. We do not know what the physical capability of Yucca Mountain beyond 70,000 tons would be. It could be increased over time 30 years out if, in fact, all of the geology and everything else met the standards that the scientists, through the licensing process, had established.

Twenty years from now, 30 years from now, I will not be here. I doubt that the junior Senator from Nevada will be here. But on another day and in another place, and if that science meets those standards, and it is strong and stable, and the world's perspective has shifted, then, remember, we are dealing with a statutory cap, not a physical limitation, as it relates to Yucca Mountain.

The reason the statutory cap was put in place originally was because we were looking at other repository locations in Vermont, in Washington State, and other places at the time. That is why there was a cap put in place.

I know Senators Cantwell and Jeffords and Wellstone have talked about the limitations and, therefore, the argument that temporary repositories would still have material in them. Remember, of course, any of us who legislate know that a statutory cap is one that could be changed if the politics and/or the science would argue a change were there to do so. So let us not, in any way, fall prey to that argument of limitation.

In that context, let me suggest that limitation is, in part, tied to the geology of Yucca Mountain. I cannot tell you that I was there at the beginning, but I was there during the legislative time when we were looking at a variety of locations for repositories. I had examined them all as a legislator. I read all of the preliminary geologic surveys.

It was determined at that time, in the mid-1980s, that Yucca Mountain was, by far, the site that appeared to be the most desirable other than, if you will, the large granite deposits in Vermont.

Granite has a unique shielding capability, and it is possible to assume that you could put repositories deep into the granite of Vermont and it would be an ideal situation. But our country did not go there. Our country decided not to have multiple repositories, but a single one, largely because of the politics of it.

Governor Guinn, in his arguments of vetoing it, suggested that Yucca Mountain is unsuitable for a permanent repository because it is at the center of volcanic activity, earthquake vault

zones, and rapid ground water flow. In other words, that is the geology of the mountain, as spoken to by the Governor of Nevada.

Secretary Abraham has asserted Yucca Mountain is geologically stable and experiences little ground water flow or rainfall.

The U.S. Geological Survey agrees, stating that the arid climate and low probability of repository-piercing earthquakes or volcanic activity support the recommendation of Yucca Mountain.

The Nuclear Waste Technical Review Board also concurred, stating:

No individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration at this point.

That is a quote directly from the report by the technical review group.

Based on these factors, the Energy Committee, on which I serve, examined it and determined that it was fair that we bring this issue to the floor in the form of a resolution and allow ourselves to go to the next step.

And oh, by the way, the U.S. Geological Survey agrees with us. The Governor asserted that the geology of Yucca Mountain is so bad that DOE has given up on geologic isolation of waste in favor of manmade barriers. In other words, the original concept was to create a facility so deep in the Earth that the Earth itself would create the natural barriers, and that you would not need to build a barrier within a barrier, in other words, a manmade barrier.

Secretary Abraham points out that a balance of both natural and engineered barriers has always been planned for the repository.

Existing geologic barriers are likely sufficient to prevent waste from reaching ground water, but the engineered barriers provide additional protection.

Do you remember what we did a couple years ago? Because we wanted to make sure we did it right, because we wanted to address the arguments that were being made, we put EPA into the mix and we extended the idea of engineering out into the future a facility that would withstand 10,000 years of any kind of threat. That is when the barrier within the barrier concept really began to develop.

The Nuclear Waste Policy Act requires the Secretary to consider engineered barriers when making this recommendation to the President.

Long before the Governor got into the argument, and long before the Governor tried to find arguments that would fit his political need, we had already thought of that. It was in the 1982 act. The Nuclear Regulatory Commission, not the committee or the Senate, must ultimately decide if the barriers are sufficient to prevent the seepage of radionuclides. The committee agreed with Secretary Abraham's conclusion that the consideration of manmade barriers is appropriate.

The Governor claims that DOE's computer models are unable to adequately predict emission rates for

10,000 years. The NRC will rely on these models for licensing, as absolute proof of compliance with EPA radiation protection standards is not obtainable. DOE must be able to demonstrate compliance with EPA's standards for the 10,000-year cycle.

The committee is concerned that DOE models are not adequate. The Nuclear Waste Technical Review Board has expressed similar concerns but has given guidance to DOE on improving the quality of its assessments.

In other words, what we are talking about and what the Secretary made his recommendations on was the science far enough along to get us to the point of moving it the next step. The science is not cooked. It is not done. It is not over. It is evolving.

What I am suggesting is that as we question the science, the science we now have is adequate to arrive at reasonable comfort under all of the best engineered scenarios to allow the safety that is required. But for the Nuclear Regulatory Commission and others to require additional science is possible.

The committee expects DOE to improve its computer models but does not believe that existing weaknesses are sufficient to stop the consideration. In other words, we are not even satisfied with the work that has been done, although it is clear—and I must say for the RECORD that the work that has been done is adequate, clearly adequate to get us to this point of consideration. If we can make the best better, and if in that we create the kind of both political and real comfort that the State of Nevada needs, then we ought to do that. That is our responsible role as public policymakers.

Let me conclude with the Governor's objection on what he calls the completeness of the design. The Governor notes that DOE has not completed the design of Yucca Mountain and cites 293 unresolved technical issues. Because of these, the DOE will be unable to submit a license application to the Nuclear Regulatory Commission until 2004, violating a statutory requirement to file an application within 90 days of congressional approval of the President's recommendation. That has been the argument placed by some.

The Nuclear Waste Policy Act requires the Secretary to determine site suitability before making a recommendation to the President. It does not require him to complete the repository design or satisfy every obligation for license application. In other words, the step required by law was met, determining site suitability. It is from that process within the law that moves us to where we are today.

The Nuclear Regulatory Commission is confident that the DOE can supply all necessary information for license review. The 293 unresolved issues are commitments from the DOE to supply additional information. Forty-one of these issues have already been completed, reducing the number to 252.

The Yucca Mountain project is already 12 years behind schedule. The

DOE's inability to file an application within 90 days is unfortunate but not a violation of the statute. The provision is a directory, and not a mandatory requirement.

In other words, like the science, we have met the standards but we want to achieve a greater level.

In that regard, as it relates to the law and as it relates to an application to the Nuclear Regulatory Commission, we have met suitability as we now work to address the other issues that will become a part of the licensing process of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada.

Mr. REID. Mr. President, I have spoken with the distinguished Senator from Alaska. We both have limited amounts of time to give, but we decided the Senator from Nevada would be given 15 minutes; following that the Senator from Alaska would be recognized to use up whatever amount of his 25 minutes he wished; and following that I will speak and/or the majority leader. That should take all of our time.

I yield 15 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, Nevada's slogan is "battle born." It is on our State flag. It reflects the firmness of purpose and the willingness to fight for what is right that is so much a part of what characterizes Nevada. This is as true today as it was when our State entered the Union during the Civil War.

When it comes to Yucca Mountain, we intend to fight. Nevada's other motto is "all for our country." This is proudly displayed on our State seal. Nevadans have always been for our country. The ore taken from Nevada's Comstock lode financed the means by which we preserved the Union during the Civil War, and Nevada has hosted aboveground nuclear testing at the Nevada Test Site, the result being a weapon of such mass destruction that it swiftly brought the end to the World War II conflict.

Too many innocent people in Nevada and Utah died from horrible cancer-related disease from the radiation fallout. So when it comes to our national defense, Nevadans have always proudly stood tall for our country.

Yucca Mountain is not needed for our defense and goes way beyond patriotic duty.

I want to address the transportation issue. These are some charts. Once again, because we don't know the exact transportation routes, these are the charts from the Department of Energy's final environmental impact statement. So it is all we have to go on.

The darker lines—it is probably very difficult to see the real light red lines which are the rail—are the highways. This happens to be in Illinois. Chicago is up here. These are all the various

transportation routes. Down here is St. Louis—all the various transportation routes through this part of the country upon which nuclear waste could and probably will travel. This happens to be the State of California. My State is here, but all of these are various transportation routes going through major cities—Los Angeles, Oakland, Sacramento.

This happens to be Colorado, Denver, a major metropolitan area here as well.

This is Utah where we have Salt Lake City. We see the highways and the railroads running through Salt Lake City.

This is Florida, with a huge amount of population today, a very populated State—going through Miami, near Orlando and through Orlando, with the train routes through Jacksonville, Tallahassee.

This is in Georgia—going through obviously their major population center in Atlanta.

This is a summary of the country. These are just the highways across the country. We can see that so much of the country and so many population areas of the country are going to have nuclear waste transported through them. Once again, we don't know the exact routes, but these are the best routes we have to go on.

The Department of Energy and the nuclear industry wants Americans to believe that taking tens of thousands of tons of dangerous radioactive waste, removing it from reactor sites around the country, and putting it on trains and trucks and barges now and moving it through cities and towns and waterways across America so it can be buried on an earthquake fault line in southern Nevada is a good idea. It is not.

According to the Department of Energy, 50,000 to 100,000 truck shipments, 10,000 to 20,000 rail shipments, and 1,600 to 3,000 barge shipments would be required to transport high-level nuclear waste to Yucca Mountain.

The Government is trying to convince us that this project is going to be safe; as a matter of fact, they say more than safe. The Government would have us believe that getting this waste to Yucca Mountain is the key to keeping our children safe from radioactive waste that is going to be dangerous for tens of thousands of years.

Anyone who believes the argument that this dangerous waste can be transported without incident only needs to look at what happened last July in the Baltimore Tunnel when a CSX freight train carrying hazardous waste derailed and set off fires that burned for days. The casks have been studied at about 1,475 degrees using computer modeling—casks similar to that. The Baltimore Tunnel fire burned at 1,500 degrees for days, which is way beyond what these casks have been put through—at least in the laboratories. Imagine a similar incident to that which happened in Baltimore, except this time if it is radioactive waste.

Forget an accident. What about a terrorist attack? People have talked today about the record of shipping nuclear waste across Europe and the United States. But post-September 11, we are in a different world. We need to think about terrorism and the ways and uses and possible attacks on these nuclear canisters as they are traveling across our country. Hijacking or blowing up a truck containing nuclear waste would be an easy way to devastate one of our metropolitan areas.

What we have on the chart here is difficult to see because it is taken off of VHS footage. This is a canister that is very similar. This is a newer company using their best technology trying to compete with the currently used canisters. This is a TOW missile fired down through there, and you can see that it penetrates it or would breach one of these nuclear waste canisters that are going to be shipped across major metropolitan areas in the United States.

Indeed, the most senior al-Qaida leader in U.S. custody told interrogators that al-Qaida is seeking to explode a "dirty" bomb in the United States. Jose Padilla was arrested in Chicago after intelligence indicated that he was participating in a plot to detonate a "dirty" bomb in the United States. But al-Qaida doesn't need to buy nuclear material to smuggle a "dirty" bomb into our country. Congress is doing the hard work for them.

Every truckload of nuclear waste going to Yucca Mountain on our highways through our towns and cities is a potential "dirty" bomb. All the terrorists have to do is breach one of these canisters on one of the trucks, trains, or barges, as the Senator from Michigan talked about, in the Great Lakes, and we will witness another severe act of terrorism.

So let's call this legislation what it is and what it is not: This is not the Nuclear Waste Disposal Act. It is the "terrorism facilitation act," and it needs to be defeated. Nuclear power-plant sites are among the most secure commercial facilities in the country. Following the events of September 11, they are being made even more secure, and there are even proposals for military protection at these sites.

Modest infrastructure improvements can further increase the level of protection against any conceivable terrorist threat. Nuclear waste is safe when stored onsite in casks surrounded by concrete. But it is another story when these casks are going to be traveling by homes, schools, and churches. At this time, we cannot be sure they will survive real-world conditions. We may be able to develop the technology, but we don't have it today. So we should not have Yucca Mountain go forward until we develop the technology.

As I have said earlier, the casks have not been tested in real fires—only with computer simulations, and not to the extent they need to be tested. I will repeat that because it is so important.

The computer simulation is for 30 minutes at 1,475 degrees Fahrenheit. The temperature in the Baltimore Tunnel fire read 1,500 degrees, and it burned for days. The NRC stated that it is doing a top-to-bottom review—partly because of September 11 and the Baltimore Tunnel fire—to review the security requirements, including a review of the transportation casks' vulnerabilities to terrorism. Let's make sure these casks are properly tested before Congress votes on Yucca Mountain.

I want to talk about the Government's big lie. Not only is the Government's plan dangerous for America, it also won't solve the problem. The Government's big lie is that we Americans have a choice to have one central nuclear waste storage site at Yucca Mountain or to have waste stored at the reactor sites around America. We talked about it earlier today. That sounds as if it is an easy choice except that it is not true.

Even if, by some luck, waste is shipped safely across the country to Yucca Mountain, there will continue to be nuclear waste stored at all operating reactor sites. You see, even if it were possible to immediately and magically, as one of the Senators talked about today—like our garbage is picked up, we simply, all at once, pick it up and take it to the dump. It is not done that way with nuclear waste. There will continue to be spent fuel stored at each and every operating reactor in the country. That is because nuclear waste is highly radioactive, thermally hot, and must be kept at reactor sites at water-filled cooling ponds for at least 5 to 10 years. The only way spent fuel storage can be eliminated from a reactor location is to shut down the reactor and wait many years to ship the material after that.

I don't think that option of closing down figures into the nuclear industry's long-range plan. We will have 65,000 metric tons of commercial nuclear waste by the time Yucca Mountain is scheduled to open. We produce about 2,000 metric tons of nuclear waste per year. The DOE plans to ship about 3,000 tons. Just do the math. We won't get rid of the nuclear waste backlog in the country for nearly a century—even if, as somebody talked about, we expand Yucca Mountain, which would obviously be politically a very difficult thing to do—excuse me. Yucca Mountain will be filled long before then—as we see on the chart, in 2036.

I think it is important to understand this because the DOE and the Secretary of Energy have been saying that it is safer to have this fuel all shipped to one place. This is today. We have 45,000 tons of spent nuclear high-level radioactive waste around the country. In 2010, when Yucca Mountain is scheduled to open, we will have 65,000 tons. If we start shipping about 3,000 tons a year, by 2036, when Yucca Mountain is

full, we will still have virtually the same as what we have today. So we really have not accomplished too much.

If we don't have Yucca Mountain, it will be way up, but there is not a lot of difference. It is a management thing, not a security risk.

The other thing is after Yucca Mountain is full, we start producing more of it, and we get out to 2056, we can see what happens. So Yucca Mountain doesn't really solve the problems people say it is going to solve.

Moving waste to Yucca Mountain will just create one additional large storage facility. To do that, the cost will be tens of thousands of shipments of deadly radioactive waste on the Nation's highways and railroads and waterways day after day, month after month. Obviously, it will never end.

I want to talk briefly about the history of the process. This is really Washington power politics. The reason I talk about this is because we are going to get to the cost of Yucca Mountain in a moment.

In 1982, the Nuclear Waste Policy Act gave the Energy Department until 1998 to open a permanent underground geological depository for high-level nuclear waste. At the time, they were studying several sites. But because of politics out of the States of Nevada, Washington, and Texas—Washington had the majority leader in the House, and Texas had the Speaker of the House—Nevada ended up with the nuclear waste "queen of spades."

The deal reached was not by a scientific determination of which location would be suitable. Basically, they just decided on politics that Nevada would get this.

The site originally was for geology. They said: We are going to house this waste underground, and it is going to protect us. Over the years, they found that the geology would not protect us. So what they had to do was build in manmade protections, and that drove the costs up significantly.

Prior to 1987 when they said they were going to study one site, the original cost estimate was \$24 billion. In 1985 the cost estimate went to \$27 billion, and in 1987 it was \$38 billion. They were studying three sites. They said: We cannot do that; we will just study one site.

Now they are studying one site. The cost in 1995 was \$37 billion, in 1998 the cost was \$46 billion, and in 2001 the cost is \$58 billion. That is the equivalent of all 12 aircraft carriers for the United States combined. As a matter of fact, that is more than in today's dollars the cost of the Panama Canal, the World Trade Center, and Hoover Dam all combined.

That does not include building a rail site to Yucca Mountain which, according to the DOE, is going to be needed. So this is a boondoggle, and we do not need to do it.

THE PRESIDING OFFICER. The Senator's time has expired.

Mr. ENSIGN. I ask unanimous consent for 5 more minutes.

Mr. MURKOWSKI. On the time of Senator REID.

Mr. ENSIGN. Yes.

Mr. MURKOWSKI. I have no objection, Mr. President.

Mr. ENSIGN. Mr. President, according to the NRC Chairman, people have said: Do we have to do this right now? According to the NRC Chairman, we do have the capacity to store these materials safely for decades to come—NRC Chairman Richard Meserve.

There has been a lot made of one of the Senators talking about what do we do with this waste if we do not transport it, and I wish to conclude my remarks by giving people an answer. If not Yucca Mountain, then what?

Onsite dry cask storage is good for at least 100 years. We know that. These canisters are safe for at least 100 years, according to the Department of Energy. It is about \$4 billion to \$5 billion to store it onsite, and that includes all of the costs associated with storing it onsite—\$4 billion to \$5 billion instead of \$60 billion plus. It is going to be at least \$60 billion, make no mistake about it.

Every year, we have been taking the cost up by over \$10 billion in the estimates. Where is the cost going to go from here? We know this situation is going to be too expensive. What we need to do is keep the waste onsite. It is a lot cheaper.

There is promising science. There is pyroprocessing. There is what is called accelerator technology transmutation. These are fancy scientific words. The bottom line is they are modern recycling of nuclear waste or partially spent nuclear fuel rods. We are recycling everything we can in this country. We need to continue to invest in recycling technology.

For those who are supporters of nuclear power, as I am, recycling will make nuclear power more viable in the future, I believe, because if we have solved the waste problem, instead of burying it in the ground where it is too expensive and waste partially spent nuclear fuel rods, if we invest in recycling technology, we will have a permanent energy supply for generation after generation of Americans.

If one believes in nuclear power, let's make it less costly and let's invest in the recycling technology and keep it onsite without the risks of transportation.

I wish to make one other point before I close. The senior Senator from Idaho talked about 1957. We are talking about a procedural motion. He talked about 1957 where somebody offered a motion to proceed, and I have been saying all day we are violating Senate tradition today.

He said that in 1957, somebody in the minority offered a motion to proceed and that debate took a week. At the end of the week, that motion to proceed actually was voted for by a vote of 70-something to 28. While that vote is

accurate, what he is inaccurate about is the majority leader supported the vote. What we have said is no motion to proceed has ever come to the Senate floor successfully over the objections of the majority leader, and that statement is still true, even with the 1957 precedent.

We think this still sets a very dangerous precedent on Senate tradition if this vote goes forward today.

Lastly, I wish to thank a few people in our State who have done a phenomenal job of fighting this fight for the people of the State of Nevada and I believe for Americans in general. First, the senior Senator from Nevada, the assistant majority leader. No one has worked more tirelessly on this issue than he has. His staff has done an incredible job, as has my staff. I am thankful for the yeoman work of our Gov. Kenny Guinn and other elected officials, both Republican and Democrat, in our State who have tirelessly fought this issue.

If we lose this vote, I am committed to the belief that one day, years from now, leaders will look back on what the Senate did today and simply say: What were we thinking?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. MURKOWSKI. I will take such time as I need.

Mr. President, it is fair to reflect on where we are. Today the Senate is going to decide whether the Secretary of Energy should be allowed to make an application to the Nuclear Regulatory Commission for the use of Yucca Mountain as a repository for spent nuclear fuel and high-level waste. That is the only issue before this body.

The Senate today is not—I repeat, is not—deciding whether science and engineering are sufficient for the Yucca Mountain site to be operated safely and in compliance with EPA and other agency regulations. That is really the job of the Nuclear Regulatory Commission.

We have had a lot of discussion. Some of the discussion is associated with fear. I have looked for a synonym for red herring. I do not know if fluorescent herring is as close as we are going to get. In any event, we have to deal with this in a responsible manner.

Let me share with my colleagues what some of the public opinionmakers have said. I quote from the New York Times. This is July 9, "A Critical Vote on Nuclear Waste." It says:

Any Senator tempted to vote against the resolution must recognize the severe consequences. A nay vote or a failure to vote means that Yucca Mountain is effectively dead and the nation must start anew to look for a disposal solution. A yes vote means simply that the project can proceed to the next step, a formal licensing application to the Nuclear Regulatory Commission, which will spend years analyzing all aspects of the

repository to see if it warrants a license to operate.

Mr. President, I ask unanimous consent that this New York Times article, "A Critical Vote on Nuclear Waste," and a Chicago Tribune article, "Crossroads of Nuclear Waste Storage," dated July 9 both be printed in the RECORD.

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

[From the New York Times, July 9, 2002]

A CRITICAL VOTE ON NUCLEAR WASTE

The Senate is facing a momentous vote this week that will determine whether a plan to bury nuclear waste at Yucca Mountain in Nevada moves to the next stage of regulatory scrutiny or dies prematurely. Any legislative delay now will be likely to terminate the project, and that must not be allowed to happen. If Yucca is abandoned, the nation will be right back where it was decades ago—with spent nuclear fuel piling up at reactor sites around the country and no plan for its permanent disposal.

In recent weeks the critics of Yucca Mountain have grown increasingly alarmist in an effort to stampede any wavering senators. They claim that Yucca has geological and technical flaws that render it unsafe. But those are precisely the issues that will be examined in excruciating detail by the Nuclear Regulatory Commission if a licensing application is allowed to move forward. The critics also fret over the possibility of catastrophic accidents while the fuel transported from reactor sites to Nevada. But they seldom mention that such shipments have gone on without incident in this country and Europe for the past three decades—in quantities that actually exceed the amount that would be shipped to Yucca.

The Senate finds itself in this pivotal spot because the statute that designated Yucca Mountain as the sole candidate for a disposal site set up a tight timetable of necessary approvals. The state of Nevada vetoed the project, as was its right, thereby throwing the decision back to Congress. The House has already voted, by a thumping margin, to go forward. But unless the Senate also votes to override Nevada by late this month, the designation of Yucca as the candidate repository will expire.

Unfortunately, the Senate Democratic leadership is working against the proposal. Harry Reid, the majority whip, who hails from Nevada, is adamantly opposed to storage in his state. Tom Daschle, the majority leader, opposes the project and is refusing to schedule a Yucca Mountain vote. Fortunately, the Nuclear Waste Policy Act allows any senator to request that the Yucca resolution be brought to the floor for time-limited debate and a vote, a step that Republicans say they will take as early as this week, possibly even today.

Any senator tempted to vote against the resolution must recognize the severe consequences. A nay vote or a failure to vote means that Yucca Mountain is effectively dead and the nation must start anew to look for a disposal solution. A yes vote means simply that the project can proceed to the next step, a formal licensing application to the Nuclear Regulatory Commission, which will spend years analyzing all aspects of the repository to see if it warrants a license to operate. Given the stakes, it would be irresponsible for the Senate—most of whose members have little detailed knowledge of the Yucca proposal—to decide this issue on the fly, thereby blocking the detailed technical review that it deserves.

[From the Chicago Tribune, July 9, 2002]

A CROSSROADS IN NUCLEAR WASTE STORAGE

(By Dick Durbin)

The advent of nuclear power more than 50 years ago brought with it both great promise and great responsibility. Our ability to harness the power of the atom has paid substantial dividends for our society, but it has also left us with the formidable challenge of safely storing the byproducts of nuclear power generation. This is a challenge our nation must meet so that future generations are not endangered by today's nuclear waste.

Presently, all of the spent fuel from nuclear power plants and research reactors throughout the country remains on-site at each reactor. None of these facilities was designed to safely store that waste on a permanent basis, and leaving spent fuel in temporary storage around the nation poses both a security threat and an environmental hazard.

Everyone agrees that we need to find a safe and permanent way to store this material and such a storage site has been proposed at Yucca Mountain in Nevada. I have been to Yucca Mountain, which is located 90 miles from Las Vegas on federal land at the remote Nevada nuclear test site. The waste would be stored more than 600 feet underground but more than 500 feet above the water table, sealed in steel containers placed under a titanium shield. A security force at the Nevada test site is in place to protect the area, and the airspace around Yucca Mountain is already restricted.

When this issue has come before Congress in the past, I have opposed efforts to move waste to a temporary facility at Yucca Mountain before there was a scientific determination of whether waste could be safely stored there on a permanent basis. I also opposed earlier measures that would have mandated dangerously low standards for environmental protection at the site.

Recently, however, I have been encouraged by the fact that the Environmental Protection Agency has successfully established radiation and groundwater contamination standards for the Yucca Mountain storage site. These standards were derived from recommendations by experts at the national academy of Sciences and were developed after extensive public comment and scientific analysis. All of these standards greatly exceed the standards debated by Congress in the two previous bills I opposed.

No site will ever be perfect for the storage of high-level nuclear waste. But I believe the studies, which have already been conducted, and the Nuclear Regulatory Commission review still to come provide sufficient assurances that Yucca Mountain is the most appropriate site available and should be used as the permanent national nuclear waste repository. Therefore, I have decided to support the Yucca Mountain resolution, which would make that facility the national nuclear waste repository.

I am still concerned, however, with the movement of thousands of tons of nuclear waste across the country to Nevada. According to the U.S. Department of Energy, Illinois would rank seventh in truck shipments under what is called the "mostly truck scenario." The same Energy Department analysis concludes that Illinois would rank sixth in rail shipments in the "mostly rail scenario." Although waste has been shipped through Illinois and other states in the past, approving Yucca Mountain would initiate the largest waste shipping campaign in the history of our country—both in terms of the number of shipments and the amount of miles traveled for high-level nuclear waste.

Unless we scrutinize safety factors and security risks, the large-scale transportation

of radioactive materials has the potential to cause a host of serious challenges to cities and communities along shipping routes. This issue is all the more important in light of the terrorist threats we are likely to face in the years ahead.

In Illinois, nearly half of our electricity is generated from nuclear power. Our state contains seven nuclear power plants, two nuclear research reactors and more commercial nuclear waste than any other state. In addition, we are home to one of the busiest transportation corridors in the nation, putting our state squarely at the intersection of the nuclear crossroads. With the safety of Illinoisans at stake, finding the safest way to move nuclear waste to a location where it poses the least risk is imperative.

Congress must insist on a comprehensive safety program for nuclear waste transportation. We must require the waste containment casks to be tested to ensure they could withstand intense fires, high-speed collisions and other threats that may occur during transport. It is also essential that states be consulted on the selection of transportation routes and are given longer advance notification of waste shipments. Other measures that need to be addressed include banning inland waterway shipments of nuclear waste, requiring dedicated trains and establishing a minimum number of armed escorts to accompany each nuclear waste convoy.

We should move forward with making Yucca Mountain the central repository for our nation's nuclear waste. But we must not forget that the site can only serve its national purpose if the waste is transported safely. Before shipments to Yucca Mountain begin, we need to establish a transportation plan to ensure the safety and security of the communities that lie in the path of those shipments—and we must begin that work today.

Mr. MURKOWSKI. Mr. President, I will refer to a couple of other articles. A Seattle Times editorial, Sunday, June 2:

If the Senate does not follow the House lead, the Energy Department must start over. The agency must look again at other finalists—Deaf Smith County, Texas, or Washington's own Hanford Nuclear Reservation.

I refer to the Oregonian, Saturday, June 8:

If Yucca Mountain is blocked, nuclear waste could sit forever in temporary, poorly planned sites all across this country, including the Trojan nuclear powerplant. Yucca Mountain is clearly the best option available.

From the Washington Post, April 30:

Congress should override Nevada Governor Kenny Guinn's veto and allow work on Yucca Mountain to proceed.

But while years of investigation have not answered all of the questions, neither have they produced adequate reason to stop the project in its tracks.

And April 21, the New York Times:

There is no question that the transportation issues will need to be explored in great depth.

But the appropriate place for those issues to be addressed is in a painstaking regulatory proceeding before the NRC.

Not before a rushed Congress debate.

So everyone understands, we are authorizing the licensing process in the sense that the administration will now be able, if we prevail on this vote, to proceed with a licensing process. That is all.

We had a lot of discussion, and I am inclined to think we have probably spent 20 years or so moving this process along relative to the disposition of the waste. People sometimes have different visions of what Yucca Mountain is all about.

This is a picture of Yucca Mountain. Yucca Mountain has environmental attributes that would contribute to the safe disposal of high-level waste: Remote location with the nearest metropolitan area about 100 miles away, high security because of the proximity to the Nevada Test Site and the Nellis Air Force range, arid climate, deep water table, isolated hydrologic basin without flow into rivers or oceans and multiple natural barriers.

This is Yucca Mountain; this is the site of the tunnel. I have been there. It is in existence. And \$4 billion of taxpayers' money has been expended.

It is important to know just what this location involves. This is a picture of the test site area. For the last 40 years, we have been using this area as a test site for nuclear bombs and various nuclear weapons. It is an area that has levels of radioactivity associated with it. For all practical purposes, in spite of the fact we hate to admit we do this, we put certain areas off limits. This is one because of the high levels of radioactivity, unexploded munitions, and so forth. Yucca Mountain is included in this area.

While we have looked for other places, it is fair to say one of the conditions was this area had been set aside for a nuclear test site.

Now, another chart shows tests in other States. As we look at the disposition, we should go back and look at events leading to the selection of Yucca Mountain for a study. There were nine potential sites. There was the Hanford site in Washington and Yucca Mountain in Nevada. In Utah, there was Davis Canyon and Lavender Canyon. In Texas was the Deaf Smith County site and the Swisher site and a couple of sites in Mississippi, sites in Texas. We made a cut. We cut from nine sites and left Hanford, we left Yucca Mountain, Davis Canyon, Texas and Mississippi. Three sites were Presidentially approved: Washington, Nevada, and Texas.

In 1986, there was one site left. It was selected. That was Yucca Mountain. Congress passed the NWPA, as amended, mandating only the Yucca Mountain site for the detailed site characterization.

This has been done. We have expended the money. We went through a process. If we do not take care of Yucca Mountain today, what are we going to do? Start this process all over. It will be Texas, Utah, Washington, Mississippi. We will go through this process—perhaps Vermont. They have a lot of marble stabilization out there. The point is, we would be derelict to walk away from the obligation we have today.

The transportation systems we have heard so much about. This chart shows

the existing transportation routes to WIPP, a low-level isolation pilot plant associated with the Livermore Laboratories and others in New Mexico.

I have been there. It is in the salt caverns. You go down in the huge caverns where they store this low-level waste. It is interesting to see the routing, what States are affected and which are not. We move wastes from various laboratories. These are low-level transuranic wastes that move across Highway No. 80 and so forth. Clearly, they go in one location.

For those arguing the merits of Missouri and waste going through Missouri, the waste leaves Missouri. I am not suggesting there is a final plan associated with it. This is where we have been moving the waste so far. It is low-level waste. We do not know where the various agencies are going to make these decisions and those agencies—the Nuclear Regulatory Commission, the Department of Energy, and the Department of Transportation—will bear the responsibility of determining what routes are taken.

We have moved almost 3,000 shipments of spent fuel. This is high-level waste moved between 1964 and 2000. We moved them over 1.7 million miles. We have had zero radiation releases. Low level to WIPP is 900 shipments, and almost 900,000 miles. We had 3,892 shipments and moved them over 2.6 million miles with zero harmful radiation.

Now the importance of nuclear energy and a source of electricity: 51 percent is coal, natural gas is 16 percent, oil is 2.9 percent, hydro is 7.2 percent, miscellaneous is 2.2, nuclear is 20 percent.

There are those who would like to see the nuclear industry choke on its own waste and simply go away. That is an impractical reality. It does not flow. If we are talking about reducing emissions or talking about global warming, clearly the nuclear industry in this country has to maintain its prominence. We have not had any new nuclear plants come online in 20 years. Clearly, nuclear energy plays a major role. It is emission free. The problem is the problem we have in the Senate today, and that is addressing the disposal of the waste.

It is important to recognize where these plants are located: the State of Washington, California, Texas, and on to the east coast. Clearly, there are a number of nuclear plants producing 20 percent of our electricity. This chart shows the States.

It is important to note the rationale that Congress developed to address the disposal of this waste. That is those that use nuclear power would pay a special assessment into a fund that currently has about \$17 billion; \$11 billion came from the ratepayer. The Federal Government takes that money and agrees to take the waste. They agreed in a contractual commitment in 1998 to take the waste. They did not take the waste because they were not ready. They are in violation of a contract.

The litigation associated with this breach of the contractual commitments is estimated to be somewhere between \$40 and \$70 billion. That is a hit to the U.S. taxpayer.

The reality is that these ratepayers in Washington paid \$98 million; in Arizona, \$337 million; in Texas, \$334 million; in South Carolina, \$876 million; in Pennsylvania, \$1 billion; Maine, \$67 million. These are fees the ratepayers have paid to the Government to take the waste. We have that obligation. The occupant of the chair is well versed in contractual law. We have an obligation to perform if we enter into a contract. We failed to do that.

The taxpayer bears the burden even though the ratepayers have paid to the Federal Government under the terms of the contract. There you have the responsibility associated with the issue: If this is a Government bailout, will this come to the Appropriations Committee for appropriations? No, the ratepayers have paid this amount.

Let's look at it State by State. Here is New York. New York is 23 percent dependent on nuclear energy; 18 percent coal; gas, 28 percent and so forth.

They have operating reactors, six, and three sites, and as a consequence they have a significant portion of waste in their State. The waste is on the small charts. It is important to reflect on what happens to the waste that is in your State if, indeed, Yucca Mountain does not receive the approval of this body.

We find that there are 2,378 metric tons of nuclear fuel stored in New York. Do you want that fuel moved? That is a question.

The next chart is Connecticut. Connecticut has 45 percent dependence on nuclear energy. Again, the waste stored in that State is 1,500 tons. That is not going to move unless we pass this legislation.

Illinois is almost 50 percent dependent on nuclear energy. They have 5,800 tons of waste, high-level waste. I can go through the other charts:

California, 17 percent dependent; Maryland, 27 percent dependent; Massachusetts, I think 14 percent dependent; New Jersey, 49 percent dependent; and Washington State is relatively insignificant at 8 percent.

Nevertheless, the point I want to make here is that nuclear energy is important, the energy development in these States and the waste is piling up, and it is significant.

Madam President, how much time is remaining on our side?

The PRESIDING OFFICER (Mrs. CLINTON). The Senator has 11 minutes remaining.

Mr. MURKOWSKI. How much time does the Senator from Oklahoma need? I am going to use most of the remaining time, but if he would like 5 minutes? Why don't you take 4 minutes, and you will probably get 5.

Mr. INHOFE. I thank the Senator for giving me a little bit of time. I believe it is necessary.

A number of people have asked me why it is that I support nuclear energy when my home State does not have any nuclear power. My response is that nuclear energy directly benefits every Oklahoman even though not a single kilowatt of energy is produced from nuclear power in our state. Oklahomans benefit from nuclear energy in the form of decreased power bills and increased national and economic security.

Currently, nuclear power represents 20 percent of our Nation's electricity generation. As an integral part of the U.S. energy mix, nuclear energy is a secure energy source that the nation can depend on. Unlike some other energy sources, nuclear energy is not subject to unreliable weather or climate conditions, unpredictable cost fluctuations, or dependence on foreign suppliers.

However, the lack of storage space for nuclear waste is now threatening the existence of nuclear power. If Yucca Mountain is not approved, nuclear powerplants will be forced to start shutting down at some point because there will be no place to store the waste. This would have profound consequences for all Oklahomans.

Even though Oklahoma does not have any nuclear powerplants, if nuclear power goes off line, it would cause an economic crisis in Oklahoma. The reason is simple. If you take 20 percent of the power supply off line, other States' demands of Oklahoma's power would increase, thus creating a smaller supply of energy, and a corresponding increase in the cost of energy for Oklahomans. The days of utility rates in Oklahoma being 19 percent below the national average power rate would be over.

Higher energy prices affect everyone. However, when the price of energy rises that means the less fortunate in our society must make a decision between keeping the heat and lights on or paying for other essential needs. In a recent study on Public Opinion on Poverty, it was reported that one-quarter of Americans report having problems paying for several basic necessities. In this study, currently 23 percent have difficulty in paying their utilities. That is almost one out of every four Americans. I will not support attacks on our energy supply, which hurt the poor in Oklahoma and around the Nation, in the name of an environmental crusade.

In the mid-1980s, I traveled around the country with President Reagan's energy Secretary, Don Hodel, to bring attention to the need for measures to decrease our Nation's energy dependence. Additionally, in January 1998, I elicited virtual consensus from the members of the Joint Chiefs of Staff that energy security was a too-often-overlooked aspect of our national security needs. Additionally, in just the last couple of weeks, Deputy Secretary of Defense Paul Wolfowitz said that U.S. dependency on foreign energy "is a serious strategic issue . . . My sense

is that (our) dependency is projected to grow, not to decline."

It is essential for a strong Navy.

The fact is we are at war right now. Every American is benefiting from the war on terrorism. Our subs are nuclear. Our aircraft carriers are nuclear. Every time we send American ships to a different part of the world, whether to keep the peace or defeat an aggressor they head there powered by nuclear fuel. Where does that spent fuel go? Right now the material goes to Idaho. That is right. It is transported right now. It's stored on the surface. So what happens if we fail to set up a permanent repository? We create what Secretary Abraham calls uncertainty regarding the "continued capability of our naval operations." A strong Navy fuels our ability to remain a world power. And we need a safe way to handle what is fueling our Navy.

The cold war is over.

To those of us who grew up in a time when we had bomb shelters in our backyards, nothing would be more welcome than seeing us dismantle weapons we no longer need. Every time I read about the plans for turning plutonium into "mixed-oxide" or MOX fuel, I see the results of our past determination to resist Soviet domination.

But whether surplus plutonium is made into MOX fuel or another form, waste is still left over. And it must go to a permanent repository. And that is not just for our own good. How can we urge other countries to get rid of their nuclear weapons if they don't see us doing it? We are now turning swords into plowshares by helping Russia convert its surplus weapons material into fuel for American reactors. Even the by-products of this fuel, once used, will need a repository. Yucca Mountain will provide a safe place for the materials in weapons no longer pointed at our enemies. And it will be a powerful example to other countries that no longer need weapons pointed at us.

Maybe a few years back we could not conceive of terrorists making bombs out of planes and striking at the very heart of America. We can now. Make no mistake. They are out there and in our country. Yes, it is good that we are racing to put neutron flux detectors and gamma ray detectors at all our airports. But terrorists don't need to bring radioactive material into the United States. There is enough of it here.

And these materials—relics of the cold war—are scattered around the country. Yucca Mountain will put this material where it belongs: safe and secure 1,000 feet underground. A few days back, after Jose Padilla, A.K.A. Abdullah al Muhajir, was arrested, I saw this headline in "The Washington Post: U.S. Source of Isotopes Become Focus After Arrest." Here is what the Post said: "Of the thousands of nuclear sources still in use, or decommissioned to known storage sites, many are thought to be vulnerable to theft or black market sale." That is why Yucca

Mountain is so important. That is why we have to move now to create a permanent repository. That is why we need a central underground disposal site, where spent fuel can be more safely and efficiently monitored.

And so, I urge my colleagues to vote yes on Yucca Mountain. We caught one terrorist. We can't catch them all. They will come through our airports. They will dock in our major ports. They will go through customs without a hitch because they possess not plutonium, but knowledge. Terrorists want to use that knowledge to threaten our way of life. A vote for Yucca Mountain will make that hard for them.

What is America's record when it comes to transportation of nuclear materials? It is astonishingly safe. There are some people who act as if transporting nuclear fuel will be a new thing for America. The fact is that we've seen more than 3,000 shipments of it over the past 40 years. In all those years, there has been zero danger to the environment, zero release of radioactivity, and zero fatalities.

We have seen 1.7 million miles of these shipments without any release of radioactive contents. And don't forget: The Energy Department also accepts used nuclear fuel from foreign research reactors under a non-proliferation pact. They come in from Europe and Latin America. They are brought by train to South Carolina. And we're going to do that until 2006—22,743 separate used fuel assemblies. This is something we know how to do. Because we have done it. And we have done it exceptionally well.

Will we avoid transporting waste if we don't pass Yucca Mountain? Absolutely not. A lot of sites are reaching their limits for keeping used nuclear fuel on location. 40 of them will need additional storage in the next 8 years. But they don't have the space for it. Where is that waste going to go? Secretary Abraham put his finger on the issue when he testified last February. "Our real choice is not between transporting or not transporting used fuel, but between transporting it with as much planning and safety as possible, or transporting it with such organization as the moment might invite."

To keep that waste in 39 States is to keep it at 131 locations never designed for permanent disposal, never intended to manage this waste indefinitely. Clearly, any solution to the disposal of this waste requires it be transported somewhere.

Furthermore, as skillful as America is at transporting hazardous materials, we are not the only people in the world who do that well. Europe has been doing it since 1966 about as much material as we want to send to Yucca Mountain. Fatalities? Hazards from radioactivity? Zero.

There are those who see in this plan the heavy-handed approach of Washington. As a former mayor of Tulsa, I am always very sensitive to the importance of local control. In fact, the way

America handles the problem of nuclear waste is a victory for local control. State and local governments can select alternate routes if they oppose those proposed by DOE and 11 States have done just that. As they should. Meanwhile, Federal and State and local authorities have worked together. Worked with training. Worked on contingency plans. Worked on mutual assistance agreements. Worked as partners. As we should. Building on our Nation's fine records, as the ranking member of the Transportation, Infrastructure, and Nuclear Safety Subcommittee, I look forward to working with the various Federal agencies to ensure the proper federal role in providing security for nuclear waste shipments. As a former mayor of Tulsa, I will also keep in mind the critical role that State and local governments must play in this process.

In an attempt to misinform and frighten the public, extreme environmentalists have been saying that the shipment of waste would be creating thousands of "mobile Chernobyls." I have already discussed, our Nation's safety record with regard to the shipment of nuclear materials. However, I must mention that, until the Yucca Mountain project is licensed by the Nuclear Regulatory Commission, which is about 10 years off, the Departments of Energy and Transportation will not designate shipping routes for nuclear waste to Yucca Mountain. If anyone implies that they know the routes, they are not telling the truth because the decision makers of those routes will not consider routes for many years.

As ranking member of the Transportation, Infrastructure, and Nuclear Safety Subcommittee, I am looking forward to my key role in working with the various federal agencies to ensure the safe transportation of our commercial and military nuclear waste.

Make no mistake. A vote against Yucca Mountain is a vote against nuclear power, and, thus, a vote to hurt our energy, economic, and national security.

I thank the Senator from Alaska for giving me a few minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent there be 10 minutes additional time equally divided between Senator MURKOWSKI and the Senator from Nevada.

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

Who yields time?

Mr. MURKOWSKI. Madam President, I believe we have a Senator for the majority coming over. But I will take—how much time may I ask is remaining on our side, Madam President?

The PRESIDING OFFICER. There remains 11½ minutes.

Mr. MURKOWSKI. I would like to take 10 minutes and reserve the remainder of my time.

As I indicated a few moments ago, there is only one issue before the Senate, and that is the reality that we are about to vote to determine whether science and engineering are sufficient for the Yucca Mountain site to be operated safely in compliance with EPA and other agency regulations in pursuing a license by the Department of Energy. That is the question.

The ultimate transportation and other matters are going to be determined by the Nuclear Regulatory Commission, which is a very competent group. But the Senate is not now deciding whether or how spent fuel will be transported to a site if it is licensed and constructed.

As I indicated, the Department of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, will proceed and that will take some time.

What we have today is basically two choices: We could follow the recommendations of the Secretary of Energy and the President of the United States—the U.S. House of Representatives has done its job, and the Senate Committee on Energy and Natural Resources—and allow the Secretary of Energy to proceed and apply for a license or we can abandon some 20 years of work, over \$7 billion invested in science, in engineering, and the peer-reviewed conclusions of responsible scientists within and outside Government, and then what do we do? We begin the task all over at the expense of the taxpayers.

That is where we are. There is no middle ground and no way to duck the issue or duck the responsibility. As we say in Alaska, it is time to fish or cut bait.

The Nuclear Waste Policy Act was deliberately and carefully crafted to ensure that both the Senate and the House would deal with the issue.

The House met its obligation by an overwhelming vote of 306 to 117. The House agreed with the President's decision and voted to allow the Secretary of Energy to proceed with the license application. The Committee on Energy and Natural Resources held 3 full days of hearings to examine all aspects of this issue, including a full day where we welcomed the State of Nevada to select its witnesses who would appear in opposition to the resolution. The committee carefully reviewed each and every argument raised by the State of Nevada, either in the Governor's message or by the State representatives.

I commend the report to the attention of my colleagues. We have that report before us. Here it is. In a careful and methodical manner, this particular report discusses each and every argument raised in the process.

Under any impartial analysis, there is no legitimate reason to object to the President's decision to deny the Secretary the opportunity to apply for a license before the Nuclear Regulatory Commission.

What are the consequences if we fail to act? On the other hand, there are

many serious consequences if we do not approve the resolution. The immediate consequence is set forth in the Nuclear Waste Policy Act. Section 115(b) is explicit. If the resolution is not approved within 90 days—the 90-day period for congressional review—such site shall be disapproved. The magic date is July 27. If this is not approved by that date, the site shall be disapproved.

Further, it does not say that the decision is postponed or the decision is simply put off for some reason to be revisited at a more convenient time. It explicitly and without qualification says “such site shall be disapproved.”

There are the consequences of that disapproval, and those consequences are serious. At a minimum, Congress will need to reconsider the previous sites—Hanford in Washington, Deaf Smith County, TX—giving serious consideration by using the Hanford Reservation as an interim site to meet our contractual obligations to the utilities and deal with defense in other ways.

We have a significant amount of defense waste already at Hanford. Instead of moving material from Hanford, we might have to consider moving additional material there for the foreseeable future.

Should Congress not act and we start this process over, my guess is we will have to go back to where we were in 1982 when there was serious consideration of granite formations in the Michigan Peninsula, and elsewhere; salt caverns in Mississippi and Louisiana; granite in Vermont, and so forth. Some have suggested that we use Federal reservations as interim sites, as has been proposed in the past. With the transportation scenario, that will be far more complex than that which has been considered to date—perhaps simply leaving the spent fuel onsite in Vermont, Illinois, Maryland, California, or elsewhere.

Let there be no mistake. Because of the statutory time constraints and the directives in the law, a vote against the motion to proceed is a vote to direct the Secretary of Energy to cease all further work at Yucca Mountain and close the office until Congress decides otherwise.

I hope my colleagues will look around in the Chamber because only Nevada—only Nevada—will not be in the next round.

There is an implication to the taxpayer because we have the nuclear waste. Aside from taking Nevada off the table, there are other unavoidable and unpleasant consequences of failure to face up to our responsibilities. Members may not recall, but the cost of permanent storage of spent fuel is totally financed by ratepayers who use the energy. The fee is collected by the utilities and every one of our constituents who have nuclear energy as part of their energy mix have been paying into the nuclear waste to pay for storage. These costs do not—let me repeat—do not come out of the General Treasury. They come from ratepayers

that use nuclear energy. These ratepayers are in virtually every State in the Union, including States that do not have nuclear powerplants. Those ratepayers and the States that either have nuclear powerplants or whose citizens pay for the use of nuclear power have a contractual obligation to set in statute with the Federal Government to take spent fuel from their sites.

The last administration thought they could avoid the problem and suggested there was no binding requirement. The courts thought otherwise.

If you like the idea of coming up with \$60 billion or \$70 billion or \$80 billion of taxpayer money—that is taxpayer, not ratepayer money—then vote against the motion to proceed. The \$60 billion to \$80 billion would likely not be the end of the toll for the taxpayer either because, as a matter of national interest, we will need to find the solution, and the States will incur expenses as well as those associated with liability. Leaving the waste is a consideration, but it is a bad idea.

In addition to economic issues, there is the health and safety issues associated with continuing to leave both spent fuel and high-level waste onsite. Remember, the current site-storage for the reactors is and was designed to be temporary. Yes, the present storage is the safest, but it is not a permanent solution. It is an interim solution.

The Chairman of the NRC has been very up front, saying that the present arrangement for the temporary storage of spent fuel at commercial reactors is safe, and it is, as he states, a “temporary” measure.

Exchanging Yucca Mountain for 131 sites in 39 States and permanent repositories scattered around the country is not something the Chairman recommends nor that any other thoughtful person suggested. But that is precisely what those who oppose the motion to proceed are endorsing. There can be no other conclusion.

We also have the situation of utilities running out of room for storage and needing to find an alternative site if Yucca Mountain does not go forward. If a repository is not built, these utilities need to be shut down. In shutting down the reactors, we are going to have to look to alternative sources of fuel. What are they? Coal? Oil? Nuclear is clean power.

As we address our concerns over emissions and the recognition that nuclear provides about 20 percent of the electric power generated in this country, it makes a significant addition in our energy mix. Do any of the opponents to the motion to proceed have a suggestion on how we are going to replace that 20 percent? I guess the answer is more fossil fuels.

There is no way that this Nation will ever approve the Kyoto targets on climate change without nuclear power. There is no way to replace nuclear energy within our electric power mix.

For those of you who experienced shortages on the west coast last year,

think where this Nation would be and what we would be in for if we had to shut off 20 percent of our electric power simply because we could not agree on a solution to the waste problem.

If you don't know how much of the electric power in your State comes from nuclear, I have gone through the numbers: Connecticut, 40 percent; Illinois, 50 percent; California, 17 percent; Vermont, 67 percent; New York, 23 percent; Maryland, 28 percent; Michigan, 18 percent; and, Georgia, 27 percent. How much waste is in those States that needs to get out? It is thousands and thousands of metric tons.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. MURKOWSKI. I believe I have 1 minute. I will conclude. I see the majority leader is seeking recognition. I want to respect the traditions of the Senate.

I will conclude with the reality that the issue before us is clear. All one has to do is read the commission report. The Committee on Energy and Natural Resources performed the review, as we would expect. We carefully considered every objection raised by the State of Nevada. We conducted 3 days of hearings. We considered the issue in an open business meeting and favorably reported on a bipartisan basis. We filed a comprehensive report that discusses every argument raised by the State of Nevada, and why the argument is not persuasive or not relevant to the issue before the Senate.

I commend my colleagues, Senator ENSIGN and Senator REID. I understand why the Senators from Nevada oppose the resolution, but I cannot understand why anyone else would.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time to make the statement I am about to make.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, we should not be having this vote today. There are still far too many questions about the wisdom and safety of creating a national nuclear waste dump at Yucca Mountain for anyone to be able to cast an informed, responsible vote on this matter. But we are here.

We are here because the Bush administration and some of its allies in Congress—and in the energy industry—are determined to exploit unique rules that were written 20 years ago and apply only to this bill.

I can't help but think how ironic it is that less than a week after America celebrated the genius of our Founders, who intended this Senate to be the world's most deliberative body, we are being forced to vote on a matter of such grave importance before we can have an informed, honest debate.

Even more troubling than the break this vote represents with our past, is the threat it poses to America's future.

Let us be very clear: The claim that science supports building a national nuclear waste dump at Yucca Mountain is simply not true. The truth is, leading independent scientists have raised troubling questions about the scientific basis for the Department of Energy's recommendation regarding Yucca Mountain.

A recent letter to Congress from the independent Nuclear Waste Technical Review Board contains a warning we should all pay great heed to. It warns that—quote—"the technical basis for DOE's repository design is weak to moderate at this time."

Think about that. We are being asked to overturn a Governor's veto—and risk public health and safety—by approving a plan of "weak to moderate" technical design. That is an extraordinary position for the administration to take.

The General Accounting Office, Congress's independent watchdog agency, has also raised serious questions about Yucca Mountain. Eight months ago, the GAO released a report that questioned Secretary Abraham's recommendation to the President to move ahead on Yucca Mountain despite the—quote—"significant amount of work remaining to be done" on the safety and feasibility of the project. The GAO report noted that more than 200 unresolved technical issues identified by the Nuclear Regulatory Commission remain unanswered. It pointed out that even the Department of Energy's own contractor doesn't think those issues will be resolved in time to meet the 2010 deadline. In fact, it will probably be years before we know definitively whether it is safe to store nuclear waste at Yucca Mountain.

So why are we having this vote today?

We are being forced to decide this issue prematurely—without sufficient scientific information—because this administration is doing the bidding of special interests that simply want to make the deadly waste they have generated somebody else's problem.

That is wrong. We ought to make this decision on the basis of sound science, not pressure from the energy industry.

Two weeks ago, a mild earthquake shook Yucca Mountain. What would happen to nuclear waste buried beneath Yucca Mountain when the next earthquake hits? And we know there will be another. Will the radioactive waste leak? Will it contaminate the soil? The groundwater? We don't know.

The decision we make will have consequences that will last for tens of thousands of years. We owe it to the American people—and to future generations of Americans who haven't been born yet—to wait until we have real answers. Yucca Mountain is less than 75 miles from Las Vegas, the fastest-growing metro area in the country.

But it is not just Nevadans who are potentially in harm's way. Serious questions have also been raised not

only about the safety of burying nuclear waste at Yucca Mountain, but also about the safety of getting the toxic materials to Yucca Mountain.

We are talking about transporting roughly 70,000 metric tons of deadly waste from nuclear facilities in 39 States across our Nation's highways, railways, and waterways to Yucca Mountain. No one knows exactly what routes the waste would take. But, based on the routes the DOE used in its environmental impact statement, there are 14,500 schools and 38 million people within 1 mile of a proposed nuclear waste transfer route.

This is extremely dangerous material: High-level radioactive waste. According to the non-partisan Environmental Working Group: Each rail cask carrying nuclear waste, for instance, contains 240 times as much long-lived radiation as was released by the Hiroshima bomb. A person standing 3 feet from an unshielded nuclear waste cask will receive a lethal dose of radiation in 2 minutes.

The administration has warned us repeatedly that terrorists may hijack trucks and strike at trains. We also know that there are security problems with many of our ports. By shipping nuclear waste on trucks and trains and barges, we may very well be creating hundreds, even thousands, of rolling "dirty" bombs. What sense does that make?

Even if we are fortunate enough to avoid terrorist attacks on shipments of radioactive waste bound for Yucca Mountain, there is a serious risk of accidents in transit, which would put Americans at risk of exposure to high-level radioactive waste as well. Almost a year ago exactly, a train derailment in a Maryland incident caused a tunnel fire that burned for days. Temperatures in that tunnel exceeded 1,000 degrees.

How much radiation would have been released to the environment had nuclear waste been on that train? How many people might have died?

There is so much we don't know about this ill-conceived project. But there is one thing we do know: Contrary to what the special interests claim, even if the Senate votes today to override Governor Guinn's veto, creating a national nuclear dump in Nevada will not solve America's nuclear waste storage problem. That is because the site isn't big enough. America produces far more nuclear waste than can be buried at Yucca Mountain. So beware if you are thinking of voting for this proposal. This time, the nuclear waste may be passing through your State. Next time, your State may be where the special interests want to bury their radioactive trash.

If we let them do it this time—without sufficient scientific proof that it is safe—think how much easier it will be the next time.

During his campaign, President Bush promised Americans that if he were elected, he would support regulations

requiring energy companies to reduce their emissions of carbon dioxide, a compound that nearly all scientists agree is causing global warming. When the time came to follow through on that promise, the President reneged.

At a stop in Las Vegas during the campaign, Vice President CHENEY said a Bush administration would not muscle this project through. He promised that the final decision would be based on sound science. Now, at the urging of the energy industry, the administration has reneged on that promise, too. They are pushing us to make this decision prematurely, at grave potential risk to this Nation.

There is no reason we have to make a final decision today. Scientists at the Nuclear Regulatory Commission have assured us that the nuclear waste can stay where it is for 100 years—safe in dry cask storage—without posing any additional risk to public health and safety. It is premature, dangerous, and reckless to force a vote on this question today. We have more than enough time to make an informed, responsible decision about Yucca Mountain. The question is: Will we have the courage to take that time?

For the sake of all Americans—including those who will be born generations from now—I hope the answer is yes.

I urge my colleagues to vote against this proposal. We risk no harm by waiting for the scientists to finish their work. We risk catastrophic harm by refusing to wait.

I yield the floor.

THE PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, parliamentary inquiry: How much time remains on each side at this point?

THE PRESIDING OFFICER. The Senator from Alaska has no time remaining. The Senator from Nevada has 27½ minutes remaining.

Mr. LOTT. Madam President, I will use my leader time. I realize Senators are expecting to vote on or around 6 o'clock. I hope we will be able to do that.

In that vein, I will not speak too long, but I have to rise to urge my colleagues to vote yes on the motion to proceed. That is the vote. That will be the only vote today. This is not something that is new. This is not a proposal that we are rushing into. In fact, the entire time I have been in the Senate, and 6 years when I was in the House, this process has been under way. It is 20 years that this has been in the making. Nobody is being surprised. Nobody is being rammed. There are not going to be any dangers.

This is a part of a very long, thoughtful process based on science. Twenty years and \$8 billion have already been expended. This is something we must do. Nuclear power is an important part of our overall energy needs. It provides clean, efficient power. We need to include that in our diverse package of power production.

I am still dumbfounded to hear people express concerns about how it can be moved, how it can be stored. Senator MURKOWSKI and a bipartisan delegation took a look 10 years ago at how Sweden, France, and the Japanese have dealt with this problem. Yet in America we have not been able to come to grips with our future needs and how we are going to deal with the problem.

We should not overexaggerate what this decision today will do. The Senate today will decide very simply whether to permit the Secretary of Energy to apply for a license to operate a repository at Yucca Mountain. It is not the end of the process. It is the very beginning. I know from experience we are going to look at this issue every year, congressionally, as we should, because funds will have to be used as we go through the process. Senators from across the country are going to want to know what is happening, how it is going. This is just to begin the important part of the process.

We should not abandon all these years of effort. That is what would happen. If we don't pass this motion to proceed, vote yes on it, I don't know how we go forward. We will have wasted years and billions of dollars in research and effort.

In addition, there is a tremendous problem with the exposure the Government would have as a result. If we don't go forward, our Federal Government could face billions of dollars in liability for breach of contractual obligations. Remember this: If we don't proceed, a lot of companies are going to start entering into private contracts. They will start making arrangements for other types of repositories, probably not as safe, not as well thought out, not based on as much science, and also still having to be moved. When you look at various States and where their nuclear waste is and its condition, you see that something is going to happen. Having a repository that we have studied so much and that will be so secure is better than the alternative of the liability to which we would be exposed and what then would begin to happen all over the country.

We should not jeopardize our only realistic means of meeting global climate concerns by cutting back 20 percent of clean electric power that is supplied by these nuclear reactors. As a matter of fact, I am hoping we will have some more nuclear reactors activated in the Tennessee Valley Authority region.

Clearly, there is a way that could be done, and there are some nearly completed reactors that could be put back on line. It would help us with our energy needs as we move toward an ever growing economy. If you are going to have economic growth, you have to have power. I have just visited some other countries that have seen real growth, and one of the concerns they have—a country such as Ireland—is that growth. They have new companies, but they are struggling to keep up

with meeting the power needs that go with the economic growth.

If we don't proceed, do we go back to the beginning? Do we debate again the repository siting and reexamine all the feasibility of other sites such as the Hanford Reservation or the Michigan Peninsula. Where would it be? What would we do?

Also, we would have to consider existing Federal reservations such as Hanford and Savannah River. The complications that would be caused and the irresponsible consequences of not agreeing to the motion to proceed today are almost incomprehensible.

There has been a lot of discussion about transportation, moving this waste around the country. How can we deal with it? Certainly, getting this waste moved to a single repository where we could have very strong security is much better than what we have now with all of these sites in 39 States that are sitting there reaching their limits and exposed. It would be much easier certainly to guarantee the security in a single place.

I have also taken the time to look at how this transportation is handled. These moving devices are very secure. You wouldn't believe all the effort that goes into making sure they won't be exposed to any kind of accident. To my knowledge, there has never been one that has caused a problem.

When you look at what we have done to paint this dire picture of what might happen, the truth is, the picture of what will happen if we don't take this action now, after all this time, all this money, all this effort, all this science—I don't know where we go from here. It all boils down to this vote for 39 States, including my State. If not now, when in the world are we going to do it? And if not in this way, if not in this place, where? There are a lot of Senators who would have to begin to be very nervous about a whole reevaluation process and what it would mean to their sites.

I understand the Senators from Nevada. They have made a valiant effort. They feel so strongly about it. I understand that. But I think the Senate is committed to working with them to make sure that as we move forward, it is based on good science and also that we do it in the most secure fashion.

Let me again urge that we vote yes and that we do it within the next few minutes.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the Senator from Nevada talked about courage. I yield 5 minutes to one of the most courageous legislators we have had. She showed that courage in the House of Representatives and now in the Senate.

THE PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise today in opposition to the motion

to proceed to the Yucca Mountain resolution authorizing DOE to move forward with the siting of a national nuclear waste repository at Yucca Mountain, Nevada.

Washington State is home to the Hanford Nuclear Reservation, the most contaminated site in this country. My constituents have a very keen interest in the development of a comprehensive, scientifically-driven national nuclear waste policy. Unfortunately, I don't believe this proposal, the Yucca Mountain policy, represents the needs of Washington State. As far as I can tell, it is neither a comprehensive solution to the fact that we have 54 million gallons of tank waste now stored at Hanford, nor was the decision to recommend the site at Yucca Mountain driven by a preponderance of scientific evidence.

This proposal, as billed, is supposed to be a long-term, comprehensive solution for our nation's nuclear waste, yet it would leave as much as 87 percent of the high-level nuclear tank waste in my State. That is right. Under the Department of Energy's plan, as outlined in its Environmental Impact Statement, only 13 percent of the waste from Washington State's underground tanks would move to Yucca Mountain. Only 19 percent of all of Hanford's defense-related waste would move. And that's to say nothing about the increase in the total amount of commercial nuclear waste within our borders.

There are capacity issues, as is admitted in the EIS. Yucca Mountain will, by statute, only be able to take up to 70,000 metric tons of heavy metal. And by the time the Yucca Mountain proposed site is open, Washington State will already have 150-percent more commercial nuclear waste than we have today. So where is the waste in Washington State going to go?

The Seattle PI recently ran an editorial, "Yucca Mountain Must Meet Rigorous Standards," that talked about how we had created a monster in the amount of nuclear waste in this country and asked what we are going to do about it. I ask unanimous consent to print that in the RECORD.

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

[From the Seattle Post-Intelligencer, July 8, 2002]

YUCCA MOUNTAIN MUST MEET RIGOROUS STANDARDS

This country, in this century, has created a monster that likely will live for hundreds of thousands of years. Long, long after we are gone, Americans will look back at the summer of 2002 to see how carefully we tamed the monster.

So imagine the pressure on the U.S. Senate this week as it must decide whether to declare Yucca Mountain in Nevada the permanent repository for this nation's most dangerous nuclear waste.

Maybe Yucca Mountain should become the final resting place for this radioactive Frankenstein. But Americans, and especially citizens of Washington state, should be very sure that the site meets the highest standards for effectiveness and safety before it is officially designated.

Washington state's Hanford Nuclear Reservation, remember, was very close to being chosen for this ugliest of graveyards. We didn't want it any more than the citizens of Nevada do.

Washington state has done its share for the country in producing and enduring these dangerous wastes and waiting for bureaucrats and politicians to recognize the environmental threat with which we've been saddled.

Washington was able to escape doing even more to rid the world of the nuclear-waste monster.

So this state cannot be party to sacrificing the health of Nevada and its residents because we want to get rid of the wastes piled up within our borders.

We owe Nevada—even more, probably, than other states do.

Washington doesn't necessarily need to join Nevada in opposing the repository. But we and our congressional delegation should be involved. We should insist that the Department of Energy, the Environmental Protection Agency and the Nuclear Regulatory Commission make certain that this repository is as safe as we would want it to be if the waste were coming to Hanford.

The repository is supposed to separate high-level nuclear waste from the human race for 10 centuries.

We've spent \$7 billion studying Yucca Mountain, and for several years, it's been the only place under consideration. This has put a lot of heat on the EPA, DOE and the NRC to lower or change standards to make sure the Nevada site makes the grade.

That just adds to the need for the Senate to be cautious about signing on to this plan. It can't be Yucca Mountain for the sake of getting something—anything—done about nuclear waste. Expedient is not good enough when the decision will have consequences for thousands and thousands of years.

There can be no certainty when the timeline is unimaginably long and the material unimaginably ugly.

Ms. CANTWELL. So why doesn't the "trust us" answer work for us when it comes to nuclear waste—when it comes to trusting the Department of Energy? Washington State has had to fight and battle hard. By some estimates, we have already spent some \$35 billion on Hanford cleanup—without producing a single log of vitrified waste from those underground tanks that are leaking in my State. We will also spend another \$50 billion, according to estimates, to finish the job, and we are banking on the development of new technologies that have never been used in projects of this magnitude. Meanwhile, we are spending an average of about \$5.1 million per day on this effort.

Since starting this project, we have had lots of stops and starts. In 1958, we tried converting our nuclear tank waste to ceramic forms. We tried again later in the 1980s, to turn the tank waste into grout. That plan didn't work, and it was abandoned.

Then, in 1998, DOE tried to privatize the construction of the vitrification plant. That didn't work either. After a series of cost overruns, DOE fired the contractor and we moved on to the next phase.

So we in Washington State know how hard this process can be. That is why we have a tri-party agreement with the Federal Government and our State

agencies to make sure the Department of Energy lives up to its responsibilities. But these are complex problems. So the fact that DOE hasn't answered all the questions about Yucca Mountain on the technical side and on the environmental side before proceeding puts a question in my mind: Why do we have to execute today? Why do we have to move forward today?

Even the GAO, in its recent report, says that there was no way that the questions left to be answered at Yucca can be answered in the timeframe that the original Nuclear Waste Policy Act envisioned. So, basically, we are saying we will approve this site without conclusively addressing some 293, I believe, different technical questions that are still out there.

As the GAO stated in its December 2001 report:

On the basis of information we reviewed, DOE will not be able to submit an acceptable application to the NRC within the express statutory time frames . . .

The GAO also criticized the lack of reliable cost estimates for Yucca Mountain. How much will American taxpayers spend on this proposal, with so many outstanding technical uncertainties? No one really knows, but likely over \$100 billion. That's why this proposal is opposed by so many taxpayer groups.

Madam President, my State, more than any, wants a real solution to our nation's nuclear waste problem. But more than anywhere else, my State also knows that that these solutions must be based on sound science and technology, and that the people deserve real answers and not a plan that will do little to nothing for moving waste out of our State. So when the DOE leaves so many questions unanswered and rushes to judgment, I am skeptical.

To quote another article in the Seattle Post-Intelligencer, "Cart before horse at Yucca," it said:

Been there, heard those empty promises about sure-bet technological fixes for the past 50 years. That approach hasn't produced a disposal solution so far, and there's no reason to rely on that failed strategy now.

We need more specific answers on every aspect of the Yucca Mountain plan—on transportation, technology, and most importantly, from the State of Washington: Where is the rest of the 87 percent of our tank waste going to go? The Yucca Mountain proposal fails to provide that answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I yield 1 minute to the Senator from Missouri, Senator CARNAHAN.

The PRESIDING OFFICER. Senator from Missouri is recognized.

Mrs. CARNAHAN. Madam President, for the RECORD, I want to correct the statement made earlier regarding the shipment of nuclear waste or spent fuel through Missouri.

The Senator from Alaska stated that "there is no proposed existing transportation route that will be taking the

waste through Missouri." He also said that "there is no logic to suggest that there would be movement of waste through the State of Missouri." These are simply untrue statements.

In fact, a shipment of foreign research reactor spent fuel was shipped through Missouri on I-70 in June 2001. The Department of Energy has three highway routes selected for cross-country shipments of this spent fuel that we take back from foreign countries.

I have the map right here. I got it from the Department of Energy. Two of the three routes go directly across Missouri. This map—not the one used on the floor by the Senator from Alaska—is a much better predictor for the potential routes for the spent fuel that will be shipped cross-country to Yucca Mountain because it is currently used for very similar nuclear waste.

These are the facts. I wanted the RECORD to be clear for the people of Missouri.

Mr. REID. Mr. President, how much time does the Senator from Nevada have remaining?

The PRESIDING OFFICER. Twenty minutes.

Mr. REID. Madam President, I know there are people in the audience all around here who are being paid lots of money. They are coming here to see what is going to happen. They are being paid lots of money. They drive here in limousines and have Gucci shoes and nice suits. It is interesting to know that in the places where they work, Washington and New York, they have editorials supporting this bad situation, trying to ship Yucca Mountain waste on our highways, railways, and our waterways.

In this morning's paper, it says the Senate should pass the Yucca Mountain bill now. This is part of the unending stream of money. That is what this is all about—money, lots of money; money to run newspaper ads; unlimited vacations to Las Vegas to look at Yucca Mountain for 2 hours and spend three days being wine and dined in Las Vegas; unlimited dollars to send representatives to Capitol Hill.

I know how this works. The State of Nevada had a few dollars and we wanted to hire a lobbyist, but we could not find one. They were all hired by the Nuclear Energy Institute. We could not hire them. They had conflicts of interest. So all you people here, just bill everybody, feel good about it; you are perpetrating a travesty on the people of this country.

We know that the information in this ad from the Washington Post are myths. The law requires Senate action. That is not true, as has been indicated by the majority leader and everybody else. It is not true. The chairman of the Nuclear Regulatory Commission said less than a month ago that if it didn't go forward now, no big deal, it is safe where it is.

Well, this argument that Yucca needs to happen is a big crock of potato soup. The fact of the matter is that the Gen-

eral Accounting Office said there is 292 scientific investigative reports that are not completed.

Those independent scientists and analysts include the Nuclear Waste Technical Review Board, General Accounting Office, a former NRC commissioner, and other independent scientists.

Let's look at some of the myths of this ad:

It is right for the environment.

Now, that is a joke. It is right for the environment? Every environmental group in America opposes Yucca Mountain. There's your answer. The transportation of it scares them. The Senator from Oklahoma came and said "why are they scaring people?" Let's think about this a minute. The proposed route that goes through Oklahoma was just the scene of a horrible accident, where a barge hit a bridge and 23 cars were knocked into the water and it killed 13 people.

I don't think that is scaring people. I think it is a scary fact. So it is good for the environment? That has to be a big laugh. Every environmental group in America opposes this. "It has bipartisan support"? The PTA, the national Parent Teachers Association, opposes this. The National Education Association and the Farm Bureau, because of the water situation, oppose this, along with the U.S. Conference of Mayors. As is already in the RECORD from the Senator from California, hundreds of environmental groups and other organizations in America oppose this.

It is right for the environment? Afraid not. "It is right for consumers"? Joan Claybrook, who spent hours out in the reception room earlier today, is the epitome of what consumers are about in America, and her group opposes it.

Right for consumers? If this boondoggle goes through, it will cost the American taxpayers approximately \$100 billion. The Department of Energy itself acknowledges they will spend \$69 billion, but they low-ball everything and come back to Congress for more money. How can that be right for hard-working American families.

"It is time for action"? Afraid not. But this is the Gucci crowd. They paid for this. They do it in New York and in Washington where they get the good editorials. They don't get the good editorials in other places because they have not been able to weave their web of money.

That is what this is all about. As the Senator from California indicated today, 261 groups make up the Nuclear Energy Institute. These are the same groups that our Vice President met with secretly. Now he won't tell us anything about those meetings.

Let's see what USA Today said. They said there is no good reason to move forward with this project. The view is best summarized by comments of the Chairman of the Nuclear Regulatory Commission where he said:

If Yucca Mountain was to fail because of congressional action, it does not mean from

a policy point of view the country is at a stalemate and confronting imminent disaster. We do have the capacity to store the material safely for decades.

There has been talk today on several occasions that these sites are filling up; as a result, we are going to have to move to unregulated private storage facilities. That's another lie, because these private facilities still have to be approved by the Nuclear Regulatory Commission.

I repeat, outside of Washington and New York, people realize how flawed this is. It certainly is the wrong way to go.

The Department of Energy has been saying we need to have Yucca Mountain to consolidate all the waste that is sitting in existing nuclear facilities. If there were ever a big lie, that is it. I have had Senators who support this come here all day today saying: What we need is one site. That is what this is all about. Every State one looks at, we will find they do not gain anything. None of them are getting rid of nuclear waste.

We can run through all these places across America. When it is all over, Browns Ferry in Alabama will have 107 percent of the nuclear waste they have right now, and we can go on down the list; 168 percent in Pennsylvania; 140 percent in South Carolina. There is one that is 306 percent. That is in Virginia. There is one here for 380 percent. They will have 380 percent more nuclear waste than when they started.

This is the big lie, that they are going to get rid of the nuclear waste all around the country and have one place where there is nuclear waste. That is simply not true. It will not happen. They are going to wind up with more nuclear waste.

A simple statement of fact: They can move at the most 3,000 tons a year. They will generate more than 2,000 tons a year, and they have 46,000 tons stored, and Yucca can only hold 77,000 tons. It does not take a mathematician to figure out that we are not going to get rid of the nuclear waste stored where it is.

Some of my colleagues have said the Nuclear Waste Technical Review Board really has not said how bad this is. They have said it as clearly as one can. An important conclusion in the board's January letter is:

When DOE's technical and scientific work is taken as a whole the Board's view is that the technical basis for the DOE's repository performance is weak to moderate. . . .

They go on to say:

While no individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration at this point, the Board has limited confidence generated by DOE's performance market.

We are in the midst of a crisis in this country. The stock market has plummeted. People have lost confidence in corporate America. Today, we should be working to fix those problems, not create another disaster for the American people to help out big corporations. That is what this is about. Corporate America is driving this decision.

That is really too bad, Madam President. It is really too bad.

I extend my appreciation publicly to my friend from Nevada. Senator ENSIGN has worked very hard on this. He has done good work. Senator ENSIGN has done an outstanding job talking with every member of the minority. I am very happy with the work he has done. I publicly congratulate him for the work he has done.

I have been tremendously impressed with the fact he has not in any way backed off, even though some say it is unpopular for him to oppose the Presidency of the United States.

Let me read a poem by Robert Frost to close this debate:

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveller, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;
Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,
And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.
I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less travelled by,
And that has made all the difference.

Madam President, Senators are being called upon to take that less traveled road because it is going to make a difference.

Yucca Mountain is a bad project. We cannot transport nuclear waste safely. We know that. Nuclear waste is subject to terrorist attack. We are talking about tens of thousands of truckloads and thousands and thousands of trainloads, and now they told us they are going to move waste on barges. This is a road that should not be traveled, even though some people want to go down that road.

I say let's take the road that makes all the difference. It is the right thing to do.

In the years to come, as indicated in the Seattle Post Intelligencer, people are going to ask: Why did they do that? There is no reason to do it. Chairman Meserve has said:

If Yucca Mountain were to fail because of congressional action, that does not mean all of a sudden from a policy point of view that the country is at a stalemate and is confronting imminent disaster.

That is true. But corporate interests are pushing this. In fact, we should be talking about legislation to address these problems with corporate American right now. We should be working a bill reduce the power of corporate America with which this administration has been in bed. The only person who could have stopped this corporate abuse today, it appears, is the President of the United States. He misled the people of Nevada. That is the reason he is President of the United

States, I am sorry to say. If he told the truth about Yucca Mountain, he would not be President. He would have lost by four electoral votes and would have lost the Presidency of the United States.

I say to my friend, the ranking member of the committee, Senator MURKOWSKI, he and I have had a lot of battles on the Senate floor. I have the greatest respect for him. He has been a gentleman and always fair to me, and although we disagree on policy issues, I cannot say enough about him being the type of legislator I think we should have.

I urge my colleagues one more time to take the road less travelled and protect people in the country, their states and Nevada.

I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER (Ms. CANTWELL.) Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The Senator from Nevada has 6 minutes remaining.

Mr. REID. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to S.J. Res. 34. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—60

Allard	Graham	Miller
Allen	Gramm	Murkowski
Bennett	Grassley	Murray
Bingaman	Gregg	Nelson (FL)
Bond	Hagel	Nelson (NE)
Brownback	Hatch	Nickles
Bunning	Hollings	Roberts
Burns	Hutchinson	Santorum
Cleland	Hutchison	Sessions
Cochran	Inhofe	Shelby
Collins	Kohl	Smith (NH)
Craig	Kyl	Smith (OR)
Crapo	Landrieu	Snowe
DeWine	Leahy	Specter
Domenici	Levin	Stevens
Durbin	Lincoln	Thomas
Edwards	Lott	Thompson
Enzi	Lugar	Thurmond
Fitzgerald	McCain	Voinovich
Frist	McConnell	Warner

NAYS—39

Akaka	Clinton	Jeffords
Baucus	Conrad	Johnson
Bayh	Corzine	Kennedy
Biden	Daschle	Kerry
Boxer	Dayton	Lieberman
Breaux	Dodd	Mikulski
Byrd	Dorgan	Reed
Campbell	Ensign	Reid
Cantwell	Feingold	Rockefeller
Carnahan	Feinstein	
Carper	Harkin	
Chafee	Inouye	

Sarbanes	Stabenow	Wellstone
Schumer	Torricelli	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. CRAIG. Madam President, I move to reconsider the vote.

The PRESIDING OFFICER. That motion is not in order.

Under the previous order, the Senate will proceed to the consideration of H.J. Res 87, which the clerk will report by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 87) approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

The PRESIDING OFFICER. Under the previous order, the clerk will read H.J. Res 87 for the third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question occurs on passage of the resolution.

The joint resolution (H.J. Res. 87) was passed.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent S.J. Res. 34 be returned to the calendar.

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

Mr. BYRD. Mr. President, I am concerned that many geological and technical questions associated with the Yucca Mountain plan have yet to be answered. We must ensure the safe keeping of this waste material for 10,000 years—a period of time longer than the written history of mankind. Therefore, there must be certainty that the Yucca Mountain site ensures protection of the environment and the safety of citizens. At this point, such certainty does not exist.

What we do not yet know about Yucca Mountain and its suitability as a long-term repository gives me great concern. For instance, how safe is it to house such a great volume of nuclear waste at a site that lies along a natural fault line? Can a facility be built to withstand a major earthquake? There have not been sufficient answers to these and other questions. Many scientific studies have reached the same conclusion, namely that more research is needed before moving forward with the Yucca Mountain site. Despite the incomplete scientific study of Yucca Mountain and the state of Nevada's steadfast opposition to the project, the nuclear energy industry and other parties are said to have pressured the Secretary of Energy to recommend that Yucca Mountain is a suitable site for the repository.

If Yucca Mountain is designated the primary repository for high-level nuclear waste, transportation of this hazardous material throughout the country will increase significantly. However, to date, the Department of Energy has not decided upon any plan on how to move this material to the repository. It is another in a long line of uncertainty surrounding the Yucca Mountain proposal. How will the material be moved? By train? By barge? By truck? What kind of security will be involved? There is not a single answer to any of these questions. Congress needs those answers before signing off on this plan.

We need a long-term solution to the problem of securing nuclear waste, and Yucca Mountain may ultimately prove to be a scientifically sound solution. But before we make a final decision on a repository which must have a 10,000-year life span, we must have absolute certainty of the suitability of Yucca Mountain. The safety of citizens for thousands of years to come depends on our prudence and careful deliberation.

With these concerns in mind, I voted against this proposal.

Mr. MURKOWSKI. Madam President, let me recognize the action by the Senate and thank those who participated in the debate, and Senator REID, Senator ENSIGN. I certainly understand and appreciate the position they have taken. I thought the discussion and presentation throughout the debate was certainly evidence of their concern for the State of Nevada.

On the other hand, this has been with us for a long time, 20 years. I think the Senate has acted responsibly today.

Let me thank certain staff members who have done a great deal of work. I will be very brief: Colleen Deegan, Jennifer Owen, Brian Malnak, Josh Bowlen, Macy Bell, Jim Beirne, our chart man, Joe Brenckle; and on the majority: Sam Fowler, Bob Simon, and of course Senator BINGAMAN.

Many others worked so diligently. We want to thank those in the industry who assisted in bringing this matter to the attention of all Members, encouraging that we act in a prudent manner, with dispatch. I most appreciate the two leaders who are recognizing that we can take the time today to dispose of this matter.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SARBANES. Parliamentary inquiry: What is the pending business?

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Com-

pany Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Mr. SARBANES. What is now pending before the Senate?

The PRESIDING OFFICER. The Miller amendment, No. 4176.

Mr. SARBANES. I ask for the regular order.

Mr. GRAMM. May we have order, Madam President.

The PRESIDING OFFICER. Members will take their conversations off the floor of the Senate.

Mr. SARBANES. There is a procedural question following the Miller amendment. We have been discussing that. We may be able to resolve it, but we need to do that overnight.

I call for the regular order which, as I understand it, would take us back to the Leahy amendment, with the McConnell amendment pending to Leahy?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I call for the regular order.

AMENDMENT NO. 4175

The PRESIDING OFFICER. The amendment is now pending. The Senator from Massachusetts.

Mr. LEAHY. Will the Senator yield for a question? We are on, am I correct, the Leahy amendment which was pending to it the McConnell amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, the matter before the Senate now is the McConnell amendment; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Madam President, this amendment of the Senator from Kentucky is what we call around here and everywhere a poison pill amendment intended to prevent serious action on corporate accountability. Just as a few Republicans sought to stop campaign finance reform with similar amendments, now they are trying to block action to make executives accountable. The lack of corporate responsibility in the United States has undermined the credibility of our markets and devastated the retirement savings of millions of Americans.

This widespread abuse of corporate power has jeopardized our Nation's economic recovery and hurt the legitimacy of our fundamental institutions. We must not call for the obstructionism of Senate Republicans. Instead, we must heed the call of the American people and insist on bold ac-

tion this week to ensure that corporations are made accountable and that workers and investors are protected against these abuses.

The Leahy amendment, which my Republican colleagues seek to block, was unanimously approved by the Judiciary Committee in April. It includes critical measures to strengthen the ability of Federal prosecutors to detect, prevent, and prosecute corporate fraud. It makes acts of document shredding and corporate fraud punishable by 10 years in prison. It lengthens the statute of limitations for victims of security fraud.

Finally, the bill directs the U.S. Sentencing Commission to review criminal penalties for obstruction of justice and corporate fraud.

Today, Americans are outraged by the endless corporate scandals, and Congress must act to hold corporate crooks fully accountable and to restore confidence in our markets.

Defeating the "poison pill" amendment offered by Senator MCCONNELL is the first step toward that goal. Senator MCCONNELL's amendment would put America's workers in double jeopardy. The amendment puts new requirements on workers' representatives, despite the fact that these officials currently face disclosure and reporting requirements which surpass those of public companies.

This amendment would subject small local unions with annual receipts of only \$200,000, which are already subject to labor reporting requirements, to the same SEC reporting requirements as large public companies which typically have resources in the millions.

The reality is that union finances are already more heavily regulated than those of most public companies. The Department of Labor under current law can investigate and audit union financial records at any time, including conducting random audits. There is no comparable requirement for public companies today.

There are many other examples of current labor laws requiring much stricter disclosure by unions than the SEC requires of publicly traded companies. Unions have to list every employee who receives more than \$10,000. But the SEC does not require this of companies. Unions have to provide more detailed information regarding their loans than do public companies under SEC requirements. Unions have to provide more detailed lists of their investment today than do public companies under the SEC requirements.

The list goes on and on and on.

For over 40 years under labor laws, union officials have been required to certify the annual financial reporting of their unions under penalty of perjury.

The McConnell amendment certification requirement ignores the safeguards that already exist under our labor laws. Union officials are already subject to criminal penalties, which include jail time for willfully failing to

file reports, or knowingly making false statements, or willfully concealing documents. Union officials who violate these provisions are subject to jail time as well as substantial fines.

It is misguided to apply SEC requirements and penalties which were designed for publicly traded companies to not-for-profit groups such as unions. Even the Department of Labor recognizes this.

Don Todd, Deputy Assistant Secretary in charge of the Department's Union Reporting Office, wrote last August regarding SEC requirements that the Department of Labor does not have the expertise to provide more than a very general overview of this complex area of law. Why in the world would we want to force the labor unions to comply with SEC filing requirements when the relevant oversight agency doesn't understand this area of the law?

The bottom line here is that the Republicans fear corporate responsibility. They know the American people are outraged by the endless series of corporate scandals that are hurting workers, retirees, and our economic recovery. Rather than admit the scope of corporate corruption and the urgency of criminal penalties for corrupt executives proposed by Senator LEAHY, the Republicans are seeking to poison the well. If we allow this, the American people will never forgive us for passing up this unique opportunity to bring accountability to corporate executives. Corporate criminals must be made to pay for their misdeeds.

I urge my colleagues to vote against the McConnell amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, first of all, let me point out something. Senator MCCONNELL's amendment changes nothing in the Leahy amendment. The adoption of Senator MCCONNELL's amendment does nothing to change the Leahy amendment. I understand that Senator MCCONNELL tomorrow is going to come over and speak at great length on his amendment. But I don't want anyone to be deceived as to what the amendment is about.

The amendment has nothing to do with the Leahy amendment in terms of its adoption in any way delaying or changing the Leahy amendment.

The Senator from Kentucky has proposed a simple proposition that I believe is unassailable logically. That proposition is we are going to put penalties on filing false reports by corporations, and we are going to in the process send people to prison for it. I support that provision. I think there are probably 100 Members of the Senate who support that part of Senator LEAHY's amendment.

The Senator from Kentucky simply asks the question: Why don't we require that labor unions, when they submit financial statements once a year, have them audited by CPAs? Second, why don't we have them sign those reports and be accountable for their accuracy?

I am sure that people who do not want unions subjected to transparency and to accountability are going to say: Well, this is an effort to circumvent requirements on corporate America. Nothing could be further from the truth. This amendment does not strike the Leahy amendment. It simply adds a simple provision to it that applies parallel standards to unions.

Senator KENNEDY says this neglects existing law. The point is that the existing law is not very strong. Many unions don't even submit these reports. You could argue on the corporate side that we already have a body of law; why are we writing new laws? We are writing new laws because we need stronger and better laws. We have a bipartisan consensus that we do it.

Also, Senator KENNEDY says the veracity of these reports should follow under another jurisdiction. We are talking about accounting. We are talking about accuracy in reporting. We are talking about transparency. We are talking about accountability. Surely union members, in reading a report, should have the same confidence that it is valid, that a certified public accountant who is subject to high ethical standards wrote the report, and that the president of the unions certifies it, and that the president is going to be held accountable if it doesn't meet the standards we are setting.

Let me just summarize, since we are going to debate this amendment tomorrow, by saying:

No. 1, this amendment does not change the Leahy amendment. If you are for the Leahy amendment, that is fine.

The question the Senator from Kentucky poses is, should similar parallel requirements be imposed on unions that issue a financial statement annually, and should they have to be certified by a certified public accountant? And should the president of the union have to sign the report as the president of a corporation does? Should they be held liable if the report is not accurate and if they knowingly file an inaccurate report?

That is the question.

No. 2, it seems to me it is perfectly reasonable. You might be for it, and you might be against it, but you can't say it has anything to do with trying to undo the Leahy amendment.

It seems to me that if you are against it, you have to explain why unions should not be required to meet high standards in filing reports.

I haven't spoken on the Leahy amendment. It is my understanding we are going to be debating it tomorrow. I would like to simply outline what is in the amendment that I am for and what is in the amendment that I am against. I can do it very briefly.

If people knowingly and willfully violate the law, I support putting them in prison. The President has proposed doubling the sentence. I am for that. I hope at some point the administration will give us legislative language to im-

plement the changes the President proposed today. I am hopeful that on a bipartisan basis we can adopt it on the floor of the Senate as part of this bill.

If we do not have time to do it, I have every reason to believe there will be bipartisan support to make those changes and those additions, those strengthening amendments in conference.

There is only one part of the Leahy amendment to which I object. Unfortunately, it is a very important part of the amendment that no one is focusing on when they are talking about the Leahy amendment. In fact, I would move that we simply accept the Leahy amendment except for this small but important provision.

I remind my colleagues that in 1995, on a bipartisan basis, we adopted the Private Securities Litigation Reform Act, legislation that basically amended securities laws to deal with the whole issue of predatory strike suits where one law firm was filing 80 percent of the lawsuits against corporate America and we had a reform of corporate liability. That bill was adopted on a bipartisan vote. It is the only bill that we overrode President Clinton's veto on in 8 years in office.

One of the reforms was to set statute of limitations requirements that basically paralleled the securities acts from the 1930s. What we said is, if you want to file a lawsuit, you have to do it within a year of when you know there was a violation or within 3 years of when the violation occurred.

The whole point of statute of limitations is, that beyond some point it is very difficult to maintain records. You do not know what happened. People's memories fade. People die. This was part of this important reform.

The Leahy amendment effectively throws out the 1 year and the 3-year statute of limitations and adopts a 5-year limitation. Now, he claims it is a 2-year and 5-year, but the 2 year applies only if you can prove that the person who filed the lawsuit knew that the violation occurred outside of the 2 years. I would assert that is virtually impossible to prove.

It is interesting, in statute of limitations, where you are saying you have to act on a timely basis because people do not have knowledge after periods of time expire, under this, you have to have enough knowledge to prove that they knew, which I think is a standard that could not possibly work. No one really believes it could work.

So the reality is, we are striking the 1-year and the 3-year statute of limitations in the securities litigation reform bill, and we are substituting a 5-year statute of limitations for it. That is a provision that I oppose. Every other part of the Leahy amendment I support. I personally would be willing to see it accepted by unanimous consent save that one provision in the bill. I think it is an important provision.

But I want people to know, as we go into the debate, that my support for

the McConnell amendment has nothing to do with the Leahy amendment; it simply has to do with having been convinced that there is logic to the McConnell position.

If we are trying to get transparency in financial reporting, if we are trying to hold people accountable, if we want honest numbers, it seems to me the logical place would be to start with Government, which we have not done. But the second point, it seems to me, is to apply the same standard to business and to labor. That is what McConnell has done.

Tomorrow we will have the debate on it, but I wanted to outline what the amendment did and did not do and my position on the Leahy amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I am prompted to enter this debate by the comments of my colleague from Texas. You cannot evaluate the parallelism of the McConnell amendment without evaluating the requirements that are now imposed upon labor unions under the Labor-Management Reporting and Disclosure Act of 1959. The argument that this is logical is only if you drop out of the picture or the context the fact that the unions are now under extensive reporting requirements in the law, requirements that significantly exceed, in many respects, anything that is required of corporations.

Now, the Department of Labor has the authority to conduct audits of labor unions.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SARBANES. Yes.

Mr. KENNEDY. According to the statute, it can conduct those audits randomly, as I understand. Does the Senator agree with me that these audits can be done randomly? According to the statute, it says right here, in section 601(a):

The Secretary shall have power when he believes it necessary in order to determine whether any person has violated . . . any provision of [the legislation] . . . to make an investigation and in connection therewith. . . .

And they may enter such places to inspect such records and accounts in question.

Does the current underlying legislation permit the SEC to conduct random auditing of public entities?

Mr. SARBANES. The auditing is done by the independent public accountants.

Mr. KENNEDY. The point I am making is, at the current time, the Department of Labor can conduct an independent audit at any particular time on any occasion, according to the Labor-Management Reporting Act.

Beyond that, it has the provision:

Every labor organization shall file annually with the Secretary a financial report signed by its president and treasurer or corresponding principal officers containing the following information. . . .

And it lists all of that information. It already exists.

Mr. SARBANES. Will the Senator yield on that point?

Mr. KENNEDY. Yes.

Mr. SARBANES. The Senator from Kentucky says they are not filing these reports. What are the Secretary of Labor and the Department of Labor doing, because they have the power to make them file their reports. In fact, they can impose penalties, as I understand it, including not only fines but also imprisonment for the failure of union officials to meet the requirements under the statute.

My dear colleague from Texas says, well, look, this thing is on all fours. This is what we are doing to the corporations. And all the McConnell amendment does is it does it to the unions. Now, who could be against that?

But let's look at what is already being done to the unions. Let's look at the requirements under which they already have to function. Let's look at the powers that the Department of Labor and the Secretary of Labor have with respect to this matter.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. GRAMM. You can make the same argument the SEC has the power to audit any company in America today. Any exchange they are a member of has the power to audit them today. We are saying we need better, stronger, more powerful laws. We need better reporting. People need better information.

All the Senator from Kentucky is saying is, why don't we apply the same thing to the reports that are filed by labor unions.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. Yes. You have the floor.

Mr. SARBANES. Has the Senator examined, with any care, the reporting requirements and the other matters that govern labor union reporting under the Labor-Management Reporting and Disclosure Act?

Mr. GRAMM. Only to the degree that I can say that all the arguments that are being made, saying we do not need to improve reporting, are arguments that someone could make with regard to corporate America. They are already subject to random audits by the SEC. They are already subject to random audits by exchanges. I am not making that argument because I do not believe it.

Mr. SARBANES. What about the requirement on unions that they list the employees whose total of salaries and other disbursements exceed \$10,000, including position, gross salary, allowances, and disbursements? What about that requirement that is imposed on the unions to make that kind of disclosure? Where is a comparable disclosure in that regard with respect to corporations?

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. GRAMM. I say, if the Senator wanted to offer an amendment to im-

pose that, he certainly could. And I will stop asking him to yield, but let me make this point.

Mr. SARBANES. To impose it on corporations, you support that?

Mr. GRAMM. If you offer that amendment, I would have to read it. I probably wouldn't.

Mr. SARBANES. All right.

Mr. GRAMM. But the point I am making is, we are talking about two things. One thing that you have to have is a CPA do the audit, and, two, the president of the union and the president of the company has to sign the report. They are liable if they knowingly are misleading people. Those are the only two things the McConnell amendment does.

I just can't see what is wrong with it and why it doesn't make sense. Not that there is anything wrong with that part of the Leahy amendment; I support that part of the Leahy amendment. I just don't understand why this does violence to organized labor. It seems to me it makes perfectly good sense.

Mr. SARBANES. I simply say that a statutory structure has been worked out for labor which is quite extensive and exceeds in many respects anything that applies to corporations. You can't make a judgment about whether you should do anything additional to the unions until you examine carefully what is already required from them under the existing statutory scheme. That is not happening here.

Mr. DODD. Will my colleague yield for a question?

Mr. SARBANES. I yield.

Mr. DODD. It occurs to me as well, in this bill, we are not requiring for all businesses these requirements. These are for businesses that have to file with the SEC.

Mr. SARBANES. That is right, which is a limited universe.

Mr. DODD. It is a limited universe. My point is, we are not talking about every entity that conducts business for profit. We excluded the overwhelming majority of businesses that are private entities, that have no filing requirements with the SEC. Our colleague from Wyoming felt very strongly about this point, that we only deal with public companies, the 16,000 public companies.

Let me ask my colleague this question: Is a labor union a for-profit business or are they a different kind of an entity? I have always understood a labor union was not a business and therefore to require of the labor union that which we require of a for-profit company that is required to file with the SEC seems to be mixing apples and oranges. There is no parallelism here at all.

Mr. SARBANES. The Senator is absolutely correct. The unions ought to have reporting requirements and they ought to file.

Mr. DODD. Correct.

Mr. SARBANES. Those have been put into law. There are extensive authorities in the Secretary of Labor and the

Department with respect to the unions—quite extensive authorities, I might add.

We have established one statutory framework to control the reporting requirements and disclosure on the part of unions, which is a completely separate universe from what we are trying to address in this legislation.

The Senator is absolutely right. It is in a sense apples and oranges. You are dealing with two different universes, and you have established two different statutory frameworks within which to address that.

Mr. DODD. If the Senator from Texas were interested in creating a sense of uniformity, I could see him offering an amendment—I wouldn't agree with it—which would require that all businesses that are conducting their operations for profit be subjected to an accounting standard that was equal. Again, my friend from Wyoming would strenuously object to such an amendment. I would as well because of the reasons that smaller companies just could not possibly afford the costs associated with that. But to suggest somehow that a nonprofit organization ought to be subjected to the same rules as a for-profit public company where shareholders and so forth are involved is stretching logic.

I appreciate my colleague yielding.

Mr. SARBANES. It is obvious that one of the distinctions we sought to make in the underlying bill that is before us is that when a company becomes public, you then have an investor interest that has to be protected. Otherwise, manipulation destroys investor confidence and affects the confidence in our capital markets. That is the issue we are confronting now and the impact it is having on the economy.

That was the universe we tried to deal with in this legislation. We were very careful that the legislation does not apply to most businesses in America and doesn't apply to most accountants in America, since most of them don't audit public companies.

Mr. GRAMM. Will the Senator yield?

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Texas.

Mr. GRAMM. I remind my colleagues that in some 40 States in the Union, you can't work unless you are a member of a union. If unions are not public organizations, when you have mandatory requirements, I can't work in Maryland in an area that is unionized without either joining the union or paying union dues. To suggest that unions are somehow private when you have mandatory membership I think won't hold water.

Mr. SARBANES. If the Senator would yield, you don't have mandatory membership. You may have a requirement that you pay a union fee, but the union then has an obligation, if you are in a union shop, to represent you in the collective bargaining efforts and with grievances, and so forth and so on. So the union has to, in effect, provide you

a service for the fact that you get charged that fee.

Mr. GRAMM. I am not saying you are not getting anything for it. I am just saying that it is mandatory, and I don't see how you cannot say that unions are public institutions.

Secondly, why do we require CPAs to do audits of companies? We can't audit every company in America. We don't have enough resources. So you try to get a system where the auditor has some degree of responsibility for helping to enforce the standards. I don't see why you wouldn't have CPAs required to do the audits of unions.

I was handed this by Senator McCONNELL's staff. I am sorry he had an appointment tonight, but the OLMS, which does the compliance audits, did a high of 1,583 audits in 1984. Last year, that was only 238. So I don't know why you wouldn't want a union that has mandatory membership to have its reports done by CPAs who we are holding to a high standard in this bill. That is all I am saying.

Mr. SARBANES. What is the explanation by the Department of Labor for this rather stunning drop in the number of audits? Was it from 1,500 to 200 in 1 year's time or 2 years' time?

Mr. GRAMM. It is from 1984 to 2001.

I would say on that issue, if the Senator will yield, that the President's 2003 budget asked for an additional \$3.4 million for 40 full-time positions. It will be very interesting to see if we provide the money for them to have it.

Mr. SARBANES. That is the way to go at this problem; otherwise, it seems to me that the Department of Labor needs to do the job that it has been charged to do. I think that is what those figures amply demonstrate.

I am gratified that the administration's budget is seeking more money in order to meet these responsibilities, but that is where it ought to be done.

Mr. GRAMM. My final point—and I appreciate the generosity of the chairman—it seems to me the most fundamental requirement is if you are going to make a public report and you have mandatory membership so you are a public institution, you ought to have a certified public accountant do that report and sign that they have done it.

We have decided—I think it is one of the best things in our bill; whatever bill is adopted will have it—to require the heads of companies to sign these reports. I don't know why you wouldn't want the head of the union to sign these reports.

Mr. SARBANES. Would the Senator support a provision that required all companies with annual receipts of \$200,000 or more to meet all of these auditing requirements?

Mr. GRAMM. I would if the companies were companies that people had to do business with. If we had anything equivalent in the marketplace to a provision that said you have to buy things from this company or you can't buy them, which in essence we do in States that don't have right-to-work laws; we

say that you have to pay the union dues in order to work—you don't have to join, but you have to pay the dues—I think when you have that mandatory element, having to report publicly is logical.

Mr. SARBANES. They do have to report publicly. They are now required to report publicly under the legislation that governs reporting and disclosure. The Senator is speaking as though there are no such requirements.

The fact of it is that there is an elaborately developed framework. Now, the Department of Labor may not be carrying it out fully, as the statute would require. They may be falling short in that regard, but if that is the case, the way to remedy the situation is to provide the resources to the Department of Labor and call upon them to do their job.

Mr. GRAMM. Mr. President, this is Mr. McCONNELL's amendment, and I will let him debate it. But the whole purpose of having CPAs, the whole purpose of having licensing and the taking of oaths is we cannot audit every company by the Government. I am pleased to say that nobody has proposed to have the Government take over the auditing function. We have proposed to strengthen the CPA process and impose higher standards because that is really our fundamental line of defense.

I just don't understand. It seems to me this would be a logical amendment to take. It only says two things: When unions file a report, it has to be done by a CPA. You have a mandatory membership of unions in some 40 States, and they are public institutions. Secondly, the president of the union, as the president of the company, ought to have to verify the veracity of the statement and be liable if he knowingly is certifying it when he knows it is not valid. I mean you are not holding him accountable if somebody has not told him the truth.

Senator McCONNELL is going to present case and verse of all of the problems. I don't know the problems, but it seems to me that when we are trying to improve reporting and improve transparency and improve accountability, the simple proposal that when unions file their annual report, as corporations do, a CPA should prepare the report—I just cannot imagine not requiring that.

Secondly, the president of the union ought to have to sign the report and be accountable if he knowingly is saying something that is not true.

Finally, the argument that there are other requirements—well, there are more requirements on corporate America. We just concluded there were not enough. So Senator McCONNELL is simply saying while you are improving one, improve both. If I were a member of a union, I would like having certified by a CPA a report showing how my money was spent. I think it would give me more confidence. I would think if the rank-and-file union members in my State would vote on this, there would

be an overwhelming vote for it. I don't even know why we are debating this. This is sort of a no-brainer, in my opinion. But my opinion may not be the majority opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I agree with the Senator from Texas, this is a no-brainer amendment because I cannot quite understand why we would be establishing a standard here for labor unions. It reminds me of when I was raising my kids and my wife and I had to give one of our children medicine that they didn't want. My daughter would say: I would feel a lot better if my brother had to take it, too. That is what we are having here—businesses faced with corporate corruption. Frankly, we have people on the Senate floor saying, as painful as it is for us to make more disclosures, we would feel better if you could also hurt the labor unions while you are at it. Is that what this is about—to try to find a parity of pain between business and labor? I didn't think so.

The point made by the Senator from Maryland is that labor unions already face extraordinary reporting requirements in a law that has been in place for 43 years—requirements not made of many businesses. In the McConnell-Gramm amendment, it suggests that if your labor union has receipts of \$200,000 a year, they are going to add a new burden to the labor unions—even beyond this 43-year-old law.

I listened closely as the Senator from Maryland explained the bill before us. He has worked closely with the Senator from Wyoming to make sure it just applies to public corporations, where there is public investment in stockholders and where there is an item of public trust involved. That is understandable.

So if I would stand before the Members here and say, if you really believe in transparency and disclosure, you ought to apply these requirements to every business in America, many people would say that is an onerous and unnecessary burden; it goes beyond the issue of public trust; now you are going after every business, large and small. That is what the McConnell-Gramm amendment does when it comes to labor unions. They say if a labor union has receipts of \$200,000, they have a brandnew set of requirements. The Senator from Texas says these unions are public institutions, they should not be treated as if they are private. Well, they are not. They are subject to the 1959 Labor-Management Reporting and Disclosure Act.

The thing that also concerns me is that many requirements of the labor unions under current law are far stricter than what is required under the SEC for public corporations. I cannot understand why we would want to increase the burden on labor unions when the issue appears to be, at Enron, not a union problem but a business problem.

The issue at Enron had to do with members of the board of directors being paid—according to the Governmental Affairs recent report—\$350,000 a year to serve on the board and, frankly, missing it completely, or didn't report it when things were being done that defrauded stockholders, pensioners, and ultimately cost employees their jobs.

That, I thought, was what this debate was about. Instead, we are talking about right-to-work and labor unions. I am sorry, but I don't think people across America believe the problems of Enron and WorldCom and Global Crossing had anything to do with labor unions. They didn't. They had to do with corporate greed and corruption.

I commend Senators SARBANES and ENZI for bringing to the floor a bill that addresses this in a straightforward manner. The McConnell-Gramm amendment wants to get us on another track to discuss other things. I find this interesting. There is no proposal that this new requirement be applied to any other organization than labor unions. I don't hear anybody coming before us and suggesting that the Boy Scouts of America should be subject to SEC filing. That is a large organization. They certainly have receipts beyond \$200,000. I don't hear the suggestion that associations and organizations like the Boy Scouts of America, or the American Legion—I don't want to go too far with this—or the Federalist Society should have more transparency and disclosure and, therefore, should be subject to SEC filings. Nobody brought that up. Is that part of the problem in America, the lack of confidence in our economy? Not at all.

The problem relates to corporations and businesses that have gone too far and lied to the stockholders and the American people. If we get off the track here and decide we are going to go after other battles to be fought, whether labor unions or other organizations, we have missed the point. I think this amendment misses the point.

Let me also say that the McConnell amendment holds labor unions to standards to which not even businesses are being held. In 1995, I happened to be a Member of the House when the so-called Newt Gingrich "Contract on America" came through. One of the things we did there, I am afraid, turned out to be a precursor to what we are going through today in what was known then as securities litigation reform. We basically said we think some of these plaintiff lawyers, class action lawyers, have gone too far and therefore we are going to protect many corporations from liability when it comes to securities transactions. I was 1 of 99 in the House of Representatives who voted against that bill and wanted to sustain President Clinton's veto. We did not prevail. We lost in the House and in the Senate.

It really, sadly, set the stage for where we are today. Another watchdog

was gone. Corporations such as Enron and WorldCom didn't have to worry about somebody bringing an action against them for securities misdeeds.

One of the things that was included in the 1995 law was to take away liability for aiding and abetting, in terms of rights of action, causes of action involving corporate fraud. We exempted a whole category of people who, up until that time, had been liable for aiding and abetting fraud. We said in the name of securities litigation reform, we would exempt this category of individuals.

Senator MCCONNELL comes up with this amendment and says: We want to reinstate that aiding and abetting liability, not for businesses, but we want to put it on labor unions. What is wrong with this picture? We are not imposing it on corporations despite all the scandals we have read about; instead, we are going to impose this new obligation on labor unions.

I am afraid, frankly, that is not a matter of public policy, it is a matter of retribution. I also think we should take a look at how many labor unions could be liable for this audit that is required. There are 70 national and international unions, but the McConnell-Gramm amendment would apply to 5,000 different unions, large and small, across America. It goes way too far.

The amendment certification requirements are also redundant. For more than 40 years, union officers have been required to sign annual financial reports, under penalty of perjury, attesting that the report's information accurately describes the union's financial condition and operations. That is a pretty reasonable standard for labor unions under current law.

We are trying to impose similar standards on corporations so when they file their accounting audit statements, someone puts their name on it and accepts responsibility for the truth and accuracy of the statement.

Frankly, I think Senator MCCONNELL and Senator GRAMM have this totally upside down. The problems we face—the corporate corruption, the lack of confidence in the economy, which even the President spoke about today—have nothing to do with labor unions. They really have to do with corporations that have an obligation to the public.

I believe the vast majority of businesses and corporations in America are run by honest people, working hard to make a profit to provide goods, services, and jobs to make America a better place. I do believe that. But there are some who have violated the public trust. The underlying bill addresses that. To bring in an argument now about imposing new obligations on labor unions not only misses the point completely as to why we are here this evening but misses the point about why we are facing this crisis in America.

I stand in opposition to the McConnell-Gramm amendment, and I hope all

of my colleagues will join me in remembering why this debate got started.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I, too, wish to verbalize my opposition to this amendment that tries to draw in a completely extraneous item which has not been debated in the context of this bill in the 10 committee hearings we had with regard to putting together the Corporate Corruption and Investor Protection Act.

It has not been involved in any of the President's discussions about corporate abuse or fraud that we have heard discussed. It is not in any way related to the group of organizations with which we are attempting to deal, which are large, publicly traded corporations, and really ignores the fact that there is already a body of law that deals with union organizations and union officers with regard to their responsibility to their memberships and for their reporting requirements.

For a whole host of reasons, I do not understand how this even relates to the issue that is the fundamental part of the underlying bill, and there certainly is not any evidence in the marketplace of ideas and activities across America that would justify pulling labor unions by their actions into the fish net about which we are talking. This is about corporate corruption. It is about investor protection. It is about making sure corporate fraud is properly dealt with in the legal system, one that puts everyone on notice that they have serious responsibilities to certify that what is reported is real, and if it is not real, then people are held accountable.

We are off on the wrong track, and if we end up having too many of these diversionary tactics away from the underlying principles of what we are trying to accomplish, which is to have measured, reasonable, and thoughtful progress with regard to corporate responsibility, corporate accountability, accounting reform, and investor protection, public protection, then I think we are going to miss the opportunity to secure our economy, to secure the steps that are necessary for most people to restart this engine of investment that drives our economy. This is completely off point.

I hope my colleagues in the Senate will recognize it for what it is and move on, turn this down, and get on with the underlying amendment that Senator LEAHY has so appropriately brought to bear in this case.

I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Members allowed to speak therein for up to 5 minutes each.

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

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 September 12, 2001 in Huntington, NY. A man, who was drunk, tried to run over a Pakistani woman in the parking lot of a shopping mall, according to police. The man then followed the woman into the mall and threatened to kill her for "destroying my country."

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.

ADDITIONAL STATEMENTS

RESTORATION AND REDEDICATION OF THE GEORGETOWN CIRCLE

• Mr. CARPER. Mr. President, today I recognize the rededication of "The Circle" in Georgetown, DE scheduled for July 19. Thanks to the great efforts and hard work of the citizens of Georgetown, this historic site has been restored to its original splendor.

The Circle was established in 1791 by an act of the Delaware General Assembly. Subsequently, the town of Georgetown was laid out around the Circle. While Delawareans knew of its historic and cultural significance, it was confirmed nationally in 1973 when The Circle was placed on the National Register of Historic Places.

Georgetown has long been famous for Return Day, a celebration that takes place every 2 years, 2 days after the state's general election. With the campaign behind them, voters and candidate's return to the Circle to enjoy parades, listen to music, and literally "bury a hatchet." We talk a lot in my State about working together, about putting aside partisan differences to cross party lines to get things done. This celebration at the Circle embodies that effort and commitment.

Over the years, the Circle fell to a state of disrepair. Once a place of stately honor, financial assistance was needed to return the Circle to its original state. The community of George-

town joined together and formed a committee to oversee the repairs and maintain the historic beauty of the site. The repairs were financed through a Transportation Enhancement Grant from the Federal Highway Administration, the Delaware Department of Transportation, and members of the Delaware General Assembly from Sussex County. Together, these groups were able to provide substantial funding for renovations. The residents of Georgetown should be praised for their commitment to restoring the Circle. With their initiative and dedication, future generations will be able to enjoy its rich history.

The July 19 rededication is a celebration of the community's collective efforts. Delaware's future will be built upon its rich history. We must work hard to preserve these symbols of our past to ensure that they are not forgotten. The citizens of Georgetown worked hard to ensure that the area's unique history will be preserved long into the future.●

HONORING WALTER JOHNSON

• Mrs. BOXER. Mr. President, I would like to take this opportunity to direct the Senate's attention to the life and achievements of Walter Johnson. Walter is the Secretary-Treasurer of the San Francisco Labor Council, a position he has held since 1985. He is a man of great compassion and determination. He is also, I am proud to say, a trusted friend and confidante.

On July 18, 2002, Walter is being honored by the San Mateo Central Labor Council for his lifetime of service. He certainly deserves it. He has been a leader in the Bay Area labor movement since the 1950s. He got his start with the Department Store Employees Union Local 1100 while working as a salesperson at Sears. Once in the union, it did not take him long to work his way up to be president and eventually secretary-treasurer, the top post.

Over the years, Walter has never wavered in his commitment to advancing the interests of working men and women and the larger community. He truly believes in social justice and equal rights. As the head of an organization comprised of 125 unions and 175,000 workers, he lives his beliefs every day.

When it comes to the lives and livelihoods of those he represents, he never lets elected officials forget that we work for the people, not the other way around. While this may make him an occasional irritant, it also makes him a constant inspiration.

Walter Johnson is the very embodiment of the labor movement in San Francisco and the Bay Area. If it seems like he has been there for years, it is because he has. Over the course of a half century, he always put the people first. It is high time he sat still long enough to let those he has helped return the favor.●

HONORING UNIVERSITY OF SOUTH CAROLINA, CLEMSON FOR MEN'S CHAMPIONSHIP BASEBALL TEAMS

• Mr. HOLLINGS. Mr. President, last month as sports fans around the world focused their attention on soccer, the student athletes of South Carolina reminded this nation why baseball is America's game.

Both the University of South Carolina and Clemson University played in the final rounds for the national title. While the Senators from Texas have the bragging rights to the trophy, I can say this: the South Carolina teams had their most successful seasons ever and engaged in a rivalry that will long be remembered in my state.

This year, my alma mater Gamecocks won a record 57 games, in what was supposed to have been a rebuilding year. In the last three years they have had more wins than any team in the nation. In the tournament, they beat their bitter rival Clemson twice, thus making it to the final game for the first time since Jerry Ford was President. For Clemson it was a heart-breaking finish to an incredible run. For two months, the Tigers had been ranked number one in the polls. They won 54 games, the most in their history, including winning 10 games against top 10 teams.

And although baseball is a team sport, this Senator cannot overlook one player in particular: Clemson shortstop Khalil Greene. He was named national player of the year. Hitting .470, he may have had the greatest season any Clemson player in any sport has ever had. His season reminds me of when I was a very young fan, in 1930, and Babe Ruth earned \$80,000 and was asked why did he make more money than President Hoover, and he replied, "I had a better year than he did."

In his professional life, Mr. Greene will probably have better years than any United States Senator, including our Hall of Famer, Senator BUNNING. I congratulate Mr. Greene, University of South Carolina Coach Ray Tanner, and Clemson coach Jack Leggett. And I salute all the players who on the field showed us what great athletes they are, and who made this season the best ever for South Carolina baseball fans. •

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVES MESSAGES REFERRED

As in executive session Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2643. An act to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes.

H.R. 3380. An act to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

H.R. 4609. An act to authorize the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4609. An act to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and the second times by unanimous consent, and placed on the calendar:

H.R. 2643. An act to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes.

H.R. 3380. An act to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

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-7691. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Allowing Eligible Schools to Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS)" (RIN115-AG55) received on July 2, 2002; to the Committee on the Judiciary.

EC-7692. A communication from the Assistant Secretary, Indian Affairs, Division of Transportation, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Distribution of Fiscal Year 2002 Indian Reservation Roads Funds" (RIN1076-AE28) received on June 27, 2002; to the Committee on Indian Affairs.

EC-7693. A communication from the Assistant Secretary, Indian Affairs, Division of Transportation, Bureau of Indian Affairs, Department of the Interior, transmitting,

pursuant to law, the report of a rule entitled "Law and Order on Indian Reservations" (RIN1076-AE33) received on June 27, 2002; to the Committee on Indian Affairs.

EC-7694. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Human Drugs; Labeling Requirements; Partial Delay of Compliance Dates" (RIN0910-AA79) received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7695. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the 2002 Annual Actuarial Report Required by Section 22 of the Railroad Retirement Act of 1974 and Section 502 of the Railroad Retirement Solvency Act of 1983; to the Committee on Health, Education, Labor, and Pensions.

EC-7696. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the 2002 Annual Report on the Financial Status of the Railroad Unemployment Insurance System; to the Committee on Health, Education, Labor, and Pensions.

EC-7697. A communication from the Acting Director, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Occupational Injury and Illness Recording and Reporting Requirements (recording occupational hearing loss)" (RIN1218-AC06) received on July 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7698. A communication from the Deputy Secretary, Investment Management, Office of Regulatory Policy, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to Rules and Forms Due to the National Securities Markets Improvement Act of 1996 and the Gramm-Leach-Bliley Act" (RIN3235-AI53) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7699. A communication from the President of the United States, transmitting, pursuant to law, the Final Report on the National Emergency with respect to the Taliban that was Declared in Executive Order 13129 of July 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-7700. A communication from the President of the United States, transmitting, pursuant to law, the report of an Executive Order that terminates the national emergency described and declared in Executive Order 13129 or July 4, 1999, related to the actions and policies of the Taliban, and amends Executive Order 13224 of September 23, 2001, to include reference to Mohammed Omar and the Taliban in the Annex to that order, thus preserving the sanctions imposed against the Taliban; to the Committee on Banking, Housing, and Urban Affairs.

EC-7701. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's report on Government dam use charges; to the Committee on Energy and Natural Resources.

EC-7702. A communication from the Assistant Secretary, Land and Mineral Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations on the Outer Continental Shelf-Suspension of Operations for Exploration Under Salt Sheets" (RIN1010-AC92) received on July 3, 2002; to the Committee on Energy and Natural Resources.

EC-7703. A communication from the Assistant Secretary of 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 or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC-7704. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the 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 Russia, Ukraine, Norway and Cayman Islands; to the Committee on Foreign Relations.

EC-7705. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyhalofo-butyl; Pesticide Tolerance Technical Correction" (FRL7185-1) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7706. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clarified Hydrophobic Extract of Neem Oil; Pesticide Tolerance; Technical Correction" (FRL6835-1) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7707. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oxadix; Tolerance Revocations" (FRL7180-4) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7708. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Poland Because of BSE" (Doc. No. 02-068-1) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7709. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Area" (FRL01-093-2) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7710. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Greece With Regard to Foot-and-Mouth Disease" (Doc. No. 01-059-2) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7711. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification relative to Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Ukraine, Uzbekistan, and Tajikistan; to the Committee on Armed Services.

EC-7712. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to strengthen the management structure of the Office of the Secretary of Defense; to the Committee on Armed Services.

EC-7713. A communication from the Under Secretary of Defense, Comptroller, transmitting, a notice regarding desktop computer management service; to the Committee on Armed Services.

EC-7714. A communication from the Secretary of Defense, transmitting, pursuant to

law, a report regarding the President's approval of a new Unified Command Plan (UCP) that specifies the missions and responsibilities, including geographic boundaries, of the unified combatant command; to the Committee on Armed Services.

EC-7715. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a notice regarding Critical Skills Retention Bonus for Submarine Warfare Officers (112X) and Surface Warfare Officers (111X); to the Committee on Armed Services.

EC-7716. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-7717. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 414: A bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes. (Rept. No. 107-207).

By Mr. LEVIN, from the Committee on Armed Services, with amendments:

S. 2506: An original bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. (Rept. No. 107-208).

NOMINATION DISCHARGED

The following nomination was discharged from the Committee on Governmental Affairs and placed on the executive calendar pursuant to the order of January 5, 2001:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

J. Russell George, of Virginia, to be Inspector General, Corporation for National and Community Service.

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 Mrs. CLINTON (for herself and Mr. DURBIN):

S. 2710. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the health insurance expenses of small business; to the Committee on Finance.

By Mr. INOUE (for himself and Mr. CAMPBELL):

S. 2711. A bill to reauthorize and improve programs relating to Native Americans; to the Committee on Indian Affairs.

By Mr. HAGEL:

S. 2712. A bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. THOMPSON):

S. 2713. A bill to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Mr. KENNEDY, and Mr. SCHUMER):

S. 2714. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. KENNEDY, and Mr. SCHUMER):

S. 2715. A bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 300. A resolution encouraging the peace process in Sri Lanka; to the Committee on Foreign Relations.

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 301. A resolution supporting the National Railroad Hall of Fame, Inc. of Galesburg, Illinois, in its endeavor to erect a monument known as the National Railroad Hall of Fame; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. Res. 302. A resolution honoring Ted Williams and extending the condolences of the Senate on his death; considered and agreed to.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. GRAHAM, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 654, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 699

At the request of Mr. JOHNSON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 699, a bill to provide for substantial reductions in the price of prescription drugs for medicare beneficiaries.

S. 862

At the request of Mrs. FEINSTEIN, the name of the Senator from New York

(Mr. SCHUMER) was added as a cosponsor of S. 862, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

S. 869

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 869, a bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1350

At the request of Mr. DAYTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1350, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1818

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1868

At the request of Mr. BIDEN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1868, a bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

S. 2010

At the request of Mr. LEAHY, the names of the Senator from New York

(Mr. SCHUMER), the Senator from Florida (Mr. NELSON), and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2249

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2249, a bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes.

S. 2328

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2328, a bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing

of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality.

S. 2394

At the request of Mrs. CLINTON, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2394, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients.

S. 2395

At the request of Mr. BIDEN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2395, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors 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. 2558

At the request of Mr. REED, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2562

At the request of Mr. REID, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2611

At the request of Mr. REED, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2636

At the request of Mr. TORRICELLI, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2636, a bill to ensure that the Secretary of the Army treats recreation benefits the same as hurricane and storm damage reduction benefits and environmental protection and restoration.

S. 2663

At the request of Mr. BREAUX, the name of the Senator from Texas (Mrs. HUTCHINSON) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2691

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2691, a bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes.

S. 2707

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2707, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. RES. 258

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 258, a resolution urging Saudi Arabia to dissolve its "martyrs" fund and to refuse to support terrorism in any way.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day."

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2712. A bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2712

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.

Sec. 102. Purposes of assistance.

Sec. 103. Principles of assistance.

Sec. 104. Authorization of assistance.

Sec. 105. Coordination of assistance.

Sec. 106. Administrative provisions.

Sec. 107. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.

Sec. 202. Authorization of assistance.

Sec. 203. Eligible foreign countries and eligible international organizations.

Sec. 204. Reimbursement for assistance.

Sec. 205. Authority to provide assistance.

Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.

Sec. 207. Sunset.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.

Sec. 302. Requirement to report by certain United States officials.

Sec. 303. Report by the President.

(c) DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan's agriculture, health care, civil service, financial, and educational systems.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in

Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to include specific resources to the Ministry for Women's Affairs of Afghanistan to

carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) **TERRORISM AND NARCOTICS CONTROL.**—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

(2) **ROLE OF WOMEN.**—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) **AFGHAN OWNERSHIP.**—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) **STABILITY.**—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) **COORDINATION.**—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) **IN GENERAL.**—The President is authorized to provide assistance for Afghanistan for the following activities:

(1) **URGENT HUMANITARIAN NEEDS.**—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) **REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.**—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining

security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) **COUNTERNARCOTICS EFFORTS.**—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, \$15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) **REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.**—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) **REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.**—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

(xii) support for establishment of a central bank and central budgeting authority.

(B) For each of the fiscal years 2003 through 2005, not less than \$10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than \$1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title \$300,000,000 for each of the fiscal years 2002 through 2004, and \$250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) TYPES OF ASSISTANCE.—

(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105-338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed \$300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized

under Public Law 107-40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

(2) **EXCEPTION.**—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) **WAIVER.**—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) **IN GENERAL.**—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) **AUTHORITY.**—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) **NOTIFICATION.**—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) **FINDINGS.**—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or “Loya Jirga” process, which is intended to lead to a permanent national

government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the “Loya Jirga” process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that “[w]e will help the new Afghan government provide the security that is the foundation of peace”.

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that “the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou’ve got to have security”.

(b) **STATEMENT OF POLICY.**—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) **PREPARATION OF STRATEGY.**—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for

meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

SEC. 207. SUNSET.

The authority of this title shall expire after December 31, 2004.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

(a) **REQUIREMENT.**—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

(b) **DEFINITION.**—In this section, the term “appropriate official” means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

SEC. 303. REPORT BY THE PRESIDENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

By Mr. LEAHY (for himself and Mr. THOMPSON):

S. 2713. A bill to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the Judicial Improvements Act of 2002, a bipartisan bill that will amend judicial discipline procedures to ensure fair consideration of judicial misconduct complaints. I am pleased to have Senator THOMPSON as a cosponsor of this legislation, and I look forward to moving this bill through the Senate.

While I am introducing legislation addressing judicial misconduct, I want

to be clear that the vast majority of judges serve honorably. As chairman of the Judiciary Committee, I take a special responsibility for evaluating nominees to ensure they are fit to serve. Despite the scrutiny judicial nominees undergo, however, we have faced situations when judges have acted improperly. Some have even been convicted of criminal offenses. In the late 1980s, the Senate convicted three Federal judges who were impeached by the House. This bill does not alter the Congress' responsibility to impeach and convict judges where necessary, but it does refine the process—originally created by Congress in the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, by which aggrieved citizens can bring complaints that can be evaluated through an impartial review.

Under the framework codified by this bill, a person with a complaint about a judge's conduct may file a written complaint with the clerk of the court of appeals for the judge's circuit. The chief judge must review the complaint and either dismiss it, if it meets certain narrow criteria, or refer it to a panel of judges from the circuit. The judge who is the subject of the complaint retains the right to present evidence and argue before the panel. The circuit council may certify the judge's misconduct of disability and request that the judge voluntarily retire, but may not order removal from office. A complainant or judge aggrieved by an action of a judicial council can petition the Judicial Conference for review. And if a complaint is dismissed, the judge who was its subject may be reimbursed for reasonable expenses, including attorneys' fees, incurred during the investigation.

If a judicial council determines that an Article III judge has acted in a way that might constitute grounds of impeachment, it must certify such determination to the Judicial Conference, which can in turn refer that determination to the House of Representatives.

With very limited exceptions, all matters related to judicial misconduct investigations must be confidential and not disclosed by any person in any proceeding. This provision protects judges who are accused falsely of wrongdoing while also ensuring confidentiality for those with legitimate complaints.

The bill also forbids judges who have been convicted of a State or Federal felony and have exhausted all available means for direct review of that conviction from hearing or deciding cases or accruing credit toward retirement benefits, unless the judicial council of the circuit determines otherwise. This measure, like many of the measures in this legislation, was recommended in 1993 by the nonpartisan National Commission on Judicial Discipline and Removal.

Some may question whether this bill raises separation of powers concerns. It does not. This bill is narrowly tailored, as was the 1980 law that this bill

amends, to ensure that Congress gives the judiciary the powers it needs to regulate itself while preserving its constitutional role in the impeachment process. The general scheme we established in 1980 has worked well, and has conformed with our constitutional principles. This bill simply seeks to improve that system where it has shown to be lacking. To give one example, experts in this area have suggested that many litigants and interested parties are unaware of the existence of these procedures—to rectify that, we create a separate chapter within title 28 of the U.S. Code to promote knowledge and use of these procedures. It also clarifies the authority of the chief judge of a circuit and the standard by which a complaint can be dismissed as frivolous, and makes explicit that complaints can be referred to a five-member panel for examination.

Highly similar legislation has already been reported from the House Judiciary Committee with strong bipartisan support. I hope that my colleagues in the Senate review and support this bill, and that we can make it law this year.

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

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

S. 2713

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 "Judicial Improvements Act of 2002".

SEC. 2. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

"CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

"Sec.

"351. Complaints; judge defined.

"352. Review of complaint by chief judge.

"353. Special committees.

"354. Action by judicial council.

"355. Action by Judicial Conference.

"356. Subpoena power.

"357. Review of orders and actions.

"358. Rules.

"359. Restrictions.

"360. Disclosure of information.

"361. Reimbursement of expenses.

"362. Other provisions and rules not affected.

"363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.

"364. Effect of felony conviction.

"§ 351. Complaints; judge defined

"(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of

the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

"(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

"(d) DEFINITIONS.—In this chapter—

"(1) the term 'judge' means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

"(2) the term 'complainant' means the person filing a complaint under subsection (a) of this section.

"§ 352. Review of complaint by chief judge

"(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

"(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

"(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

"(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

"(1) dismiss the complaint—

"(A) if the chief judge finds the complaint to be—

"(i) not in conformity with section 351(a);

"(ii) directly related to the merits of a decision or procedural ruling; or

"(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

"(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

"(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the

judge whose conduct is the subject of the complaint.

“(C) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

“§ 353. Special committees

“(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

“(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

“(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

“(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

“(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

“§ 354. Action by judicial council

“(a) ACTIONS UPON RECEIPT OF REPORT.—

“(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

“(A) may conduct any additional investigation which it considers to be necessary;

“(B) may dismiss the complaint; and

“(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

“(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

“(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

“(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

“(ii) censuring or reprimanding such judge by means of private communication; and

“(iii) censuring or reprimanding such judge by means of public announcement.

“(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

“(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

“(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

“(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

“(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

“(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

“(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

“(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) REFERRAL TO JUDICIAL CONFERENCE.—

“(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

“(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

“(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

“(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

“(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

“§ 355. Action by Judicial Conference

“(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

“(b) IF IMPEACHMENT WARRANTED.—

“(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record

of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

“(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

“§ 356. Subpoena power

“(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

“(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

“§ 357. Review of orders and actions

“(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

“(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

“(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“§ 358. Rules

“(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

“(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

“(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

“(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

“(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

“(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within

which a person may file a complaint under this chapter.

“§ 359. Restrictions

“(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

“(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

“§ 360. Disclosure of information

“(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

“(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

“(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

“(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

“(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

“§ 361. Reimbursement of expenses

“Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

“§ 362. Other provisions and rules not affected

“Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

“§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

“The United States Court of Federal Claims, the Court of International Trade,

and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

“§ 364. Effect of felony conviction

“In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

“(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

“(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.”

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

“16. Complaints against judges and judicial discipline 351”.

SEC. 3. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

(A) in the section caption by striking “; judicial discipline”; and

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking “; judicial discipline”.

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking “section 372(c)” each place it appears and inserting “chapter 16”.

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking “section 372(c) of this title” and inserting “chapter 16 of this title”; and

(B) by striking “372(c)(4)” and inserting “353”; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28, United States Code, is amended by striking “section 372(c)” and inserting “chapter 16”.

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking “372(c)(11)” and inserting “358”; and

(B) in subparagraph (C), by striking “372(c)(15)” and inserting “360(b)”; and

(2) in subsection (h)—

(A) in paragraph (1), by striking “section 372” each place it appears and inserting “chapter 16”; and

(B) in paragraph (2), by striking “section 372(c)” and inserting “chapter 16”.

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “section 372(c)” and inserting “chapter 16”; and

(B) by striking “such section” and inserting “such chapter”; and

(2) in paragraph (2)—

(A) in the first sentence, by striking “paragraphs (7) through (15) of section 372(c)” and inserting “sections 354(b) through 360”; and

(B) in the second sentence, by striking “paragraph (7) or (8) of section 372(c)” and inserting “section 354(b) or 355”; and

(3) in paragraph (3)(B), by striking “372(c)(16)” and inserting “361”.

SEC. 4. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 300—ENCOURAGING THE PEACE PROCESS IN SRI LANKA

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 300

Whereas the United States has enjoyed a long and cordial friendship with Sri Lanka;

Whereas the people of Sri Lanka have long valued political pluralism, religious freedom, democracy, and a respect for human rights;

Whereas the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam have waged a protracted and costly war for the past 19 years;

Whereas an estimated 65,000 people have died in Sri Lanka as a result of these hostilities;

Whereas the war has created an estimated 1,000,000 displaced persons over the course of the conflict;

Whereas 19 years of war have crippled the economy of the north and east of Sri Lanka and resulted in low growth rates and economic instability in the south of Sri Lanka;

Whereas the economic impact of the conflict is felt most severely by the poor in both the north and the south of Sri Lanka;

Whereas efforts to solve the conflict through military means have failed and neither side appears able to impose its will on the other by force of arms;

Whereas the Government of Norway has offered and been accepted by the parties of the conflict to play the role of international facilitator;

Whereas an agreement on a cease-fire between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam was signed by both parties and went into effect February 23, 2002; and

Whereas both the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam have agreed to meet for peace talks in Thailand: Now, therefore, be it

Resolved, That the Senate—

(1) notes with great satisfaction the warm and friendly relations that have existed between the people of the United States and Sri Lanka;

(2) recognizes that the costly military stalemate that has existed between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam can only be resolved at the negotiating table;

(3) believes that a political solution, including appropriate constitutional structures and adequate protection of minority rights and cessation of violence, is the path to a comprehensive and lasting peace in Sri Lanka;

(4) calls on all parties to negotiate in good faith with a view to finding a just and lasting political settlement to Sri Lanka's ethnic conflict while respecting the territorial integrity of Sri Lanka;

(5) denounces all political violence and acts of terrorism in Sri Lanka, and calls upon those who espouse or use such methods to reject these methods and to embrace dialogue, democratic norms, and the peaceful resolution of disputes;

(6) applauds the important role played by Norway in facilitating the peace process between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam;

(7) applauds the cooperation of the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in lifting the cumbersome travel restrictions that for the last 19 years have hampered the movement of goods, services, and people in the war-affected areas;

(8) applauds the agreement of the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in implementing the Sri Lanka Monitoring Mission;

(9) calls on all parties to recognize that adherence to internationally recognized human rights facilitates the building of trust necessary for an equitable, sustainable peace;

(10) further encourages both parties to develop a comprehensive and effective process for human rights monitoring;

(11) states its willingness in principle to see the United States lend its good offices to play a constructive role in supporting the peace process, if so desired by all parties to the conflict;

(12) calls on members of the international community to use their good offices to support the peace process and, as appropriate, lend assistance to the reconstruction of war-damaged areas of Sri Lanka and to reconciliation among all parties to the conflict; and

(13) calls on members of the international community to ensure that any assistance to Sri Lanka will be framed in the context of supporting the ongoing peace process and will avoid exacerbating existing ethnic tensions.

Mr. LUGAR. Mr. President, I rise today to submit a resolution encouraging the ongoing peace process in Sri Lanka. It was recently announced that Norway has agreed to mediate a new round of peace talks. The peace process brings hope that a continued commitment to democracy and human rights might be realized through lasting peace.

The roots of the current crisis began in the early 1800's when Sri Lanka fell subject to British colonial rule. Indian Tamil laborers were brought to Sri Lanka to develop and maintain numerous plantations. This practice doubled the number of Tamils in Sri Lanka and further diversified the population. In 1948, Sri Lanka gained its independence from Britain and rose above bitter communal and religious issues and established a democratize government.

Regrettably, issues of language and alleged government bias propelled this once peaceful nation into brutal civil war. The Liberation Tigers of Tamil Eelam became the leading rebel group in the struggle against the government. Over the last two decades, an es-

timated sixty-five thousand people have been killed and one million have been displaced by the fighting. The nation once referred to as the "pearl upon the brow of India" has become known as the "fallen tear."

The situation is not without hope. The people of Sri Lanka demand peace and with the assistance of Norway, the sides have once again returned to the negotiating table. Past failures shed some light on the difficult path that lies ahead and the tremendous work that lies before Norwegian mediators. Norway's offer to mediate talks was accepted in 1999. By keeping the negotiations secret, Norway has gained the cautious trust and respect of both sides. The fighting has ceased, and negotiations are planned to begin in Thailand in the near future.

One of my constituents, the Reverend Paul Jahn, and the Indiana-Kentucky Conference have placed a critical role in bringing peace to Sri Lanka. Reverend Jahn and the conference have dedicated a significant amount of time and effort to this important effort. They have raised significant amounts of funding for various relief efforts in Sri Lanka and continue to make valuable contributions to the peace process. I want to thank Reverend Jahn, a minister at St. Peter and Trinity United Church of Christ in Lamar, IN, and the Conference for suggesting the important role this resolution could play in expressing American support for the peace process.

I urge the Congress, through this resolution, to express its support for these efforts and to encourage both sides to resolve their differences as expeditiously as possible. The United States finds itself at a time when our international responsibilities are great, and yet it remains essential that we continue to support the realization of peace and democracy wherever it exists. To do this, I urge my colleagues to adopt this resolution, and show our support for Norwegian mediators as they endeavor to make it possible for Sri Lanka to enjoy the virtues that have made our nation, and so many nations around the world, just and free.

SENATE RESOLUTION 301—SUPPORTING THE NATIONAL RAILROAD HALL OF FAME, INC. OF GALESBURG, ILLINOIS, IN ITS ENDEAVOR TO ERECT A MONUMENT KNOWN AS THE NATIONAL RAILROAD HALL OF FAME

Mr. DURBIN (for himself and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 301

Whereas Galesburg, Illinois, has been linked to the history of railroading since 1849 when the Peoria and Oquawka Railroad was organized;

Whereas the citizens of Galesburg supported a railroad to Chicago which was chartered as the Central Military Tract Railroad in 1851;

Whereas upon completion of the Central Military Tract Railroad, the Northern Cross Railroad joined the Central Military Tract Railroad at Galesburg;

Whereas in 1886 Galesburg secured the Atchison, Topeka and Santa Fe Railway and became one of the few places in the world served by 2 major railroads;

Whereas the National Railroad Hall of Fame, Inc., has been established in Galesburg and chartered under the laws of the State of Illinois as a not-for-profit corporation;

Whereas the objectives of the National Railroad Hall of Fame, Inc., include (1) perpetuating the memory of leaders and innovators in the railroad industry, (2) fostering, promoting, and encouraging a better understanding of the origins and growth of railroads, especially in the United States, and (3) establishing and maintaining a library and collection of documents, reports and other items of value to contribute to the education of all persons interested in railroading; and

Whereas the National Railroad Hall of Fame, Inc., is planning to erect a monument known as the National Railroad Hall of Fame to honor the men and women who actively participated in the founding and development of the railroad industry in the United States: Now, therefore, be it

Resolved, That the Senate supports the National Railroad Hall of Fame, Inc., of Galesburg, Illinois, in its endeavor to erect a monument known as the National Railroad Hall of Fame.

Mr. DURBIN. Mr. President, I rise today to submit a resolution with my colleague, Senator PETER FITZGERALD, in support of the establishment of the National Railroad Hall of Fame in Galesburg, IL.

The State of Illinois has played a pioneering role in the growth of the railroad industry. The history of Illinois railroading dates back to 1837 with the creation of the Northern Cross Railroad linking the Illinois and Mississippi Rivers. The city of Galesburg joined Chicago by rail seventeen years later in 1854. The Carl Sandburg College of Galesburg is today the home of the first accredited railroad degree program.

So it is only natural that the National Railroad Hall of Fame would be established in Galesburg. This privately-funded museum will highlight the efforts of men and women whose hard work and resourcefulness helped build one of the nation's best modes of transportation. It will also help promote and encourage a better understanding of the origins and growth of the railroad industry. The vision of the National Railroad Hall of Fame will span more than two centuries, from the dawn of the American railroad, through the Golden Age of railroading, and up through the modern era, in which railroads remain a critical aspect of the transportation industry. The museum will also be a center of learning and debate, as well as a library of historical materials.

Fourteen members of the House of Representatives have brought forward an identical measure in that chamber. Approval by the Senate will be an important step toward the erection of this monument. I urge the Senate to

adopt this resolution in a timely fashion so that we can properly honor the railroad industry and its many pioneers.

SENATE RESOLUTION 302—HONORING TED WILLIAMS AND EXTENDING THE CONDOLENCES OF THE SENATE ON HIS DEATH

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 302

Whereas Theodore Samuel Williams served the Nation with honor and distinction as a Naval Aviator during World War II and as a Marine fighter pilot during the Korean War;

Whereas Ted Williams, during his service in the Marines during the Korean War, flew on 39 combat missions and earned an Air Medal and 2 Gold Stars;

Whereas Ted Williams became the greatest hitter in baseball history while playing with the Boston Red Sox from 1939-1960;

Whereas Ted Williams, during his career with the Boston Red Sox, even after losing 5 years to military service, had 2654 total hits, 521 home runs, and a lifetime batting average of .344;

Whereas as a member of the Boston Red Sox, Ted Williams hit for an average of .406 in 1941 and was the last major league baseball player to hit for an average above .400;

Whereas as a member of the Boston Red Sox, Ted Williams led the American League in batting 6 times, in slugging percentage 9 times, in total bases 6 times, and in runs scored 6 times;

Whereas as a member of the Boston Red Sox, Ted Williams won 2 Triple Crowns, was twice named the Most Valuable Player of the American League, and was chosen as an American League All-Star 16 times;

Whereas Ted Williams was elected to the Baseball Hall of Fame in 1966; and

Whereas Ted Williams provided invaluable assistance to the Commonwealth of Massachusetts through his efforts on behalf of and in support for the Jimmy Fund in order to help eradicate cancer in children: Now, therefore, be it

Resolved, That the Senate—

(1) honors the achievements of Ted Williams;

(2) expresses its deepest sympathies and condolences to the family of Ted Williams on his passing; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Ted Williams.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4174. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON, of Florida)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the

objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

SA 4175. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) to the bill (S. 2673) supra.

SA 4176. Mr. MILLER proposed an amendment to the bill S. 2673, supra.

SA 4177. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4178. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4179. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4180. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4181. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4174. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes:

On page 117, after line 12, add the following:

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the "Corporate and Criminal Fraud Accountability Act of 2002".

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

"Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or

makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

"§ 1520. Destruction of corporate audit records

"(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

"(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies.

"(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

"1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

"1520. Destruction of corporate audit records."

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) arises under a claim relating to—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results, in relation to any claim described in subparagraph (A), from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

- (1) by inserting “(a)” before “Except”; and
- (2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) 5 years after the date on which the alleged violation occurred; or

“(2) 2 years after the date on which the alleged violation was discovered.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be

entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SEC. 807. CRIMINAL PENALTIES FOR DEFAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”.

SA 4175. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure,

to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes:

At the end of the amendment add the following:

SEC. 302. CORPORATE AND LABOR ORGANIZATION RESPONSIBILITY FOR FINANCIAL REPORTS AND DISCLOSURE REQUIREMENTS.

(a) FINANCIAL REPORTS.—

(1) CERTIFICATION OF REPORTS.—

(A) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(B) CERTIFICATION OF FINANCIAL REPORTS BY LABOR ORGANIZATIONS.—

(i) IN GENERAL.—Each financial report filed by a labor organization with the Secretary of Labor pursuant to section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) shall be accompanied by a written statement by the president and secretary-treasurer (or the equivalent thereof) of the labor organization.

(ii) DEFINITION.—In this subparagraph, the term “labor organization” has the meaning given the term in section 3 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402).

(2) CONTENT.—The statement required by paragraph (1) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer or labor organization.

(3) CONFORMING AMENDMENT.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 is amended, in the matter preceding paragraph (1), by inserting “(and accompanied by the statement described in section 302(a)(1)(B) of the Public Company Accounting Reform and Investor Protection Act of 2002)” after “officers”.

(b) REPORTING REQUIREMENTS.—

(1) FINANCIAL REPORTING FOR LABOR ORGANIZATIONS EQUIVALENT TO REQUIRED REPORTING OF PUBLIC COMPANIES.—Section 201 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431) is amended by adding at the end the following:

“(d)(1) In the case of a labor organization with gross annual receipts for the fiscal year in an amount equal to \$200,000 or more, the information required under this section shall be reported using financial reporting procedures comparable to procedures required for periodic and annual reports of public companies pursuant to sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(2)(A) Such information shall be reviewed by a certified public accountant using generally accepted auditing standards applicable to reporting companies under the Securities and Exchange Act of 1934.

“(B) Such audit shall be conducted subject to requirements comparable to the requirements under section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1).

“(3) Such information shall be reported using generally accepted accounting procedures comparable to the procedures required for public companies under sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(4) The authority provided under this subsection shall be in addition to the authority

provided under subsection (b) and section 208, regarding reporting procedures and review of information required under this section.”.

(2) REMEDIES AND PENALTIES FOR VIOLATIONS OF REPORTING REQUIREMENTS.—Section 210 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 440) is amended—

(A) by striking “Whenever” and inserting “(a) Whenever”; and

(B) by adding at the end the following:

“(b)(1) If the Secretary finds, on the record after notice and opportunity for hearing, that any person has willfully violated any provision of section 201(d), the Secretary may impose a civil monetary penalty in an amount not to exceed the amount for any comparable violation under section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2).

“(2) In the case of a violation of an auditing requirement under section 201(d)(2) by a public accountant, the Secretary may impose a civil monetary penalty in the same manner as penalties are imposed under section 10A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(d)).

“(3) For purposes of any action brought by the Secretary under paragraph (1), any person who knowingly provides substantial assistance to another person in violation of a provision of section 201(d), or of any rule or regulation issued under such section (including aiding, abetting, counseling, commanding, or inducing such violation) shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

“(c)(1) Any person who makes or causes to be made any statement in any report or document required to be filed under section 201(d) which statement was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who relied upon such statement. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction.

“(2) In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys’ fees, against either party litigant.

“(3) The recovery and statute of limitation provisions of subsections (b) and (c) of section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) shall apply for purposes of any action under this subsection.

“(d) In any action arising under subsection (c) or (d) in connection with any provision of section 201(d), the provisions of section 27(c) of the Securities Act of 1933 (15 U.S.C. 77z-1(c)) regarding abusive litigation shall apply.”.

(3) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, shall promulgate such regulations as the Secretary determines necessary to carry out the provisions and purposes of this subsection (including the amendments made by this subsection) and to ensure the provisions of this subsection are carried out in a manner comparable to the manner any similar provisions are carried out by the Securities and Exchange Commission.

SA 4176. Mr. MILLER proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company

Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS

SEC. 801. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 of the Internal Revenue Code of 1986 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: “The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SA 4177. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. —. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privilege, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SA 4178. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial

reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . INVESTIGATION AND PROSECUTION OF OFFENSES.

Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

“(5) **EQUITABLE RELIEF.**—In any action brought by the Commission under any provision of the securities laws against any person, the Commission may seek, and Federal courts may grant, any equitable relief appropriate or necessary for the benefit of investors.

“(6) **DISGORGEMENT OF BENEFITS.**—In any action or proceeding brought or instituted by the Commission under the securities laws against any person for engaging in, causing, or aiding and abetting any violation of the securities laws or the rules and regulations prescribed under those laws, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.”.

SA 4179. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 14 and 15, insert the following:

SEC. 110. OVERSIGHT AUDITING OF PUBLIC COMPANIES.

(a) **ESTABLISHMENT OF DIVISION.**—There is established within the Office of the Chief Accountant of the Commission, the Division of Oversight Audits, which shall be charged with responsibility for conducting oversight audits of issuers, at such times, and in accordance with such procedures as the Commission shall establish, by rule.

(b) **STRUCTURE AND OVERSIGHT.**—The Division of Oversight Audits shall be headed by the Chief Accountant of the Commission. Notwithstanding any other provision of law,

following the end of the term of employment of the Chief Accountant in effect on the date of enactment of this Act, the Chief Accountant shall be appointed by the President, with the advice and consent of the Senate, and may be removed at will by the President. The Chief Accountant shall be appointed to a 5-year term, and may not serve for more than 2 terms.

(c) **PURPOSE, FUNCTIONS, AND DUTIES.**—The Division of Oversight Audits shall be responsible for—

(1) reviewing and conducting oversight audits of the financial statements of issuers; and

(2) using its resources effectively to focus on highest risk audit areas and to target questionable audit practices of which the Division of Oversight Audits is aware from communications with the Division of Enforcement of the Commission and the Board.

(d) **REPORTS.**—On an annual basis, the Division of Oversight Audits shall report its findings and make recommendations for change to—

(1) the Commission;

(2) the Board; and

(3) the Comptroller General of the United States.

(e) **REFERRALS.**—

(1) **IN GENERAL.**—The Division of Oversight Audits shall refer findings of accounting or auditing irregularity to—

(A) the Division of Enforcement of the Commission for further investigation of the issuer or the public accounting firm, as appropriate; and

(B) the Board for further investigation of the public accounting firm, as appropriate.

(2) **OTHER REFERRALS.**—If appropriate, the Division of Oversight Audits may refer findings of accounting or auditing irregularity to—

(A) any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an audit report for an institution that is subject to the jurisdiction of such regulator;

(B) the Attorney General of the United States;

(C) the attorneys general of 1 or more States; or

(D) the appropriate State regulatory authority.

(f) **FUNDING.**—

(1) **IN GENERAL.**—The Division of Oversight Audits shall be funded exclusively as provided in this subsection.

(2) **ANNUAL BUDGETS.**—The Division of Oversight Audits shall establish a budget for each fiscal year, which shall be subject to approval by the Commission.

(3) **SOURCES AND USES OF FUNDS.**—The budget of the Division of Oversight Audits for each fiscal year shall be payable from annual accounting support fees, in accordance with paragraph (4).

(4) **ANNUAL ACCOUNTING SUPPORT FEE.**—The annual accounting support fee for the Division of Oversight Audits—

(A) shall be allocated in accordance with paragraph (5), and assessed and collected against each issuer, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of the Division, and to provide for an independent, stable source of funding for the Division, subject to review by the Commission; and

(B) may differentiate among different classes of issuers.

(5) **ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.**—Any amount due from issuers (or a particular class of issuers) under this subsection to fund the budget of the Division of Oversight Audits shall be allocated among and payable by each issuer (or

each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(A) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(B) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

SA 4180. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, strike lines 1 through 19, and insert the following:

“(9) the opining on a financial statement with respect to the proper financial statement results of—

“(A) any listed transaction, or

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax,

but only if the registered public accounting firm (or any such associated person of such firm) has directly or indirectly provided any material aid, assistance, or advice with respect to the organizing, promoting, selling, implementing, or carrying out of such listed or reportable transaction, and

“(10) any other service that the Board determines, by regulation, is impermissible.

“(h) RULES AND DEFINITIONS RELATING TO NON-AUDIT SERVICES.—

“(1) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (10) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).

“(2) REPORTABLE AND LISTED TRANSACTIONS.—For purposes of subsection (g)(9)—

“(A) REPORTABLE TRANSACTION.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011 of the Internal Revenue Code of 1986, such transaction is of a type which the Secretary of the Treasury determines as having a potential for tax avoidance or evasion.

“(B) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or similar to, a transaction specifically identified by the Secretary of the Treasury as a tax avoidance transaction for purposes of section 6011 of such Code.”.

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or

transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107. This subsection shall not apply to services described in paragraph (9) of such section 10A(g).

SA 4181. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BANKRUPTCY PROVISIONS.

(a) PREFERENCES.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) A trustee may avoid any transfer made within 1 year before the date of the filing of the petition that was made to an insider, officer, or director for any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court.”.

(b) FRAUDULENT TRANSFERS AND OBLIGATIONS.—Section 548(a) of title 11, United States Code, is amended by adding at the end the following:

“(3) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, including any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court, paid to any officer, director, or employee of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002), if—

“(A) that transfer of interest or obligation was made or incurred on or within 4 years before the date of the filing of the petition; and

“(B) the officer, director, or employee was directly or indirectly responsible for—

“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), State securities laws, or any regulation or order issued under Federal or State securities laws;

“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; or

“(iii) improper, illegal, or deceptive accounting practices.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, July 9, 2002, at 2:30 p.m. to conduct a hearing to receive testimony on Sections 2015, 2016, 2017(a) and (b), 2018 and 2019 of S. 2225, the National Defense Authorization Act for Fiscal Year 2003.

The hearing will be held in SD-406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

Agenda

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, 2002 at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees: Mr. John Blaney, of Virginia, to be Ambassador to the Republic of Liberia; Ms. Aurelia Brazeal, of Georgia, to be Ambassador to the Federal Democratic Republic of Ethiopia; Mr. Martin Brennan, of California, to be Ambassador to the Republic of Zambia; Mr. J. Anthony Holmes, of California, to be Ambassador to Burkina Faso; Ms. Vicki Huddleston, of Arizona, to be Ambassador to the Republic of Mali; Mr. Donald Johnson, of Texas, to be Ambassador to the Republic of Cape Verde; Mr. Jimmy Kolker, of Missouri, to be Ambassador to the Republic of Uganda; Ms. Gail Mathieu, of New Jersey, to be Ambassador to the Republic of Niger; Mr. Richard Roth, of Michigan, to be Ambassador to the Republic of Senegal; and to serve concurrently and without additional compensation as Ambassador to the Republic of Guinea-Bissau; and Mr. James Yellin, of Pennsylvania, to be Ambassador to the Republic of Burundi.

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

COMMITTEE ON HEALTH, EDUCATION, AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Nomination of Dr. Richard H. Carmona, of Arizona to be Surgeon General of the Public Health Service during the session of the Senate on Tuesday, July 9, 2002 at 10 a.m. in SD-430.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The President's Commission on Excellence in Special Education during the session of the Senate on Tuesday, July 9, 2002 at 2:30 p.m. in SD-430.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, July 9, 2002 from 2:30 p.m.—5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on "Identity Theft Penalty Enhancement Act of 2002" on Tuesday, July 9, 2002, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Agenda

Witnesses Dan Collins, Deputy Associate Attorney General, Department of Justice, Washington, DC; Howard Beales, Director, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC; and Dennis Lormel, Section Chief, Terrorism Financial Review Group, Federal Bureau of Investigation, Washington, DC.

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent floor privileges be extended to Karen Wayland, a legislative fellow in the Office of Senator REID of Nevada.

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

UNANIMOUS CONSENT REQUEST—
H.R. 3009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 3009, the Andean Trade Act; that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate, with the ratio being three Democrats, two Republicans.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I am very disappointed. This is a matter that the President has talked about needing to move forward. I assume the objection is on the number of Senators in the conference. If this legislation is important, I would hope the President would weigh in and say let's get it done no matter what the ratio.

HONORING TED WILLIAMS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 302 submitted earlier today by Senators KERRY and KENNEDY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 302) honoring Ted Williams and extending the condolences of the Senate on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I think all of us my age and a little younger, and, of course, a little older, remember this great baseball player. Think how good he would have been had he not served his country in the U.S. military for 5 years. He did that during the prime of his baseball career. He served valiantly, as reported by John Glenn. I think a lot of us have seen John Glenn talking about the person who flew combat with him in Korea.

I ask unanimous consent that the resolution submitted by Senators KERRY and KENNEDY and the preamble be agreed to en bloc and the motion to reconsider be laid upon the table, without intervening action or debate.

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

The resolution (S. Res. 302) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 302

Whereas Theodore Samuel Williams served the Nation with honor and distinction as a Naval Aviator during World War II and as a Marine fighter pilot during the Korean War;

Whereas Ted Williams, during his service in the Marines during the Korean War, flew on 39 combat missions and earned an Air Medal and 2 Gold Stars;

Whereas Ted Williams became the greatest hitter in baseball history while playing with the Boston Red Sox from 1939-1960;

Whereas Ted Williams, during his career with the Boston Red Sox, even after losing 5 years to military service, had 2654 total hits, 521 home runs, and a lifetime batting average of .344;

Whereas as a member of the Boston Red Sox, Ted Williams hit for an average of .406 in 1941 and was the last major league baseball player to hit for an average above .400;

Whereas as a member of the Boston Red Sox, Ted Williams led the American League in batting 6 times, in slugging percentage 9 times, in total bases 6 times, and in runs scored 6 times;

Whereas as a member of the Boston Red Sox, Ted Williams won 2 Triple Crowns, was twice named the Most Valuable Player of the American League, and was chosen as an American League All-Star 16 times;

Whereas Ted Williams was elected to the Baseball Hall of Fame in 1966; and

Whereas Ted Williams provided invaluable assistance to the Commonwealth of Massachusetts through his efforts on behalf of and in support for the Jimmy Fund in order to help eradicate cancer in children: Now, therefore, be it

Resolved, That the Senate—

(1) honors the achievements of Ted Williams;

(2) expresses its deepest sympathies and condolences to the family of Ted Williams on his passing; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Ted Williams.

BENJAMIN FRANKLIN
TERCENTENARY COMMISSION

Mr. REID. I ask unanimous consent the Senate proceed to Calendar No. 309, H.R. 2362.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2362) to establish the Benjamin Franklin Tercentenary Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD at the appropriate place, without intervening action or debate.

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

The bill (H.R. 2362) was read for the third time and passed.

ORDERS FOR WEDNESDAY, JULY
10, 2002

Mr. REID. I ask unanimous consent when the Senate completes its business tonight, it adjourn until 9:30 tomorrow morning, Wednesday, July 10; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m. the Senate resume consideration of the accounting reform bill.

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

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:38 p.m., adjourned until Wednesday, July 10, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by
the Senate July 9, 2002:

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

FREDERICK W. GREGORY, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, VICE JAMES R. THOMPSON, JR., RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009, VICE BETH SUSAN SLAVET, TERM EXPIRED.

NATIONAL MEDIATION BOARD

HARRY R. HOGLANDER, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2005, VICE MAGDALENA G. JACOBSEN, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

QUANAH CROSSLAND STAMPS, OF VIRGINIA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE GARY NILES KIMBLE, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER 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

LT. GEN. BRYAN D. BROWN, 0000

THE FOLLOWING NAMED OFFICER 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. PHILIP R. KENSINGER JR., 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS 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. MARTIN R. BERNDT, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MICHAEL D. MALONE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JOHN B. NATHMAN, 0000