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Senate

The Senate met at 10 a.m., and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. Cecil H. Perry, of Oak Hill, WV, a guest of Senator ROBERT BYRD.

PRAYER

The guest Chaplain offered the following prayer:

As we pause to pray, we are grateful for this wonderful privilege the Bible says in John 9:31 is only given to those that worship God and do His will. It is a time in which the almighty God, the God of Heaven and Earth, the only true living God, condescends to be here in this most precious hour before this group of American citizens exercising one of the freedoms they possess—that of assembly, seeking to bring to fruition matters that are good and best for our beloved Nation—America under God.

God, we pray that You will smile upon these Senators who chose a life of public service. Strengthen them that they can give their full measure of service in this session and all future ones, remembering that God's word is the final authority in all matters.

In the name of Jesus I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

ORDER OF PROCEDURE

Mr. REID. Senator BYRD, the President pro tempore of the Senate, is in the Chamber this morning and is going to make some comments regarding the guest Chaplain. I ask unanimous consent that Senator BYRD be recognized for whatever time he feels is appropriate. Following that, after the Chair announces morning business, the Republican time has already been set aside as the first half hour. I ask unanimous consent that Senator WELLSTONE be recognized for the second half hour and that the time of Senator BYRD precede the time for morning business and would not take any part of that half hour from either the majority or the minority.

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

MEASURES PLACED ON THE CALENDAR—S.J. RES. 45, H.R. 3534, AND H.R. 4793

Mr. REID. There are two bills and a joint resolution at the desk, S.J. Res. 45, H.R. 3534, and H.R. 4973, having been read the first time, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask unanimous consent that it be in order for these bills and the joint resolution to receive a second reading en bloc, but then I would object to any further proceedings on these matters.

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

The clerk will read the bills and joint resolution by title.

The assistant legislative clerk read the bills and joint resolution as follows:

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

A bill (H.R. 4793) to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases.

A bill (H.R. 3534) to provide for the settlement of certain land claims of Cherokee, Choctaw, and Chickasaw Nations to the Arkansas Riverbed in Oklahoma.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills and joint resolution will be placed on the calendar.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

WELCOME AND HAPPY BIRTHDAY TO REVEREND CECIL PERRY OF WEST VIRGINIA

Mr. BYRD. Mr. President, this morning's inspirational invocation was delivered by the Rev. Cecil Perry from Oak Hill, WV. I am pleased and proud to announce today, October 3, is the Reverend Mr. Perry's 85th birthday.

I am also pleased and proud to point out that more than 50 years ago—as a matter of fact, it was more than 60 years ago—Mr. Perry and I worked together as meat cutters in the New River Company Store near Beckley, WV. Our careers took us on different paths. Mine became a career in public service. Mr. Perry became a coal miner. That is a very honorable title, a ''coal miner.'' The man who raised me was a coal miner. My wife's father was a coal miner. My wife's brother-in-law

died of silicosis pneumoconiosis, which he contracted through working in the coal mines. His father was killed by a slate fall in a coal mine. So the coal miners have a great heritage of which they can be proud.

After attending the Appalachian Bible Institute, the Reverend Mr. Perry was ordained in 1957 as a Baptist minister. For the next 40 years, he preached the word of God throughout southern West Virginia.

The Senate chaplain's office, at my request, invited Mr. Perry to come to the Nation's Capital and deliver the Senate prayer for us today. I am pleased the Reverend Mr. Perry brought with him his wonderful family, including his son David Perry, who is a delegate in the West Virginia State legislature, and also his daughter Nancy James. Accompanying them are Cecil Perry's 4 grandchildren and 12 great grandchildren. I am glad the family has come to Washington and is visiting the U.S. Capitol. I trust they will return to the hills of our beloved West Virginia rewarded and informed by their visit here.

The Scriptures say: ''Let the elders that rule well be counted worthy of double honor, especially they who labor in the word and doctrine''—1 Timothy 5:17.

The Reverend Mr. Perry has ''ruled well.'' He has ''labor[ed] in the word and doctrine.'' He is ''worthy of double honor.''

I am delighted, as a Senator from West Virginia, in having this good man visit the Senate today, and I thank him for helping us to begin our day with his eloquent and uplifting words which were not written but came from the heart. Happy Birthday, Mr. Perry.

Last night, I passed beside the blacksmith's door
And heard the anvil ring the vesper chime
And looking in I saw upon the floor
Old hammers, worn with beating years of time

''How many anvils have you had'', said I
''To wear and batter all these hammers so?''
''Only one,'' the blacksmith said, with twinkling eye.
''The anvil wears the hammers out, you know.''

And so, the Bible, anvil of God's Word
For centuries, skeptic blows have beat upon
And though the noise of falling blows was heard,
The anvil is unharmed—the hammers, gone.

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 11:30 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.

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. SESSIONS. 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.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. SESSIONS. Mr. President, we are considering the conference report on the Department of Justice Authorization Act. I would like to highlight a few matters in that bill that I believe are important to justice in America.

I serve on the Senate Judiciary Committee and have wrestled with a number of these issues, both as a Federal prosecutor and as a member of the committee. I think there are some good things in the bill, and I would like to make a few points that I think are important.

One thing I know the chairman is interested in and has been a leader in supporting is the Coverdell forensic science legislation, named for former Senator Coverdell of Georgia, who is now deceased. I know that Senator MILLER, the Acting President pro tempore, has been instrumental and helpful in making this bill a reality.

The reason it is important is this. Throughout our entire criminal justice system, it is my view that delay is hurting justice in America. Cases take far longer than necessary to reach a conclusion, and justice delayed is justice denied. When a criminal is caught in a significant drug case, dealing drugs or some other offense, and time goes by, month after month after month, and that person is released on bail, back in the community amongst maybe his friends and criminal element and others who are looking to see if anything is going to happen to the person who got caught burglarizing an automobile or home or selling drugs, and a year or more goes by and nothing happens—that is a problem. It undermines respect for law. It undermines the integrity of the criminal justice system. It is not right.

We had in my State recently the worst murder in the history of Alabama. No one can think of a more serious one. Six people were murdered. The individual who murdered those people had been out on bail and was out on bail at that time because the chemical analysis on the drugs he had sold had not yet come back from the State laboratory.

As a professional prosecutor for most of my life, nearly 15 years, I would say to you that on a regular basis in courts all over America, a delay in getting fingerprints, ballistics, drug analysis, and DNA is slowing down justice. It is allowing criminals to stay free. It is allowing people to remain under a cloud who might be found innocent when an analysis comes back. It is not a good situation. We need to highlight that, and the Coverdell bill provides States support for State laboratories to encourage them to get caught up and stay where they ought to be.

In my view, if it takes no more than a few hours to do a laboratory analysis on a powder to find out if it is cocaine, why can't we get it back in a matter of days? I think our goal in America should not be weeks, it should not be months, but it should be days when these reports come back. It does not take more time, and it does not really cost more money to have a chemical analysis done today rather than waiting 6 months to do that chemical analysis. So I would just say that is important.

I am glad we strengthened that bill with some amendments in this language. There are appropriations of some $35 million in the appropriations bill that will go along with this. We are moving in the right direction.

In my view, the single greatest bottleneck in the criminal justice system today is the forensic capability. We are far too far behind on that. When you consider all the people we are hiring in police, law enforcement, judges, jails, sheriffs, deputies and all those, the very few we have on forensic work that is slowing down all of their work is a weakness in the system that I think ought to be fixed.

This bill does something else that I think is important. The Boys and Girls Clubs in America are proven to be some of the finest agencies anywhere for the delivery of services, hope, and encouragement to young people in poor areas of our country. They have done tremendous work. I have visited centers in Huntsville, Mobile, and other places. I have talked with their leadership and studied their programs. It is a tremendous program.

We are providing, through this bill, greater help to them. They are managing personnel and managing the money that they get efficiently, to get the greatest possible benefit for young people in communities all across America. I am glad we are doing that.

The bill provides for additional moneys for drug courts. The first drug court began in Miami. Judge Goldstein and a couple of other judges developed a concept where many people involved with the criminal justice system, both with drug charges and other criminal charges could get help with the root of the problem, their serious drug habits. They believed that if those individuals were carefully monitored under the supervision of a judge who could order them to jail if they did not cooperate, improved behavior could occur, the drug use could be prevented or reduced, treatment could be carried out effectively, and our crime rates would go down.

The numbers seem to bear that out. In fact, they cited exceedingly positive

numbers in the early 1980s. I was a prosecutor as U.S. attorney in Mobile, AL. I remember participating in bringing Judge Goldstein up to our community to talk about it. As a result of his presentation, our community established a drug court which has been led most ably for many years by Judge Mike McMaken, a State judge there in Mobile County. I believe it works.

I also think we have not fully studied drug courts to understand how they work and how they can be made to work better, what are the most effective parts of the drug court process, and what should we emphasize and what should we deemphasize. I had hearings on this very subject when I chaired the courts subcommittee of the Judiciary Committee early last year.

This bill does require that the General Accounting Office conduct a very rigorous, scientific study of the drug courts to find out what works and what doesn't and to see if we can't do a better job of intervening in lives going bad.

The way it works is simply this: An individual is arrested for a minor crime. Usually, it is the first offense. It could be drugs, or it could be another crime. Hopefully, when they are arrested, they are tested for drugs in that system because that is an important thing, in my view. You need to know what is driving that criminal behavior. Every defendant in America arrested for any offense should be immediately drug tested, in my view. A lot of them have a history of drug problems. Immediate testing would let us know that this individual, arrested for whatever crime, if it is their first offense, has a drug problem.

The way the drug court works is that the judge says they will not send them to jail, and in some cases even allow them to have their conviction set aside only if, over a period of months, they conduct themselves under the most rigorous scrutiny in a way that eliminates drug use or criminal activity.

The defendant would voluntarily sign up for the drug court procedure. They are drug tested on a weekly basis—maybe three times a week at first. They report regularly to the probation officer. And on a weekly basis they report personally to the judge. If they come in drug positive, he may put them in jail for the weekend. If he believes it is hopeless and that they are not going to succeed in the program, he will send them to jail and kick them out of the drug court program. But we believe there is some success being found with this program.

It is spreading all over America. More and more cities are doing it. When you have a tough judge, a good probation officer, and intense drug testing with the availability of drug treatment, it is quite often possible that lives can be turned around as a result of this intervention. It is a tough love type of program which does have the possibility of being successful.

I am glad we are expanding that. I support that. I have been at the very beginning of this kind of program. But I don't think we know enough about it yet and what the key parts of it are, or what the program should contain or maybe what should not be a part of any drug court program. So the study should help us in that regard.

We have a lot of challenges in America in our Federal court system. Federal judges are needed in certain districts. Our population has grown. Certain types of criminal activities have grown. We, obviously, at various points in time, have districts with surging caseloads that need relief in terms of the number of Federal judges we have.

I am not one who believes we ought to just exponentially expand the Federal court system. I propose that we take one-half of what the Administrative Office of Courts requested—50-some-odd Federal judges—and that we approve 24 Federal judges based on a strict caseload basis in the districts where judgeships are most needed, and where those cases are based on a weighing of caseload factors—not just on cases but weighted for how big and how difficult the cases are.

We know, for example, that southern California has not had any relief for some time. It has been seeing a surge in caseload based on such things as immigration as well as other crimes that go into Federal court. They are larger numbers when you are on a border like that. This will provide 20 new judges—a number of them temporary. But the net result will be assistance to some critical districts in America, such as the western district of Texas, or the southern district of California. I think we are moving in the right direction there.

I am also pleased that a bill that Senator DIANNE FEINSTEIN and I offered—the James Guelff and Chris McCurley Body Armor Act—was made a part of this legislation. This bill dealt with the situation in which violent criminals today are oftentimes better armed and better protected than the police. It is estimated that 25 percent of police do not have body armor available to them. But criminals can go out and buy body armor. It is a crime, for example, for a criminal to have weapons. A felon who possesses a gun is in violation of Federal and most State legal systems. But, it is not today a crime for a felon to be wearing body armor, or to wear body armor during the course of a crime.

James Guelff was murdered as a result of a confrontation with an individual wearing body armor. Chris McCurley, a deputy sheriff in Alabama, was out to arrest a criminal. He entered the residence of that defendant and was killed in a shootout. It was discovered that the defendant—the criminal—premeditatedly and calculatedly waited for him while wearing body armor, prepared himself for a shootout, and killed him on that scene.

This bill is named for James Guelff and Chris McCurley. It would add intense punishment to criminals who use body armor in the course of their criminal activity.

It has the support of the Fraternal Order of Police, the National Association of Police Organizations, the Federal Law Enforcement Officers Association, and many other national police groups.

I think, all in all, there are good things in this legislation. I wish we could have done more. I support it, and look forward to voting favorably on it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

CONFIRMING CIRCUIT COURT JUDGES

Mr. MCCONNELL. Mr. President, we have heard lately a lot of self-congratulation by our Democratic friends on the Judiciary Committee about confirming judges. However, my friends' self-congratulation is arrived at not by comparing apples and apples but by cherry-picking the period of time that will be most advantageous to them.

It is beyond a doubt, with respect to circuit court nominees in particular, that President Bush is being treated far worse—dramatically worse—than any President in recent history in his first term. In both absolute and relative terms, no President of the United States has been treated as badly as President Bush in their first Congress.

Let us take a look at the last four Presidents and their record with regard to circuit court nominations during the first 2 years of their Presidency.

During the Reagan years, 1981–1982—President Reagan submitted 20 nominations for the circuit court, and 19 of them were confirmed—95 percent. President Reagan, of course, had a Republican Senate during those 2 years.

President George Bush in his first 2 years, when his party did not control the Senate, in a session comparable to the one we are in now, submitted 23 circuit court nominations, and 22 of them were confirmed—96-percent confirmation during the first President Bush's term when his party did not control the Senate, and exactly the situation we find ourselves in today.

With regard to President Clinton in his first 2 years, a period during which his party did control the Senate, he submitted 22 circuit court nominations, and 19 were confirmed. That is an 86-percent confirmation rate.

It is noteworthy, even when his own party controlled the Senate, President Clinton's percentage of confirmations was slightly less than President George H. W. Bush when his party did not control the Senate during the first 2 years, but still a hefty percentage, 86 percent.

Then we look at the first 2 years of the presidency of George W. Bush, which is now coming to a conclusion. We are near the end now where the statistics actually mean something.

President George W. Bush has submitted 32 circuit court nominations to

the Senate, and only 14 have been confirmed, which is 44 percent. Forty-four percent. This is the worst record in anybody's memory of confirming circuit court nominations of a President in his first 2 years.

When you look at comparable situations, as I have just indicated, the first President Bush, confronted with a Democratic Senate—just like the current President Bush—got 96 percent of his circuit court judges confirmed. This President Bush, with a Democratic Senate, has only gotten 44 percent of his circuit court judges confirmed—dramatically worse.

Now, let me say, our friends on the other side are trumpeting how well they are doing on judicial nominations and do not want us to look behind the curtain of their statistics that have been put out.

In relative terms, President Bush has only half as many of his circuit court nominations confirmed as President Clinton did—44 percent as opposed to 86 percent. In absolute terms, President Bush has five fewer circuit court nominees confirmed than President Clinton did.

It is impossible at this stage for the Senate to catch up, to treat President Bush as fairly as it treated his predecessors, including President Clinton. So there is no chance this statistic can be dramatically improved this late in the game. But there is still time to improve upon this sorry record and at least have the Senate look as though it tried to treat President Bush with some elementary basic fairness.

For example, John Rogers, who happens to be from my State of Kentucky, a nominee to the U.S. Sixth Circuit Court of Appeals, which until August was 50 percent vacant—it has been 50 percent vacant not because there were not nominations made by the President, but because we have not approved them. We finally approved one from Tennessee right before the August recess—John Rogers has been languishing in the Senate for 285 days.

This was not even one of those controversial nominations. He cleared the Judiciary Committee unanimously, and he has been stuck on the executive calendar for 3 months. The sixth circuit, which is supposed to have 16 judges, currently has 9. But one of those nine was only confirmed last July, right at the end before the August recess. So it is still almost 50 percent vacant, not because the President has not sent up nominations, but because we simply will not act on them. It is hard to understand what the problem is.

The ABA unanimously rated Professor Rogers—the person I was just mentioning—as ''qualified,'' and his services are in dire need. The sixth circuit is in the worst shape of any circuit and is almost half vacant, as I just said.

Shifting to the fourth circuit, Dennis Shedd, a nominee in the fourth circuit, has been before the Senate for over 500 days; in fact, to be specific, 511 days. The ABA rated him ''well-qualified.'' That is the highest rating one can get, and it is about as common as teeth on a chicken—not very common.

Our friends on the other side used to call the ABA the ''Gold Standard''—the ''Gold Standard.'' Judge Shedd was in President Bush's first batch of nominees. Until this Congress, it was Senate precedent for all nominees in a President's first submission to be confirmed, the first batch. Until this year, they were all confirmed, and to be confirmed within a year of those submissions.

Unfortunately, Judge Shedd, like many of his colleagues, not only will not meet the 1-year rule, he is in jeopardy of not getting confirmed at all.

Michael McConnell—no relation, but an outstanding nominee by the President to the tenth circuit—has also been pending for over 500 days; in fact, the 511 days that Judge Shedd has been pending. The ABA has rated Professor McConnell—now listen to this—unanimously ''well-qualified''—unanimously ''well-qualified.''

Like Judge Shedd, Professor McConnell was in the President's very first submission, yet, he, too, is in danger of not getting confirmed at all.

Miguel Estrada, a nominee to the D.C. Circuit, is yet another nominee who has been pending for 511 days. Like Professor McConnell, Mr. Estrada received one of those extremely rare, unanimously ''well-qualified'' ratings from the ABA. This is really hard to get. That means nobody on the ABA committee found the nominee anything other than ''well-qualified,'' the highest rating the ABA can give a nominee.

Like Judge Shedd and Professor McConnell, Mr. Estrada is one of those superlative nominees whom the President sent up in May of 2001. Now he will not beat the 1-year rule, and he may not get confirmed at all.

Even if all four of these nominees I just referred to were confirmed, the Senate would still not be treating President Bush as well as his predecessors, either in absolute or in relative terms.

As shown on the chart, even if all four of these nominees were confirmed, President Bush would only have 18 circuit court nominees confirmed. President Clinton got 19 confirmed. That would still only be 56 percent versus 83 percent.

Further, President Clinton got his nominees to the Senate much later in the first Congress than President Bush did, and President Clinton sent up a lot fewer. He nominated fewer people. He sent up fewer circuit court nominees than President Bush did. There were 22 Clinton circuit court nominees sent up versus 32 Bush nominees. So there were a larger number of nominations made by President Bush. That means the Senate has had more time, since President Bush sent them up sooner. The Senate has had more time, has had more options, but has done less. More time, more options, and done less—far less, far less—for President Bush than the Senate did for President Clinton.

You would think we would be trying to redouble our efforts to solve this sad situation, but it seems we are determined to squander what few opportunities we have left.

We had a markup originally scheduled for this morning in the Judiciary Committee, in which we could have gotten Judge Shedd, Professor McConnell, and Mr. Estrada to the floor of the Senate, but, inexplicably, the committee session was cancelled. We will not have a hearing until next week, if then. If the markup is delayed any more, we will delay it right out of this Congress.

A lot of us are very upset about this situation. I know there has been some discussion of legislative remedies. I know the conference report to the DOJ reauthorization, for example, is popular among some of my Republican colleagues. But it only takes one Senator—one person—to file a point of order to it, and that point would probably succeed.

If we see a good-faith effort by our Democratic colleagues, I am hopeful we can avert a legislative crisis on the DOJ authorization conference report. But it depends on having some level of cooperation.

Even if we were to confirm these four fine nominees, President Bush still would have been treated dramatically worse—dramatically worse—than any of the Presidents in recent time.

I think it is good not to be distracted by this sort of Enron-style accounting, where folks cobble together a few months from here and there to manipulate statistics with regard to what our sorry record is with regard to judicial confirmations. Facts are stubborn things. The bottom line is, President Bush is being treated far worse than his predecessors on circuit court nominees.

So let's just look at it one more time.

President Reagan, who had benefited from having a Senate of his own party: 95 percent of his circuit court nominees confirmed in the first 2 years of his term.

The first President Bush, not benefiting from Senate control by his own party—a situation directly analogous to the one we have today—got 96 percent of his circuit court nominees confirmed in the first 2 years.

President Clinton, benefiting from having a Senate controlled by his party, had 86 percent of his circuit court nominees confirmed in the first 2 years. The second President Bush, in a situation analogous to his father, who got 96 percent during the first 2 years, has to date only 44 percent. And even if we process the four nominees that could be handled—Professor Rogers who has been on the calendar for 3 months, and Professor McConnell, Judge Shedd, and Miguel Estrada—he

would still have a pretty sorry record. But we could improve somewhat this dismal performance on the current President's nominations for circuit court.

I hope we will have some action at the end of the session on at least one of the four nominees who could be acted upon by the full Senate. It is not too late to at least partially fix and improve a very sad situation.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I want to give the rest of what time we have left to the Senator from Oregon, Mr. WYDEN.

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

IRAQ

Mr. WELLSTONE. Madam President, I rise to address our policy in Iraq. The situation remains fluid. Administration officials are engaged in negotiations at the United Nations over what approach we ought to take with our allies to disarm the brutal and dictatorial Iraqi regime.

The debate we will have in the Senate today and in the days to follow is critical because the administration seeks our authorization now for military action, including possibly unprecedented, preemptive, go-it-alone military action in Iraq, even as it seeks to garner support from our allies on a new U.N. disarmament resolution.

Let me be clear: Saddam Hussein is a brutal, ruthless dictator who has repressed his own people, attacked his neighbors, and he remains an international outlaw. The world would be a much better place if he were gone and the regime in Iraq were changed. That is why the United States should unite the world against Saddam and not allow him to unite forces against us.

A go-it-alone approach, allowing a ground invasion of Iraq without the support of other countries, could give Saddam exactly that chance. A preemptive, go-it-alone strategy toward Iraq is wrong. I oppose it. I support ridding Iraq of weapons of mass destruction through unfettered U.N. inspections which would begin as soon as possible. Only a broad coalition of nations, united to disarm Saddam, while preserving our war on terror, is likely to succeed.

Our primary focus now must be on Iraq's verifiable disarmament of weapons of mass destruction. This will help maintain international support and could even eventually result in Saddam's loss of power. Of course, I would welcome this, along with most of our allies.

The President has helped to direct intense new multilateral pressure on Saddam Hussein to allow U.N. and International Atomic Energy Agency weapons inspectors back in Iraq to conduct their assessment of Iraq's chemical, biological, and nuclear programs. He clearly has felt that heat. It suggests what can be accomplished through collective action.

I am not naive about this process. Much work lies ahead. But we cannot dismiss out of hand Saddam's late and reluctant commitment to comply with U.N. disarmament arrangements or the agreement struck Tuesday to begin to implement them. We should use the gathering international resolve to collectively confront this regime by building on these efforts.

This debate must include all Americans because our decisions finally must have the informed consent of the American people who will be asked to bear the cost, in blood and treasure, of our decisions.

When the lives of sons and daughters of average Americans could be risked and lost, their voices must be heard in the Congress before we make decisions about military action. Right now, despite a desire to support our President, I believe many Americans still have profound questions about the wisdom of relying too heavily on a preemptive go-it-alone military approach. Acting now on our own might be a sign of our power. Acting sensibly and in a measured way, in concert with our allies, with bipartisan congressional support, would be a sign of our strength.

It would also be a sign of the wisdom of our Founders who lodged in the President the power to command U.S. Armed Forces, and in Congress the power to make war, ensuring a balance of powers between coequal branches of Government. Our Constitution lodges the power to weigh the causes of war and the ability to declare war in Congress precisely to ensure that the American people and those who represent them will be consulted before military action is taken.

The Senate has a grave duty to insist on a full debate that examines for all Americans the full range of options before us and weighs those options, together with their risks and costs. Such a debate should be energized by the real spirit of September 11, a debate which places a priority not on unanimity but on the unity of a people determined to forcefully confront and defeat terrorism and to defend our values.

I have supported internationally sanctioned coalition military action in Bosnia, in Kosovo, in Serbia, and in Afghanistan. Even so, in recent weeks, I and others—including major Republican policymakers, such as former Bush National Security Adviser Brent Scowcroft; former Bush Secretary of State James Baker; my colleague on the Senate Foreign Relations Committee, Senator CHUCK HAGEL; Bush Mid-East envoy General Anthony Zinni; and other leading U.S. military leaders—have raised serious questions about the approach the administration is taking on Iraq.

There have been questions raised about the nature and urgency of Iraq's threat and our response to that threat: What is the best course of action that the United States could take to address this threat? What are the economic, political, and national security consequences of a possible U.S. or allied invasion of Iraq? There have been questions raised about the consequences of our actions abroad, including its effect on the continuing war on terrorism, our ongoing efforts to stabilize and rebuild Afghanistan, and efforts to calm the intensifying Middle East crisis, especially the Israeli-Palestinian conflict.

There have been questions raised about the consequences of our actions here at home. Of gravest concern, obviously, are the questions raised about the possible loss of life that could result from our actions. The United States could post tens of thousands of troops in Iraq and, in so doing, risk countless lives of soldiers and innocent Iraqis.

There are other questions about the impact of an attack in relation to our economy. The United States could face soaring oil prices and could spend billions both on a war and a years-long effort to stabilize Iraq after an invasion.

The resolution that will be before the Senate explicitly authorizes a go-it-alone approach. I believe an international approach is essential. In my view, our policy should have four key elements.

First and foremost, the United States must work with our allies to deal with Iraq. We should not go it alone, or virtually alone, with a preemptive ground invasion. Most critically, acting alone could jeopardize our top national priority, the continuing war on terror. I believe it would be a mistake to vote for a resolution that authorizes a preemptive ground invasion. The intense cooperation of other nations in relation to matters that deal with intelligence sharing, security, political and economic cooperation, law enforcement, and financial surveillance, and other areas is crucial to this fight, and this is what is critical for our country to be able to wage its war effectively with our allies. Over the past year, this cooperation has been the most successful weapon against terrorist networks. That—not attacking Iraq—should be the main focus of our efforts in the war on terror.

As I think about what a go-it-alone strategy would mean in terms of the consequences in South Asia and the Near East and the need for our country to have access on the ground, and cooperation of the community, and get intelligence in the war against al-Qaida and in this war against terrorism, I believe a go-it-alone approach could undercut that effort. That is why I believe our effort should be international.

We have succeeded in destroying some al-Qaida forces, but many operatives have scattered. Their will to kill Americans is still strong. The United States has relied heavily on alliances with nearly 100 countries in a

coalition against terror for critical intelligence to protect Americans from possible future attacks. Acting with the support of allies, including, hopefully, Arab and Muslim allies, would limit possible damage to that coalition and our antiterrorism effort. But as General Wes Clark, former Supreme Commander of Allied Forces in Europe, has recently noted, a premature, go-it-alone invasion of Iraq ''would supercharge recruiting for al-Qaida.''

Second, our efforts should have a goal of disarming Saddam Hussein of all his weapons of mass destruction. Iraq agreed to destroy its weapons of mass destruction at the end of the Persian Gulf War and to verification by the U.N. and the International Atomic Energy Agency that this had been done. According to the U.N. and the IAEA, and undisputed by the administration, inspections during the 1990s neutralized a substantial portion of Iraq's weapons of mass destruction, and getting inspectors back to finish the job is critical. We know he did not cooperate with all of the inspection regime.

We know what needs to be done. But the fact is we had that regime, and it is important now to call on the Security Council of the U.N. to insist that those inspectors be on the ground. The goal is disarmament, unfettered access. It is an international effort, and with that Saddam Hussein must comply. Otherwise, there will be consequences, including appropriate use of force. The prompt resumption of inspections and disarmament, under an expedited timetable and with unfettered access in Iraq, is imperative.

Third, weapons inspections should be enforceable. If efforts by the U.N. weapons inspectors are tried and fail, a range of potential U.N. sanctions means, including proportionate military force, should be considered. I have no doubt that this Congress would act swiftly to authorize force in such circumstances. This does not mean giving the United Nations a veto over U.S. actions. Nobody wants to do that. It simply means, as Chairman LEVIN has observed, that Saddam Hussein is a world problem and should be addressed in the world arena.

Finally, our approach toward Iraq must be consistent with international law and the framework of collective security developed over the last 50 years or more. It should be sanctioned by the Security Council under the U.N. charter, to which we are a party and by which we are legally bound. Only a broad coalition of nations, united to disarm Saddam Hussein, while preserving our war on terror, can succeed.

Our response will be far more effective if Saddam Hussein sees the whole world arrayed against him. We should act forcefully, resolutely, sensibly, with our allies—and not alone—to disarm Saddam Hussein. Authorizing the preemptive go-alone use of force right now, which is what the resolution before us calls for, in the midst of continuing efforts to enlist the world community to back a tough, new disarmament resolution on Iraq, could be a very costly mistake for our country.

Madam President, quite often at the end of debates on amendments, we thank our staffs for the work they have done and appreciate their hard work. At the end of my statement today on the floor of the Senate as to why I am opposed to the resolution before us that we will be debating today and in the days to come, which is too open-ended and would provide the President with authority for preemptive military action, including a ground invasion in Iraq, I would like to thank my staff. I would like to thank my staff for never trying one time to influence me to make any other decision than what I honestly and truthfully believe is right for the State I represent, Minnesota, for my country, and for the world in which my children and my grandchildren live. To all of my staff, I thank you for believing in me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

ECONOMIC RECOVERY

Mr. WYDEN. Madam President, thousands of working families in Oregon feel as if they have been hit by an economic wrecking ball. From Ontario to Portland, OR workers have been laid off their jobs, left to fend for themselves, while their medical and energy bills skyrocket, and they have been left out of what Larry Lindsey and the administration's economic team keep calling an economic recovery.

Oregonians are hungry for leadership on the economic issue. We are trying to do our part at home down the road at the election. All of Oregon's elected officials are going to be working with the private sector on a new economic game plan. I think starting in January, with the ISTEA legislation, we will have an opportunity to make some important investments. But Oregonians expect economic leadership from Washington, DC, now. That is what they want today.

I am anxious to work with the administration on these issues, but there has just not been the leadership forthcoming. For example, on the trade issue, I cast a vote—unpopular with many with whom I am close—to give the President the authority to negotiate trade agreements. Trade involves one out of seven jobs in Oregon. The trade jobs pay better than the nontrade jobs. So I want to meet the administration halfway.

Unfortunately, the administration and its economic team is not willing to move forward and, in fact, is moving backward on a host of issues. I want to outline several of those this morning, Madam President.

It is very obvious we need a transfusion—immediate transfusion—that can restore our economic health. There is nothing that could bring our economy back faster than getting increased transportation funds for the States. One State after another has shown that money for transportation projects, particularly repaving and other maintenance items, gets money into our economy and creates family wage employment for our workers faster than any other area.

A number of Senators, Democrats and Republicans, understand this. Unfortunately, the administration's economic team does not agree. They continue to propose significantly less money than is needed for our economic and transportation needs and push for it.

While the transportation officials of my State calculate that the administration's approach will mean tens of millions of dollars less funding for Oregon's struggling economy and hundreds of fewer family wage construction jobs that could put our citizens back to work, the administration persists in taking an approach that I think is a huge mistake for our country, particularly our economic needs.

On the health issue, something the Chair knows much about, we can find common ground, for example, on a measure that could significantly lower health costs, a bipartisan approach involving making wider use of generic drugs, the same drug as essentially the brand name in the majority of instances.

Senators of both political parties want to support this issue. There is support on the Democratic side and the Republican side. The administration will not support something that could have immediate benefit—immediate benefit—for the economic crunch that our citizens face and would have bipartisan support in the Senate.

Finally, it seems on issues such as unemployment compensation, we have Senators, again, who would like to move forward to provide what I call this transfusion of assistance to the people who are so hard hit. Thousands of laid-off workers are exhausting their temporary extension of benefits every week. The program expires on December 31 of this year. Anyone laid off before June 30 of this year is going to lose all their benefits come December 31, and anyone who lost a job after June 30 will not have any Federal extension in place when their State benefits expire.

For my home State with soaring unemployment, this means that nearly 30,000 laid-off workers currently getting a temporary extension of unemployment compensation would see the end of their benefits at the end of the year, according to the Department of Labor.

Again, it seems to me this is an issue where Democrats and Republicans could, as has happened so often, come together and provide some solace, some actual relief to these families who are hurting in our country. I will be talking more about this issue in the days ahead while working on a significant

health reform proposal that I have been discussing with colleagues.

I come back in closing to the central reason I have come to the Chamber, and that is that in my State and in much of the country, our families are hurting and our economy is hemorrhaging. I have listed three issues where, if there was some leadership from the administration—transportation, lowering medical costs immediately, particularly on the prescription side, which has the support of Senators of both parties, the expanded access to generic drugs, and finally unemployment compensation—three steps where, with a little bit of leadership from the administration on these vital economic issues, we could take steps now that would help working families.

Let's not go the wrong way. Let's find an opportunity for Democrats and Republicans to work on key issues and go the right way, which means providing economic relief to our working families.

I know the Senator from Georgia has been waiting very patiently. I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Georgia.

IRAQ RESOLUTION

Mr. MILLER. Madam President, I have signed on as an original cosponsor of the Iraq resolution that our President has proposed, and I would like to tell you a story that I believe explains why I think that is the right path to take.

A few weeks ago, we were doing some work on my back porch back home, tearing out a section of old stacked rocks, when all of a sudden I uncovered a nest of copperhead snakes. I am not one to get alarmed at snakes. I know they perform some valuable functions, like eating rats.

When I was a young lad, I kept snakes as pets. I had an indigo snake. I had a bull snake. I had a beautiful colored corn snake, and many others. I must have had a dozen king snakes at one time or another. They make great pets, and you only have to give them a little mouse every 30 days.

I read all the books by Raymond C. Ditmars, who was before most herpetologists of the day—that is a person who is an expert on snakes—and for a while I wanted to be a herpetologist, but the pull of being a big league shortstop out ran that childhood dream.

I reminisce this way to explain that snakes do not scare me like they do most people, and I guess the reason is that I know the difference between those snakes that are harmless and those that can kill you. In fact, I bet I may be the only Senator in this body who can look at the last 3 inches of a snake's tail and tell you whether it is poisonous. I can also tell the sex of a snake, but that is another story.

A copperhead snake will kill you. It could kill one of my dogs. It could kill one of my grandchildren. It could kill any one of my four great-grandchildren. They play all the time where I found those killers.

You know, when I discovered those copperheads, I did not call my wife Shirley for advice, as I usually do on most things. I did not go before the city council. I did not yell for help from my neighbors. I just took a hoe and knocked them in the head and killed them, dead as a doorknob.

I guess you could call it unilateral action, a preemptive strike. Perhaps if you had been watching me, you could have even said it was bellicose and reactive. I took their poisonous heads off because they were a threat to me, they were a threat to my home, they were a threat to my family, and all I hold dear. And isn't that what this is all about?

I yield the floor and suggest the absence of a quorum, Madam President.

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 that the order for the quorum call be rescinded.

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

RECEPTION FOR LANCE ARMSTRONG

Mr. REID. Madam President, Lance Armstrong is a man who has caught the attention of the entire American public and the world because of his athletic prowess, but more importantly than that because of his fighting back from devastating cancer. He is, of course, the greatest cyclist in the world today, and maybe of all time. This all occurred after he had a very severe bout of cancer. He is going to be in the Capitol building today.

A reception is going to be held for him in the Dirksen Building starting at 11:30. He is going to make some remarks around 12:00. Senators interested in meeting one of the greatest athletes of all time, or any staff within the sound of my voice, are welcome to come to 192 Dirksen to see the great Lance Armstrong.

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 that the order for the quorum call be rescinded.

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

EXTENSION OF UNEMPLOYMENT COMPENSATION BENEFITS

Mr. REID. Madam President, there is pending legislation we certainly would like to move. We have tried very hard to get some help in this regard. This legislation gives the same number of weeks of benefits for unemployment compensation as was given under President Bush, Sr., in the early 1990s. Only Oregon and Washington, the States with the highest unemployment in the Nation, will get a little bit more, and that is because of an extension of Congress passed in March. The March bill provided up to 65 weeks of benefits for those two States. Our bill only provides up to 7 more.

This is extremely important. We have people out of work. That might not sound like much to somebody who has a job, but to someone who does not have a job, it is everything. We have 2 million more Americans unemployed than we had 18 months ago. We have economic problems that have been kind of covered up. We have a situation where there is $4.5 trillion lost in the stock market. If someone was going to retire with their 401(k) or their IRA, they would have to work up to 5 years more, having lost 30 to 35 percent of the value of their retirement.

I have people I welcome to Washington every Thursday. They came to me today saying they do not know what they will do because they lost so much of the value of what they will retire on. They do not know what they will do.

We need to extend unemployment compensation. We did it before under President Bush senior. There was an emergency then. We did it on more than one occasion. We only want to do it now on one occasion.

As I indicated, the bill will provide an additional 20 weeks of extended benefits for high unemployment States and an additional 13 weeks to all other States for workers who run out or about to run out of benefits.

UNANIMOUS CONSENT REQUEST—S. 3009

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of Calendar No. 619, S. 3009, a bill to provide for a 13-week extension of unemployment compensation; that the bill be read three times, passed, the motion to reconsider be laid upon the table, and there be no intervening action or debate.

Mr. GRASSLEY. Madam President, reserving the right to object, and I will object for the leadership, as a ranking Republican on the committee that has jurisdiction over unemployment compensation for our side, there is not unanimous view that something should be done in this area. The most important thing is, for now, we object.

We would think in terms of looking at the economy and not only ways to support people who are in need at a time when the economy might be in problems down the road, but also to consider as part of a package things that would help the economy grow and create jobs.

It is essential we think in terms of expanding the economy when we put together packages that are needed for economic relief and not just to help

those who are unemployed. We look forward to working with the other side of the aisle in seeing what could we come up with in terms of a package that will help people in need but also help to grow the economy.

Since that is not part of this package, I object.

The PRESIDING OFFICER. The objection is heard.

TRIBUTE TO U.S. SENATOR JESSE HELMS

Mr. INOUYE. I wish to take a moment to express my appreciation and admiration for my good friend from North Carolina, Senator JESSE HELMS.

I have had the privilege of working with Senator HELMS for the past 30 years. Although he and I do not share the same ideologies, Senator HELMS has always kept his word to me. In this day and age, ''trustworthiness'' is a trait that is becoming increasingly rare, particularly in the political arena. Yet Senator HELMS has remained true to himself and his upbringing. Senator HELMS is trustworthy.

Senator HELMS is a true statesman and gentleman, courteous, courageous, and compassionate. He is a man who understands what it means to do one's duty to God, country, and family. He emulates the idea upon which America was founded, the idea that each individual controls his or her destiny and has a right to pursue and achieve their dreams, and that great societies are built by people who are inspired and motivated to reach high and work hard.

Senator HELMS has, on many occasions, inspired and motivated me. He has set an example for me and my colleagues. His life is a model of one who honors and defends the Constitution, works to make our country a better place, and conducts himself with dignity and respect for others.

I thank my dear friend for the many courtesies he has extended to me throughout the years. I will miss his kindness and friendship. To Senator HELMS and his wife, Dot, I wish them many years of happiness and continued good health in the bright years ahead.

Mr. SARBANES. Mr. President, I rise today to join my colleagues in honoring JESSE HELMS, the senior Senator from North Carolina, for his many years of service to his State and to the Nation.

While Senator HELMS has served in the United States Senate for more than a quarter-century, his earlier years were equally active and productive. Following his service in the U.S. Navy during World War II, he became the city editor of the Raleigh Times. He served as Administrative Assistant to two U.S. Senators before becoming Executive Director of the North Carolina Bank Association in 1953. The Tarheel Banker became the largest State banking publication in the State while JESSE HELMS was its editor. He was Executive Vice President, Vice Chairman of the Board, and Assistant Chief Executive Officer of Capitol Broadcasting Company in Raleigh, NC from 1960 until his election to the Senate in 1972.

During his service in the U.S. Senate, Senator HELMS has served as a member of the Senate Committee on Rules and Administration, the Committee on Agriculture, Nutrition, and Forestry which he chaired in the 1980s, and the Foreign Relations Committee, of which he was a former chairman and the current ranking member. In 1973, he became the first Republican, as well as the first Senator from North Carolina, to receive the Golden Gavel, an award presented for presiding over the Senate for more than 117 hours. Senator HELMS was awarded a second Golden Gavel for presiding for more than 120 hours in 1974.

It goes without saying that JESSE HELMS has become a fixture and a legend in this body. While Senator HELMS and I have often differed over the years in our approaches and our positions to the many important issues that have come before the Senate for consideration, Senator HELMS has always been a force to be reckoned with. His public service has been marked by hard work and diligence. I am pleased to have had the opportunity to serve with Senator HELMS over these many years and want to join my colleagues in paying tribute to him today.

Mr. ALLARD. Mr. President, over the course of the day, we have heard from my colleagues many of Senator JESSE HELMS' remarkable accomplishments over the course of his life. He is a husband, a father, a Senator, a Navy veteran, a defender of freedom, and a good friend. But above all, JESSE HELMS is a man of God.

I should also add that he is a man of the people. Senator HELMS has seen more Senators, staffers, and pages in his tenure than most Members, and he treated all of them like they were from his own family. He is constantly noted for his friendly demeanor to those strangers who meet JESSE for the first time, but go away from their meetings feeling like a personal relationship has just formed. Senator HELMS has always been willing to take those precious extra few minutes when meeting someone to make personal connections that endure him to many.

Rarely do people keep their convictions as strong as JESSE HELMS, especially facing the type of scrutiny that politicians do in the spotlight. Throughout his 30 years in the Senate, Senator HELMS has fought hard for the commonsense values that he brought with him from the great State of North Carolina. He has stood for the vision that our Founding Fathers imagined when they framed the Constitution. I cannot help but think that North Carolina and indeed our country is indebted to Senator HELMS for his service to our country. It has been a privilege to stand with the Senator on so many of the issues that are important to the United States. I am proud to call Senator HELMS a colleague and a friend, and we all know how much his leadership will be missed in this institution.

Thank you, JESSE, for your continued dedication not only to the Senate, but also your country which is so near and dear to your heart.

TRIBUTE TO SENATOR STROM THURMOND

Mr. BIDEN. Mr. President, what can I say about STROM THURMOND?

I remember, back in 1981, the Senate Judiciary Committee had a new chairman—and a new ranking member, and there were more than a few folks looking forward to the fireworks.

There was a new conservative Republican administration and new Republican majority in the Senate. The Judiciary Committee seemed destined to be one of the main ideological battlegrounds over issues that divided us then and still divide us today.

There were more than a few Washington insiders who thought that STROM THURMOND the seasoned veteran conservative Republican chairman who first made his mark on the national political scene as an advocate of State's rights—and JOE BIDEN a northeastern Democrat still in his thirties whose interest in politics was sparked, in large measure, by the civil rights movement would never find an inch of common ground—not an inch.

But I knew that was not going to be the case. I had served with STROM for eight years by then . . .

I knew his personal strengths, and admired them greatly, regardless of our political differences, and I knew those strengths would guide us to consensus rather than gridlock.

I knew, with STROM, there would be comity—not enmity.

And I knew debate would be civil and constructive rather than divisive and filled with meaningless partisan rhetoric.

STROM, as usual, didn't let me down. In his six years as chairman—and for several years after that when we switched roles—he exceeded my expectations in every way.

There were many heated debates and contentious hearings, but we weathered them and we weathered the kinds of controversies which I've seen poison the well for other committees for years afterward.

But that kind of cooperation would not have happened if it weren't for STROM THURMOND's strength of character.

It would not have happened if he were not, first and foremost, a gentleman—unfailingly courteous, respectful, and always dignified.

STROM's word is his bond, and each of us, even the most partisan political opponents knows that, in the heat of debate, under extraordinary pressure, when the stakes are exceedingly high, STROM THURMOND will always, always keep his word.

There's an old Greek proverb that says: ''The old age of an eagle is better than the youth of a sparrow.''

Well, STROM THURMOND is an eagle among us.

He's been my neighbor in the Russell Building for many years now. Actually, he has most of the offices around me so I'd say he is more like the landlord.

He has more seniority in this chamber than any United States Senator has ever had, and more seniority than most Americans will ever dream of having. But longevity is not the measure of a man like STROM THURMOND.

Longevity is a very small part of why we come to this floor to pay tribute to him today—a tribute he richly deserves—not only for a long life, but for a grand life, an accomplished life.

I joke about it sometimes. About the time, for example, someone came up to him and challenged his strength and his tenacity and—right there—STROM took off his coat and started doing push ups.

He has lived long and he has lived well. He has served his country well. And, more than any other public figure, he has been a constant force in this nation for the better part of a century. Never stopping. Never giving up. Always fighting for his beliefs. Unequivocally. Unashamedly.

Whether it was his independent run for President 54 years ago, or serving the people of South Carolina as Superintendent for Education of Edgefield County, as a City and County Attorney, a state senator, a circuit court judge, Governor, or United States Senator—he has been truly, sincerely, honorably, one of America's most engaged, committed, and enduring public servants.

He was born back in 1902. It was not until a year later, that the Wright brothers flew the first powered flight. He was 6 when Henry Ford introduced the Model T.

He received his degree from Clemson one year after the Yankees signed Babe Ruth.

When STROM joined the army, Calvin Coolidge was elected President.

The Golden Gate Bridge was completed the year STROM was elected to the state senate.

Judging from that time-line, you might conclude that American legends tend to lead somewhat parallel lives.

There is no doubt that STROM THURMOND is an American legend.

He served only one term as a State senator, but in that one term most people don't realize he became an education Senator, raising teachers' pay and extending the school year.

Not to mention the fact that he sponsored South Carolina's first Rural Electrification Act.

Legend has it that when the U.S. declared war against Germany—STROM was a circuit court judge at the time—he literally took off his robes and volunteered for active duty that day.

He went on to earn five battle stars, eighteen decorations, medals, and awards—the Legion of Merit with Oak Leaf Cluster, a Purple Heart, a Bronze Star, the Belgian Order of the Crown and the French Croix de Guerre.

Then, in 1947, he was elected Governor of South Carolina. He added 60,000 new private sector jobs. Paved 4100 miles of farm-to-market roads, raised teachers' pay again, started a trade and technical education system and lowered property taxes. Not a bad record. But STROM was not done.

He was elected to this Chamber in 1954. I have been here for 30 years. I consider that to be quite a long time but STROM arrived 18 years earlier. But STROM came the hard way. He was a write-in candidate.

I believe he has the distinction of being the first person to be elected to a national office that way.

It wasn't long before he became an expert on the military and an advocate for a strong national defense. He's been on the Armed Services Committee since the Eisenhower Administration—1959.

He was a Democrat back then. We could use you again now, Senator.

But seriously, STROM held to his convictions about a strong military and, in 1964, said the Republican Party more closely represented his views, so he switched and, when he did, changed the future of South Carolina politics.

STROM and I may disagree on most issues, but, the fact is, it was STROM THURMOND who, one way or another, helped shape the debate on many of those issues for the better part of the last century.

A long life is the gift of a benevolent God, but a long life with a powerful and lasting impact is the treasure of a grateful Nation.

He has had that kind of impact, and we are grateful.

His achievements, his list of awards, the many schools and buildings named—for him too many to enumerate here—are only a small tribute to a man who has done in a hundred years more than most of us could accomplish in a thousand. And, the truth is, most of us wouldn't have the energy to even try.

The real beneficiaries of STROM THURMOND's legacy are the citizens of South Carolina.

Not since the days of John C. Calhoun has South Carolina enjoyed such memorable representation as it does today with Senator THURMOND and Senator HOLLINGS.

From his own reflections and experiences, Calhoun wrote the famous Disquisition on Government. Some political scientists have said that essay is a key to modern American politics, a handbook for defending against the tyranny of the majority, and for building pragmatic coalitions.

In that work, Calhoun wanted to maintain the Constitutional rights of States, and the delicate relationship between federal and state powers.

STROM THURMOND wears the mantle of that heritage.

Some years back, Senator THURMOND was quoted as saying, ''The Constitution means today exactly what it meant in 1787 or it means nothing at all.''

Armed with that conviction all of his life, he's been an able advocate of State's rights—the balance of power between branches of Government—individual rights against Government prerogatives and usurpations—private enterprise—decentralized Government—and strict Constitutional interpretation.

He has not only been a successful politician who helped shape the last century, but a political philosopher with whom I do not always agree, but for whom I have the deepest respect.

Let me tell you one of my most memorable stories about STROM.

It was when we went down to the White House to try to convince President Reagan to sign a crime bill.

President Reagan was in the beginning of his second term. We sat in that Cabinet room. We were on one side of the table and William French Smith, Ed Meese, and someone else, I can't recall whom, were on the other side.

The President walked in and sat down between STROM and me. We told him why we thought he should sign the bill, why it was important for him to sign it.

At first, the President looked like he was thinking about it, and then, to the shock of everyone on the other side of the table, he began to look like he was being convinced—that he actually might sign it.—This is absolutely a true story.

Ed Meese stood up at that point. He looked at us and then he looked at the President and said. ''Mr. President, it's time to go.''

The President hesitated. He looked over at STROM and nodded as if he wanted to hear more. But Ed Meese said again, ''Mr. President, it's time to go.''

At that point, the President made a motion to get up, and STROM reached over and put his hand firmly on the President's arm. He grabbed it and pulled him back down and said, ''Mr. President, the one thing you got to know about Washington is that when you get as old as I am, you want to get things done, you have to compromise.''

There was Ronald Reagan, not that much younger than STROM, and there was STROM, smiling, making the President laugh. And there was Ed Meese not looking very happy as STROM talked the President into his position.

That's a remarkable ability, and it works for STROM because people always know where his heart is. They know what his objective is.

People know that he believes what he says and says what he believes and it's real and it is honest.

One more personal story that I will never forget. It was during a contentious hearing on a Supreme Court Justice and a difficult time in my career. STROM and I disagreed on the nominee.

And I was being blasted in the press back in 1988.

I called a meeting of the entire committee and said that if the accusations relevant to me were getting in the way of the work of the committee, I would resign as Chairman.

But before I could get the last word out of my mouth, STROM stood up. ''That's ridiculous,'' he said. ''You stay as chairman. We all have confidence in you.''

I said, ''Don't you want me to explain?''

And STROM said, ''There's no need to explain. I know you.''

I will never forget what he said that day. ''There's no need to explain. We know you.''

I have told this story before, but to this day, I can't think of many other people who would, having a significant political advantage, not only not take it, but stand by me. That's the STROM THURMOND I know and will always admire.

I have been honored to work with him, privileged to serve with him, and proud to call him my friend. As I said earlier: A long life may well be the gift of a benevolent God, but a long life with an impact as powerful and lasting as his is the treasure of a grateful Nation.

STROM THURMOND is, without doubt, an American treasure.

The truth of the matter is that his longevity lies in his strength of character, his absolute honesty and integrity, his sense of fairness, his civility and dignity as a gentleman, and his commitment to public service.

None of these things are skills you learn. They are qualities that burn deep within leaders like STROM THURMOND. And people who know him well can sense them.

The measure of STROM THURMOND is not how long he has lived or how long he has served, but the good he has done, the record of success he has achieved, and the standard of leadership he has set.

The truth is that STROM's ongoing legacy is not about time, it is about extraordinary leadership and dedicated service to the people of South Carolina and the nation.

And for that we say, ''Thank you, STROM, and a hundred more.''

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 2215, which the clerk will report.

The legislative clerk read as follows:

The conference report to accompany H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act:

Harry Reid, Jeff Bingaman, Jean Carnahan, Hillary Clinton, Thomas Carper, Richard Durbin, Paul Sarbanes, Daniel Inouye, Bill Nelson of Florida, Jack Reed, Patrick Leahy, Benjamin Nelson of Nebraska, John Edwards, Tim Johnson, Joseph Lieberman, Byron Dorgan, Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act, shall be brought to a close? The yeas and nays are ordered under rule XXII, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES; I announce that the Senator from Utah (Mr. HATCH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that if present and voting the Senator from Utah (Mr. HATCH) would vote ''yea.''

The yeas and nays resulted—yeas 93, nays 5, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—93

Akaka	Dodd	Lincoln
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Reed
Brownback	Graham	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (OR)
Chafee	Inhofe	Snowe
Cleland	Inouye	Specter
Clinton	Jeffords	Stabenow
Cochran	Johnson	Stevens
Collins	Kennedy	Thomas
Conrad	Kerry	Thompson
Corzine	Kohl	Thurmond
Craig	Kyl	Torricelli
Crapo	Landrieu	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden

NAYS—5

Gramm	Lugar	Smith (NH)
Lott	Santorum	

NOT VOTING—2

Hatch	Helms

The PRESIDING OFFICER (Mr. JOHNSON). On this vote, the yeas are 93, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank Senators for this overwhelming vote in bringing this debate to a close. This is a piece of legislation that passed in the other body 400 to 4. This vote shows overwhelming support in this body.

Senator HATCH, the ranking member of the Judiciary Committee, is necessarily absent. I know he supports this bill, too. And I thank, also on his behalf, those Senators who joined in this vote.

I do not know what the pleasure of the body is, Mr. President, but I am perfectly willing to move forward. I am not going to request a rollcall vote. I don't know if anyone else wishes to have one. I think to have had such an overwhelming vote—93 to 5—gives a pretty good understanding of where the body is on a piece of legislation such as this that covers everything from drug abuse in juvenile areas, to creating 20 new judges, to protecting our FBI in dangerous situations.

So, Mr. President, I am about to yield the floor, but I am perfectly willing to just go forward on the legislation. Obviously, if anybody else wants to speak on it or ask for a rollcall vote, that is their prerogative.

I yield the floor.

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

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

IRAQ

Mr. SPECTER. Mr. President, I have sought recognition today to discuss the situation with respect to Iraq. At the outset, I compliment the President for coming to Congress. I believe that, as a matter of constitutional law, the President, as Commander in Chief, has the authority to respond to emergencies, but when there is time for discussion, deliberation, debate, and a decision, then it is the responsibility of the Congress, under the Constitution, to declare war and to take the United States to war.

Originally, there had been a contention that the President did not need congressional authorization, but the President has decided to come to Congress, and I compliment him for doing that.

I also think that the President has moved wisely in seeking a coalition of the United Nations, as President Bush in 1991 organized a coalition, came to the Congress, and had authorization for the use of force against Iraq which had invaded Kuwait. The assemblage of an international coalition is a very important item.

The issue of inspections is one which has to be pursued. To say that Saddam

Hussein is a difficult man to deal with, would be a vast understatement. He maneuvered and ousted the inspectors from Iraq some 4 years ago.

It seems to me the inspections have to be thorough, total, unannounced, intrusive, going everywhere, however, there cannot be an exclusion for the President's palaces, which are very large tracts of land and could conceal great quantities of weapons of mass destruction.

Senator SHELBY and I made a trip to the Sudan in August as part of a trip to Africa. In the Sudan, we found that there is an interest on the part of the Sudanese Government in cooperating with the United States, and they have agreed to inspections of their arms factories and their laboratories. They are no-notice inspections, where inspectors go in and break the locks, inspect, and take photographs anywhere, anytime, anyplace. I believe that has to be the format for inspections in Iraq.

I am concerned about the timing of an authorization or declaration of war. I think an authorization for the use of force is tantamount or the equivalent to a declaration of war. That authorizes the President to wage war. It is a concern of mine as to whether there is authority for the Congress under the Constitution to make this kind of a delegation.

The learned treatise written by Professor Francis D. Wormuth, professor of political science at the University of Utah, and Professor Edwin B. Firmage, professor of law at the University of Utah, engages in a very comprehensive analysis of this issue.

The background of the issue is that, when the Constitution and the three branches of Government were formulated, Article I gave certain authority to the Congress. One of the authorities that the Congress has is the authority to declare war. Article II gave authority to the executive branch, to the President, and Article III gave authority to the courts.

The core legislative responsibilities, such as a declaration of war, have been viewed as being non-delegable. They cannot be given to someone else. Professors Wormuth and Firmage say at the outset of chapter 13, on the delegation of the war power:

> That Congress may not transfer to the executive . . . functions for which Congress itself has been made responsible.

The treatise further goes on at page 70 to point out—and I am leaving out references which are not directly relevant—but the two professors point out at page 70 that:

> The Framers . . . never supposed that a state of war could arise except as a result of a contemporaneous decision of Congress on the basis of contemporary known facts.

In the Federalist Papers, Hamilton made an observation on this subject, and it is cited again in the treatise by the two professors noting that Hamilton in the Federalist Papers argued the system was safe precisely because the President would never be able to exercise this power, referring to the power to declare war or the power to use force. While not cast specifically in the dialogue of delegation of power, the Federalist tracts, written by Hamilton and cited by Wormuth and Firmage, do argue about the limitations of Federal power.

The treatise by Professors Wormuth and Firmage then goes on to cite Chief Justice Marshall, who said—and again I leave out materials which are not directly relevant—it will not be contended Congress can delegate powers which are exclusively legislative.

Here you have a power, the power to declare war, which is a core congressional power. Chief Justice Marshall has been the author of many doctrines which have survived 200 years since he served as Chief Justice of the Supreme Court of United States.

The treatise by Wormuth and Firmage then goes on to quote Clay, and they cite this reference:

> According to Clay, the Constitution requires that Congress appraise the immediate circumstances before the Nation voluntarily enters into a state of war.

That is at page 207. The treatise further points out, Clay's argument was that:

> Congress itself cannot make a declaration of a future war dependent upon the occurrence of stipulated facts, because war is an enterprise in which all the contemporary circumstances must be weighed.

The treatise by Wormuth and Firmage goes on to point out that it is:

> Impossible for Congress to enact governing standards for launching future wars.

They note it is not possible to authorize the President:

> To initiate a war in a future international environment in which significant details, perhaps even major outlines, change from month to month or even from day to day. The posture of international affairs of the future cannot be known to Congress at the time the resolution is passed.

So we have the generalized declaration that core congressional functions may not be delegated as a basic requirement under the constitutional separation of powers, and then an articulation of the reasons as to why this is the law. That is because, as noted in the authorities, the circumstances may change in a matter of months or, as noted, even in a matter of days.

I am not unaware the Congress is proceeding on a timetable which is likely to eventuate a vote next week, or if not next week, shortly thereafter. As is well-known, we are in an election season, with elections on November 5. Today is October 3. The closing date of the Congress had originally been set at October 4, which would have been tomorrow, Friday. It has been extended until October 11. Nobody is sure when we will adjourn. When asked the question as to when the Senate will adjourn, I say the Senate adjourns when the last Senator stops talking. We do not know precisely when that will be.

There is a move to have a vote before we leave town. Of course, we could come back. When there is a matter as important as a resolution authorizing the use of force, the equivalent of a declaration of war, there is no congressional responsibility that is weighed more heavily, more solemnly, or more importantly than that.

I am not naive enough to think anybody is going to go into court or that a court would consider this, what we lawyers call a justiciable issue, or decide this sort of a matter. I do think it is a matter which ought to be focused on by Members of the Senate and House of Representatives. I have not seen any public commentary on the issue.

I became very deeply involved on the legalisms of the doctrine of separation of power 8 years ago when there was a base closing commission where Congress delegated authority to a commission to decide which bases would be closed, and I think they inappropriately closed the Philadelphia Navy Yard. I studied the subject in some detail—in fact, argued the matter in the Supreme Court of the United States—so when this issue has arisen, I have been concerned about what the Congress is doing. I have studied the issue and have raised these concerns, which I want to share with my colleagues.

I am well aware of the argument that it would strengthen the President's hand to have a very strong vote from the Congress of the United States, as he is negotiating in the United Nations. Secretary of State Powell is seeking a tougher resolution before inspections start. The U.N. inspectors met with the Iraqi officials and are talking about starting inspections in 2 weeks. Secretary Powell yesterday said he would like a tougher resolution so there are more stringent requirements to be imposed on Iraq before the inspections go forward. There are difficulties in dealing with the French, the Russians, and the Chinese.

There is no doubt that a strong resolution by Congress supporting the President would give weight to the President's position. The predictions are generalized that the President can expect a very strong vote from the House of Representatives, based on what happened yesterday with the concurrence of Speaker HASTERT and Democrat Leader GEPHARDT. The sentiments of the Senate may be somewhat different, perhaps a little more deliberative, but the predictions are that a resolution will come from the Senate backing the President as well.

I think it is a momentous matter. It is one which we need to consider. We need to consider all of the alternatives short of the use of force. We need to consider whether our objectives can be attained without sending American men and women into battle; without exposing Iraqi civilians to casualties; without undertaking the problems of war—the attendant body bags, collateral damage, and the death of civilians, which is inevitable. We need to find a way to rid Iraq and the world of Saddam Hussein, and have the appropriate

assurances that there are not going to be weapons of mass destruction which threaten the United States or our neighbors.

There is a very serious concern as to what will happen with neighboring Israel. General Scowcroft, former National Security Council, wrote an article which appeared in the Wall Street Journal in August, raising a concern about an Armageddon, with the possibility of a nuclear conflict if Iraq and Saddam Hussein unleash weapons of mass destruction on Israel, and as to what the retaliation may be.

The consequences are very difficult to figure out. If we can find a way to get rid of Saddam Hussein; have the assurances that the world will not be subjected to his maniacal impulses and his irrational tendencies, which includes his use already of chemical weapons in the Iran war and on his own people, the Kurds; if we can find a way to do that short of war, that certainly ought to be our objective. I raise this constitutional issue so that my colleagues may consider it, as well.

Mr. SPECTER. I ask unanimous consent I may proceed for an additional 5 minutes on an unrelated subject, the confirmation of Judge James Gardner.

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

CONFIRMATION OF JUDGE JAMES GARDNER

Mr. SPECTER. Mr. President, yesterday in what is called wrap-up in the Senate, by unanimous consent a Pennsylvania judge was confirmed. I had not known that his confirmation was imminent, however, I am very glad it was and I am very glad it was accomplished. I thank the managers, including the Senator from Nevada.

I make a comment or two about Judge Gardner who was endorsed by Senator SANTORUM and me and passed our bipartisan nonpolitical nominating panel. Senator SANTORUM and I have maintained the practice which Senator Heinz and I had many years ago on submitting applicants to a commission which studies them, in addition to review by the American Bar Association and by the FBI.

Judge Gardner graduated magna cum laude from Yale University, received his JD degree from Harvard University Law School, which is obviously an excellent educational background. He then joined a big firm in Philadelphia, Duane, Morris & Heckscher, and later went to Allentown where he became a member of the law firm of Gardner, Gardner, & Racines.

He began his career in public service as Solicitor to the Lehigh County Treasury and later served as assistant district attorney in Lehigh County. I must say that being assistant D.A. is very good training for anything. People ask me what is the best job I ever had, being a Senator or district attorney, and I say the best job I ever had was assistant district attorney, getting to the courtroom and trying cases.

He has been on the Court of Common Pleas of Lehigh County for some 21 years, presided over 265 jury trials, and written nearly 1,000 legal opinions, 138 of which have been published.

He is very active in community affairs. He is on the Board of Directors of the Boys and Girls Club of Allentown and the Allentown Police Athletic League. He has been awarded the Meritorious Service Medal from the President of the United States, and the Pennsylvania Bar Association's Special Achievement Award.

We have a practice of trying to accommodate litigants by having various stations in Pennsylvania: one in Johnstown, one in Bethlehem and in Lancaster, and of course we have the district court sitting in Harrisburg, in Wilkes-Barre, Scranton, and also Williamsport. Judge Gardner will be handling the station in Allentown to accommodate litigants so that they do not have to travel long distances to have their cases heard.

I yield the floor.

Mr. REID. I ask the Senator from Kansas how long he wishes to speak.

Mr. BROWNBACK. I thank the Senator from Nevada. I would like to speak for 15 minutes. I think there are other people who would like to speak, as well,

Mr. REID. We have spoken to the minority side. Senator BYRD wishes to use his hour postcloture. I ask unanimous consent he be allowed to do that beginning at 1:10, following the statement of the Senator from Kansas. Postcloture, he is entitled to that. I ask he be allowed to speak during that postcloture on any matter he wishes to talk about.

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

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, we are on the judicial reauthorization bill that just received cloture. I was happy to see that taking place. I draw attention to the body to one particular provision that is important. It is J–1 visas. These visas are granted to people who were born in another country, other than the United States, but trained according to medical standards in the United States, in passing medical boards in the United States, and then able to serve throughout the United States. I know the Presiding Officer's State and my State are dependent on people born in foreign countries being able to provide medical services in Kansas.

We have 105 counties and 20 that would be medically underserved if not for this feature called J–1 visas for medically underserved counties to have medical personnel, as I previously described.

Within the provision of the judicial reauthorization bill, it allows for 30 J–1 visas on a per State, per year basis to work with recruitment of medical personnel. My State of Kansas is dependent on this feature. Twenty of our 105 counties would be medically underserved if not for J–1 visas. There was a problem within the old program that the oversight was not sufficient.

After September 11, a number of people were concerned about who was getting into the United States under these J–1 visas: Are they properly supervised and properly observed, or is there potential for untoward elements that would come in this way that might seek to do harm to the United States? That was an area of concern. We were concerned about everyone coming to the United States at that point. This was another area where people had deep concerns.

This program, as we have revised it, has supervision in place to watch this program and to meet the needs of States like Kansas where we have significant areas of medically underserved populations and at the same time meet the security needs of the United States so we do not allow in an individual who seeks to do harm to the rest of the United States.

I worked in the Judiciary Committee. We worked on the Immigration Subcommittee. This bill got through the House of Representatives. Congressman JERRY MORAN from my State worked over there. We have met everyone's concerns to get this passed through the needs of States such as my own, particularly for rural States because this is a chronic issue, with significantly underserved areas, aging population in some counties that need more and more services and have more and more difficulty getting medical personnel into the areas. This is working under the J–1 category for medical doctors. We are using it for medical technologists. In the future we will need it for broader categories within health care as well, potentially for physical therapists and nurses, to get adequate personnel in places that are needed. It will be a valuable feature, looking into the future.

Overall, the judicial reauthorization is a good bill, one that we should pass. It is significant. We have not had one of these reauthorizations for some period of time. It is certainly the time to be doing this, to bring this issue forward. I commend the chairman and ranking member and those who have worked very hard in the conference committee to move this issue forward.

IRAQ

Mr. BROWNBACK. As we look and move forward on the issue of Iraq and war with Iraq and the potential of providing the President military authorization, I hope the body and the Members and people across the country and across the world look at the potential of a post-Saddam Iraq. Former Senator Kerrey of Nebraska and I worked, when he was in the Senate, with a group called the Iraqi National Congress, an umbrella group of opposition leaders, to try to bring to the forefront opposition groups, bring them together, and move forward with the track that once Saddam is out, moving forward with a democracy, with human rights, civil liberties for the people of Iraq.

I think a lot of times we get caught too much in the downside potential. It

is not only whether we can get Saddam out. It is not only what are going to be the problems of doing this. Sometimes we do not see the upside potential.

There is clear downside potential in taking on Saddam Hussein, there is no question about that—potential loss of lives of our troops, our people, terrorist threats, potential loss of life in the region, loss of life in Iraq. It is undeniable.

It is also unquestionable and undeniable that Saddam Hussein has killed a number of people already, gassed his own people, attacked Iran, gassed the Iranian people. He has continued to rule by fear. He has killed people within his own Cabinet and his own family. This is a man who is familiar with evil and has exercised it.

What about after Saddam Hussein? What then? You have a country in that region that has a history of rudimentary democracy. From 1921 until 1958, they had a constitutional monarchy, where you had a monarch but you also had a parliament that was elected by the people. They had control over budgets and ministers in the various areas of the Cabinet. It is not the level of our democracy today, but probably the level of the English democracy in the mid-1800s. They had a functioning democracy where they elected people and they had real legitimate authority within that. There is that basis.

This is one of the oldest civilizations in the world where Iraq is. They would say this is the cradle of civilization, it has been there for thousands of years—and it has. It is an urban society. Eighty percent of the population are in urban areas. It is a well educated populace that is there. It is also sitting on 10 percent of the world's oil supply. So it has the ability to generate enough income to rebuild and grow itself.

My point in saying all of that is that post-Saddam, when you get this man, who has brought so much evil to that region of the world and to the rest of the world, out of there, you have the basis of a real, growing, healthy, vibrant, democratic, free-market society. People are going to be free, and they are going to have liberty, and there is going to be great joy there for that possibility, and to be able to move forward in a region of the world that has not known much in the way of democracy.

Outside of Israel and Turkey, you don't have democracies in that region of the world. You don't have any freedoms. You have a lot of resources, but you have a lot of poverty. That is because systems matter, and they have had systems that have been totalitarian in nature.

Iraq has a history that is different. Until 1958, when there was a military coup, this was an operating country with many democratic features within it. They can build on that. Once that is established in Iraq, you move forward and press for democracy, and that is going to infect the entire region for democracy, human rights, religious freedom, pluralism, tolerance, free markets. Then it is going to be able to spread throughout.

As former Secretary Henry Kissinger said at a hearing we had last week, he views that if we go in and deal with Iraq, it is going to have a very positive, salutary effect on the war on terrorism. It is going to say to a number of countries that we are serious about dealing with terrorists, we are serious that countries that house and support terrorists are our enemies; you are either with us or against us in the war on terrorism.

If we do not go at Iraq, our effort in the war on terrorism dwindles into an intelligence operation. If we go at Iraq it says to countries that support terrorists—and there remain six in the world that fit our definition of state-sponsored terrorists—you say to those countries that we are serious about terrorism and we are serious about you not supporting terrorism on your own soil. This is going to be a big statement we will make.

It is with a great deal of difficulty and it is with a great deal of cost. But the option of doing nothing is far worse than the option of doing something and acting now. The upside potential of our acting and helping allow the Iraqi people their freedom to be able to move forward with a democracy is significant upside potential, within that region, for liberty and freedom to expand throughout that area.

We will have this debate on granting military authority to the President, which is going to be a significant debate in this body. Hopefully, we will look at all the issues, and I think we will. Particularly, we should look at things such as: Is Saddam Hussein going to be able to get weapons of mass destruction to terrorists and out of the country to attack other people during this period of time?

I hope we will also look at the downside of not doing something and the upside of helping people pursue freedom and liberty, such as what has the potential of taking place in Iraq and pursuing a democracy there.

I point out to people who are not familiar with this, Saddam Hussein does not control the whole country. He doesn't control the north of Iraq, the Kurdish region. It was reported that a number of Kurdish troops who are there are outside of his control. He has sporadic control in the south of the country. He controls it during the day; at other times, he doesn't. His main control is in the center, in the Baghdad region of the country. This is not a homogeneous population, nor is it completely under his authoritarian rule. We will be able to work with populations in both the north and south to build pressure on him in the center of this country when we move forward, addressing and dealing with Saddam Hussein.

It is a big issue. It is a big issue for the country. It is a big issue for the world. It is a big issue for liberty. It is a big issue, dealing with a very militant, politicized strain of Islam in that region, and particularly in Iraq, that Saddam Hussein seeks to exploit. You know, he would not view himself associated with it, but he is certainly working to exploit that at this point in time. This is an important argument and discussion for this country and for the world.

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

The PRESIDING OFFICER (Mr. EDWARDS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RUSH TO IRAQ RESOLUTION IGNORES UNANSWERED QUESTIONS

Mr. BYRD. Mr. President, Titus Livius, one of the greatest of Roman historians, said:

> All things will be clear and distinct to the man who does not hurry; haste is blind and improvident.

''Blind and improvident''—''Blind and improvident.''

Congress would be wise to heed those words today, for as sure as the Sun rises in the East, this country is embarking on a course of action with regard to Iraq that is both blind and improvident. We are rushing into war without fully discussing why, without thoroughly considering the consequences, or without making any attempt to explore what steps we might take to avert the conflict.

The newly bellicose mood that permeates this White House is unfortunate—unfortunate—all the more so because it is clearly motivated by campaign politics. Republicans are already running attack ads against Democrats on Iraq. Democrats favor fast approval of a resolution so they can change the subject to domestic economic problems.

Before risking the lives—I say to you, the people out there who are watching through those electronic lenses—before risking the lives of your sons and daughters, American fighting men and women, all Members of Congress—Democrats and Republicans alike—must overcome the siren song of political polls and focus strictly on the merits and not the politics of this most grave, this most serious undertaking—this most grave, this most serious issue that is before us.

The resolution—S.J. Res. 46—which will be before this Senate is not only a product of haste, it is also a product of Presidential hubris. This resolution is breathtaking—breathtaking—in its scope. It redefines the nature of defense. It reinterprets the Constitution to suit the will of the executive branch. This Constitution, which I hold in my hand, is amended without going through the constitutional process of amending this Constitution.

S.J. Res. 46 would give the President blanket authority to launch a unilateral preemptive attack on a sovereign nation that is perceived to be a threat to the United States—a unilateral preemptive attack on a sovereign nation that is perceived to be a threat to the United States.

This is an unprecedented and unfounded interpretation of the President's authority under the Constitution of the United States, not to mention the fact that it stands the charter of the United Nations on its head.

Representative Abraham Lincoln, in a letter to William H. Herndon, stated:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, to-day, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, ''I see no probability of the British invading us'' but he will say to you ''be silent; I see it, if you don't.''
>
> The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood.

If he could speak to us today, what would Lincoln say of the Bush doctrine concerning preemptive strikes?

In a September 18 report, the Congressional Research Service had this to say about the preemptive use of military force:

> The historical record indicates that the United States has never, to date, engaged in a ''preemptive'' military attack against another nation. Nor has the United States ever attacked another nation militarily prior to its first having been attacked or prior to U.S. citizens or interests first having been attacked, with the singular exception of the Spanish-American War. The Spanish-American War is unique in that the principal goal of the United States military action was to compel Spain to grant Cuba its political independence.

The Congressional Research Service also noted the Cuban Missile Crisis of 1962:

> . . . represents a threat situation which some may argue had elements more parallel to those presented by Iraq today—but it was resolved without a ''preemptive'' military attack by the United States.

Article I, section 8, of the Constitution grants Congress the power to declare war and to call forth the militia ''to execute the Laws of the Union, suppress Insurrections and repel Invasions.'' Nowhere—nowhere—in this Constitution, which I hold in my hand—nowhere in the Constitution is it written the President has the authority to call forth the militia to preempt a perceived threat. And yet the resolution which will be before the Senate avers that the President ''has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force'' following the September 11 terrorist attack.

What a cynical twisting of words. What a cynical twisting of words. The reality is Congress, exercising the authority granted to it under the Constitution, granted the President specific and limited authority to use force against the perpetrators of the September 11 attack. Nowhere—nowhere—was there an implied recognition of inherent authority under the Constitution to ''deter and prevent'' future acts of terrorism. It is not in there. It is not in that Constitution. There is no inference of it. There is no implication of it for that purpose.

Think, for a moment, of the precedent that this resolution will set, not just for this President—hear me now, you on the other side of the aisle—not just for this President but for future Presidents. From this day forward, American Presidents will be able to invoke Senate Joint Resolution 45 as justification for launching preemptive military strikes against any sovereign nations they perceive to be a threat.

You better pay attention. You are not always going to have a President of your party in the White House. How will you feel about it then?

Other nations will be able to hold up the United States—hold up the USA—as the model to justify their military adventures. Do you not think, Mr. President, that India and Pakistan, China and Taiwan, Russia and Georgia, are closely watching the outcome of this debate? Do you not think future adversaries will look to this moment to rationalize the use of military force to achieve who knows what ends?

Perhaps a case can be made Iraq poses such a clear and immediate danger to the United States that preemptive military action is the only way to deal with that threat. To be sure, weapons of mass destruction are a 20th century and 21st century horror the Framers of the Constitution had no way of foreseeing. But they did foresee the frailty of human nature. And they saw the inherent danger of concentrating too much power in one individual. They saw that. That is why the Framers bestowed on Congress—not the President—the power to declare war.

As James Madison wrote, in 1793:

> In no part of the Constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture of heterogeneous powers, the trust and the temptation would be too great for any one man. . . .

That was James Madison: ''the trust and the temptation would be too great for any one man.''

Mr. President, Congress has a responsibility to exercise with extreme care the power to declare war. A war against Iraq will affect thousands—if not tens of thousands, and even hundreds of thousands—of lives and perhaps alter the course of history. It will surely affect the balance of power in the Middle East. It is not a decision to be taken in haste, as we are being pushed today, as we are being stampeded today to act in haste. Put it behind us, they say, before the election.

It will surely affect the balance of power in the Middle East. It is not a decision to be taken in haste under the glare of election-year politics and the pressure of artificial deadlines. And yet any observer can see that is exactly, that is precisely what the Senate is proposing to do—the Senate and the House.

What a shame. Fie upon the Congress. Fie upon some of the so-called leaders of the Congress for falling into this pit.

The Senate is rushing to vote on whether to declare war on Iraq without pausing to ask why. We don't have time to ask why. We don't have time to get the answers to that question: Why? Why is war being dealt with not as a last resort but as a first resort?

Why is Congress being pressured to act now, as of today, I believe 33 days before a general election, when a third of the Senate and the entire House of Representatives are in the final, highly politicized weeks of election campaigns? Why?

As recently as Tuesday, October 1—this past Tuesday—the President said he had not yet made up his mind. As late as this past Tuesday, he had not yet made up his mind about whether to go to war with Iraq. And yet Congress is being exhorted, is being importuned, is being adjured to give the President open-ended—open-ended—authority now—give it to him now—to exercise whenever he pleases in the event that he decides to invade Iraq.

Where are we? Where are our senses? Why is Congress elbowing past the President to authorize a military campaign that the President may or may not even decide to pursue? Aren't we getting a little ahead of ourselves?

The last U.N. weapons inspectors left Iraq in October of 1998. We are confident that Saddam Hussein retains some stockpiles of chemical and biological weapons and that he has since embarked on a crash course to build up his chemical and biological warfare capability. Intelligence reports also indicate that he is seeking nuclear weapons but has not yet achieved nuclear capability.

It is now October in this year of Our Lord 2002. Four years have gone by in which neither this administration nor the previous one felt compelled to invade Iraq to protect against the imminent threat of weapons of mass destruction, until today, until now, until

33 days before election day. Now we are being told that we must act immediately. We must put this issue behind us. We must put this question behind us. We must act immediately, we are told, before adjournment and before the elections.

Why the rush? Is it our precious blood which will spew forth from our feeble veins? No. Those of you who have children, those of you who have grandchildren, those of you who have great-grandchildren should be thinking: It is the precious blood of the men and women who wear the uniform of these United States; that blood may flow in the streets of Iraq.

Yes, we had September 11. But we must not make the mistake of looking at the resolution before us as just another offshoot of the war on terror.

We know who is behind the September 11 attacks on the United States. We know it was Osama bin Laden and his al-Qaida terrorist network. We have dealt with al-Qaida and with the Taliban government that sheltered it. We have routed them from Afghanistan. We are continuing to pursue them in hiding. So where does Iraq enter into the equation? Where?

No one in the administration has been able to produce any solid evidence linking Iraq to the September 11 attack. Iraq had biological and chemical weapons long before September 11. We knew it then. We helped to give Iraq the building blocks for biological weapons. We know it now.

Iraq has been an enemy of the United States for more than a decade. If Saddam Hussein is such an imminent threat to the United States, why hasn't he attacked us already? The fact that Osama bin Laden attacked the United States does not de facto mean that Saddam Hussein is now in a lock-and-load position and is readying an attack on these United States. Slow down. Think. Ask questions. Debate.

In truth, there is nothing in the deluge of administration rhetoric over Iraq that is of such moment that it would preclude the Senate from setting its own timetable and taking the time for a thorough and informed discussion of this crucial issue. What is the matter with us? We are the elected representatives. We are the most immediate elected representatives of the American people across this land. What is wrong with our taking the time to ask questions?

The American people want questions asked. It is not unpatriotic to ask questions. Why shouldn't we ask questions? Why do we have to be rushed into voting on S.J. Res. 46? We should have an informed discussion of this crucial issue.

The President is using the Oval Office as a bully pulpit to sound the call to arms, but it is from Capitol Hill that such orders must flow. Read the Constitution of the United States. The orders must flow from Capitol Hill, not from the Oval Office.

The people, through their elected representatives in Congress, must make that decision. Why don't we have time? Why don't we take time? We make a huge mistake in deciding this issue in an effort to ''get it behind us.'' We are not going to get this issue behind us. It is not going to be put behind us.

It is here that debate must take place and where the full spectrum of the public's desires, concerns, and misgivings must be heard. If Senators will have the backbone to speak out, to ask questions, to demand the answers to questions, the American people are waiting. They are listening. They want answers to their questions.

I hear no clamor to go to war from my people. I hear only the telephones incessantly ringing, saying: Keep asking questions. We want to know why. Stand up for us, Senator.

It is here that debate must take place. We should not allow ourselves to be pushed into one course or another in the face of a full-court publicity press from the White House. We have, rather, a duty to the Nation and to the sons and daughters of this Nation to carefully examine all possible courses of action and to consider the long-term consequences of any decision to act.

As to the separation of powers, Justice Louis Brandeis observed:

> The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power.

No one supports Saddam Hussein. If he were to disappear tomorrow, no one would shed a tear around the world, other than possibly tears of thanksgiving. I would not. My handkerchief would remain dry. But the principle of one government deciding to eliminate another government, using force to do so, and taking that action in spite of world disapproval is a very disquieting thing.

Where does it end? What nation will be next? I am concerned that it has the effect of destabilizing the world community of nations. I am concerned that it fosters a climate of suspicion and mistrust in U.S. relations with other nations. The United States is not a rogue nation given to unilateral action in the face of worldwide opprobrium.

We are about to change the face of the United States, a nation which believes in liberty, justice, and human rights. What are we about to change? What is it going to be? What is the new image of the United States going to be? That of a bully, ready to draw both guns and start shooting immediately? This is preemptive action, isn't it?

I am concerned about the consequences of a United States invasion of Iraq. It is difficult to imagine that Saddam Hussein, who has been ruthless in gaining power, ruthless in staying in power, would give up without a fight. He is a man who has not shirked from using chemical weapons against his own people. I fear he would use everything in his arsenal against an invasion force, or against an occupation force, up to and including whatever chemical, biological, or nuclear weapons he might still have.

Iraq is not Afghanistan, impoverished by decades of war, internal strife, tribal conflict, and stifling religious oppression. Though its military forces are much diminished—and ours are somewhat diminished—Iraq has a strong central command and much greater governmental control over its forces and its people. It is a large country that has spent years on a wartime footing, and it still has some wealth.

Nor do I think the Iraqi people would necessarily rise up against Saddam Hussein in the event of a United States invasion, even if there is an undercurrent of support for his overthrow. The Iraqi people have spent decades living in fear of Saddam Hussein and his network of informers and security forces. There has been no positive showing, that I know of, in the form of riots or large and active internal opposition groups, that popular sentiment in Iraq supports a governmental overthrow or the installation of a democratic or republican form of government. There is no tradition of democracy in Iraq's long history. There is, however, a natural instinct to favor the known over the unknown, and in this instance the United States is an unknown factor.

The President and his Cabinet have suggested that this would be a war of relatively short duration. If that is true—which I doubt—why would the Iraqi populace rush to welcome the United States forces? In a few weeks, they might have to answer to the remnants of Saddam Hussein's security forces. A prudent Iraqi would just put his or her head under the bed covers and not come out until the future became clear. Who knows, we might be lucky. We have been pretty lucky thus far in some of our adventures. We might be. But we might not be lucky. A United States invasion of Iraq that proved successful, and that resulted in the overthrow of the government, would not be a simple effort. The aftermath of that effort would require a long-term occupation.

The President has said he would overthrow Saddam Hussein and establish a new government that would recognize all interest groups in Iraq. This would presumably include the Kurds to the north and the Shiite Muslims to the south because the entire military and security apparatus of Iraq would have to be replaced. The United States would have to provide interim security throughout the countryside.

This kind of nation building cannot be accomplished with the wave of a wand by some fairy godmother—even one with the full might and power of the world's last remaining superpower behind her.

To follow through on the proposal outlined by the President would require the commitment of a large number of U.S. forces—forces that cannot be used for other missions, such as homeland defense—for an extended period of time. It will take time to confirm that Iraq's programs to develop

weapons of mass destruction are well and truly destroyed. It will take time to root out all of the elements of Saddam Hussein's government, military and security forces, and to build a new government and security elements. It will take time to establish a new and legitimate government and to conduct free and fair elections. It will cost billions of dollars—your dollars, the taxpayers of America—to do this as well. And the forces to carry out this mission and pay for this mission will come from the United States. There can be little question of that.

If the rest of the world doesn't want to come with us at the outset, it seems highly unlikely that they would line up for the follow-through, even though their own security might be improved by the elimination of a rogue nation's weapons of destruction.

So if the Congress authorizes such a mission, we must be prepared for what will follow. The Congressional Budget Office has already made some estimations regarding the cost of a possible war with Iraq. In a September 30 report, CBO estimates that the incremental costs—the costs that would be incurred above those budgeted for routine operations—would be between $9 billion and $13 billion a month, depending on the actual force size deployed. Prosecuting a war would cost between $6 billion and $9 billion a month. Since the length of the war cannot be predicted, CBO could give no total battle estimate. After hostilities end, the cost to return U.S. forces to their home bases would range between $5 billion and $7 billion, according to the CBO. And the incremental costs of an occupation following combat operations varies from $1 billion to $4 billion a month. This estimate does not include any cost of rebuilding or humanitarian assistance.

That is a steep price to pay in dollars. But dollars are only a part of the equation. There are many formulas to calculate costs in the form of dollars, but it is much more difficult to calculate costs in the form of human lives—in the form of deaths on the battlefield and death from the wounds and diseases that flow from the den of battle.

Iraq may be a weaker nation militarily than it was during the Persian Gulf war, but its leader is no less determined and its weapons are no less lethal. During the Persian Gulf war, the United States was able to convince Saddam Hussein that the use of weapons of mass destruction would result in his being toppled from power. This time around, the object of an invasion of Iraq is to topple Saddam Hussein, so he has no reason to exercise restraint.

Now, we are being told by the White House, let him be assassinated: The cost of one bullet would be much less than the cost of a war. Now this Nation is embarking, isn't it, on a doctrine of assassination of other leaders of the world? Is the ban on assassinations being lifted? What do we hear from the White House? Are we going to revert to the age of the Neanderthals, the cavemen?

The questions surrounding the wisdom of declaring war on Iraq are many, and they are serious. The answers are too few and too glib. This is no way to embark on war. The Senate must address these questions before acting on this kind of sweeping use-of-force resolution. We do not need more rhetoric from the White House War Room. We do not need more campaign slogans or fundraising letters. We, the American people need information and informed debate, because it is their sons, it is their daughters, it is their blood, it is their treasure, it is their children, men and women who are killed in the heat of battle.

Before rushing to war, we should focus on those things that pose the most direct threat to us—those facilities and those weapons that form the body of Iraq's weapons of mass destruction program. The United Nations is the proper forum to deal with the inspection of these facilities and the destruction of any weapons discovered.

If United Nations inspectors can enter the country, inspect those facilities, and mark for destruction the ones that truly belong to a weapons program, then Iraq can be declawed without unnecessary risk or loss of life. That would be the best answer for Iraq. That would be the best answer for the United States. That would be the best answer for the world. But if Iraq again chooses to interfere with such an ongoing and admittedly intrusive inspection regime, then, and only then, should the United States, with the support of the world, take stronger measures.

This is what Congress did in 1991 before the Persian Gulf war. The United States at that time gave the United Nations the lead in demanding that Iraq withdraw from Kuwait. The U.S. took the time to build a coalition of partners. When Iraq failed to heed the U.N., then and only then did Congress authorize the use of force. That is the order in which the steps to war should be taken.

Everyone wants to protect our Nation. Everyone wants to protect our people. To do that in the most effective way possible, we should avail ourselves of every opportunity to minimize the number of American troops we put at risk. Seeking, once again, to allow the United Nations inspecting regime to peacefully seek and destroy the facilities and equipment employed in the Iraqi weapons of mass destruction program would be the least costly and the most effective way of reducing the risk to our Nation, provided that it is backed up by a credible threat of force if Iraq, once again, attempts to thwart the inspections.

We can take a measured, stepped-up approach that would still leave open the possibility of a ground invasion if that, indeed, should become the last resort and become necessary. But there is no way to take that step now.

Mr. President, I urge restraint. Let us draw back from haste. President Bush gave the United States the opening to deal effectively with the threat posed by Iraq. The United Nations embraced his exhortation and is working to develop a new and tougher inspection regime with firm deadlines and swift and sure accountability. Let us be convinced that a reinvigorated inspection regime cannot work before we move to any next step. Let us, if we must employ force, employ the most precise and limited use of force necessary to get the job done.

Let us guard against the perils of haste, lest the Senate fall prey to the dangers of taking action that is both blind and improvident.

Mr. President, a paraphrase of Jefferson would be that the dogs of war are too vicious to be unleashed by any one man alone; that the Framers of the Constitution thought the representatives of the people in the legislative branch ought to make these determinations.

Let us sober up. Let us sober ourselves. Let us take hold of ourselves. Let us move back from this engine of haste and destruction, this desire to get it over, this desire to get it behind us before the elections.

Here we have a resolution, S.J. Res. 46, nine pages of beautifully flowered ''whereases,'' nine pages. Here we have a resolution by which the Senate of the United States and the House of Representatives would be abdicating, pushing aside our responsibility to make decisions about going to war.

This is an abdication of our responsibilities. Here it is; what a shame; what a rag; it is enough to make those eagles up there scream, the eagles beside the clock—for a period that is unlimited in time. Hear me, hear me now, listen to this resolution on which we are going to vote. For a period of time that is unlimited, the President of the United States is authorized to make war anywhere he determines is in some way linked to the threat posed by Iraq—anytime, anywhere, and in any way.

Get that. That is what this amounts to. This is a blank check, nine pages. A blank check. A blank check with whereas clauses serving as figleaves. That is what it is, a blank check with beautifully flowered whereas clauses serving as figleaves. This is a blank check. There it is.

Look at it, nine pages, a blank check that does not simply remove us as representatives of the people from decisionmaking about the use of force now or the use of force in Iraq. It removes us as representatives of the people from making decisions about the use of war so far in the future as we can see. It removes us. You cannot make anything outside of it. It is plain.

I know it is obfuscated and it is all sugar-coated with these figleaves of ''whereases.'' That means, let's say in the year 2014, the Congress will have no role in determining whether military

force should be used in some country linked with Iraq or some purpose related to Iraq. The President can send military forces into war wherever he determines, and it may not be the President we now have. It undoubtedly will be another President because this goes on into the future, as far as the human eye can see.

Under the Constitution, we are abdicating the congressional power to the President of the United States. He can send military forces into war wherever he determines it is in some way related to the ''continuing threat'' posed by Iraq. This resolution, this power, this blank check, does not terminate if the regime is changed in Iraq. This resolution, this power, does not terminate if inspectors are allowed throughout Iraq. This resolution does not terminate if Iraq is disarmed and all of its weapons and weapons facilities are removed. No. The power goes on. You better read it—read it and weep.

This resolution says that we, the Congress of the United States, are turning over our constitutional responsibility to the President for as long as there is some threat as the President determines; use whatever military forces he wants; wherever he wants to use them; as long as he determines it is necessary to react to the threat posed by Iraq and those working, no doubt, with Iraq, others that he can see as their allies.

Do we want to do that? Do we want to abdicate congressional responsibility under the Constitution of the United States to this President or any President of any political party? Is that what we want? Do we want to be able to just wash our hands of it and say it is all up to the President; we turned it all over to the President?

This resolution—it is nine pages—changes the constitutional presumption that the Congress makes the determination about whether to go to war and for the foreseeable future gives it to a single person elected by a minority of the people.

Ronald Reagan, for example, was elected by one-fourth of the eligible voters of this country. So we turn this momentous power, this unimaginable power, over to one person, the President of the United States, elected by a minority of the people. The whereas clauses are pretty. Oh, they are pretty, pretty, pretty, pretty, pretty, pretty, pretty whereas clauses, but they are just window dressing. That is all. They are just figleaves.

All that is necessary is the President's own determination. Why do we take up all this space? Why do we take up nine pages? Why waste all this paper? It is nine pages of beautifully phrased ''whereases.'' If we want to pass this resolution, we can pass it by cutting it down to one sentence. That is all we need, one sentence. We do not have to have all of this window dressing, all this sugar coating, on this bitter pill. One sentence is all we need. One page is all we need.

That sentence could simply say, and it would be legally the same as this document—hear me—we could say the President is authorized to use the Armed Forces of the United States for as long as he wants, wherever he wants, and in any manner he wants, without any approval by Congress, as long as he determines it is necessary to defend against a threat posed by Iraq, in his own determination.

Let me read that again. Let's dispose of the 9 pages. All we need is one sentence in order to do exactly what the 9 pages would do. All that is necessary is the President's own determination. We can save a lot of space. We can save a lot of paper if we want to pass this resolution by cutting it down to one sentence, and that sentence could simply say—and it would be legally the same as this 9-page document—the President is authorized to use the Armed Services of the United States for as long as he wants, wherever he wants, in any manner he wants, without any approval by Congress, as long as he determines it is necessary to defend against a threat posed by Iraq, in his own determination. Nothing else is needed but that sentence.

The rest of it is of no legal consequence, just window dressing. That is the blank check part of this resolution.

Let us guard against the perils of haste, lest the Senate fall prey to the dangers of taking action that is both blind and improvident.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent that under the conference report rules I be allowed to speak for up to an hour and do it on the subject of Iraq.

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

IRAQ

Mrs. BOXER. Madam President, I say to my friend from West Virginia, the distinguished Senator, a great leader in the Senate, that he has been a voice of sanity and reason. He has been a voice that the Americans have wanted to hear.

This is one of the most solemn duties we have, and the fact that it was going to be rushed and the fact that it came right before an election and the fact that we have so many unanswered questions, those things are weighing on this Senator's shoulders. I am so pleased the Senator from West Virginia, from his perspective, as someone who has served so well and for so long, was able to speak out as he has.

I do not know where we will wind up on this, but I do know we are going to have alternatives. I think the fact that we will have alternatives, in many ways, is because the Senator from West Virginia from day 1—remember the day 1—when our President did not even want to come to Congress, when his staff was saying to the President it was not necessary, that the Senator from West Virginia, Mr. BYRD, said, just a moment, read the Constitution.

So before I begin, I thank my friend for his remarks.

Mr. BYRD. Madam President, I thank the distinguished Senator from the great State of California for her gracious remarks. I thank her, too, for what she stands for, for standing up for the Constitution and for representing the people of her great State so well, so consistently, and so effectively.

Mrs. BOXER. Madam President, it means a great deal to me that the Senator has said these words.

One of the most sacred, one of the most humbling, one of the most important—let me say the most important—roles Congress has to play is determining whether our country should send its sons and daughters to war.

The role of Congress in war and peace must not be ignored. We can read it right out of the Constitution. Article I, section 8, says the following: The Congress shall have power to declare war.

What has made me proud is that the American people understand this. I believe they understand it better than some in the administration who started off in August saying the President did not have to come to Congress in order to go to war with Iraq. To be specific, on August 26, the Washington Post quoted a senior administration official who said:

> We don't want to be in the legal position of asking Congress to authorize the use of force when the President already has the full authority. We don't want, in getting a resolution, to have conceded that one was constitutionally necessary.

It is clear the American people will not support a war against Iraq without the agreement of Congress. According to a USA Today-CNN poll, 69 percent of the American people favored military action with the support of Congress; only 37 percent favored military action if Congress opposed the move. It is also important to point out that 79 percent of the American people support the use of force if it were supported by the United Nations; only 37 percent favored action without United Nations support.

This is not a minor point. This administration did not want to come to Congress; and then, when it decided to do so because—frankly, they understood the views of the American people—they sent over a resolution which was the most incredible blank check I have ever seen. Its provisions basically said that even if Iraq complied with inspection and dismantlement, the administration could still go to war if Iraq failed to provide documentation, for example, on Kuwaiti POWs or because of its illicit trade outside the Oil-for-Food Program. Those issues certainly need to be addressed. There are very few people—I don't know of any—who believe those reasons should be enough to send our men and women and our bombs to Iraq.

In addition, the original resolution gave the President the authority to use force not only in Iraq but in the entire

region. When those in Congress—mostly Democrats but some Republicans, too—said we needed to deliberate on this important issue, take time to debate it and discuss it and ask questions, we were hit by a barrage of criticism from the Republican leadership and immediately the issue was made political.

Representative TOM DAVIS, Chairman of the National Republican Congressional Committee, said:

People are going to want to know before the election where their representatives stand.

Now, despite this pressure, I am proud to say my colleagues are not sitting back. We are going to fulfill our obligations under the Constitution. We are fulfilling our obligations to debate war and peace. We are not allowing this administration to ignore our views, our opinions, and our heartfelt concerns about America's sons and daughters and the innocent victims of war.

While there are some in the administration who believe taking up the Iraq issue now will hurt Democrats, I am not so sure. I am not so sure the American people want us to roll over and be silent on this. I am not so sure the American people don't want us to see it as our duty to check and balance this administration. Already, because of our voices, the resolution offered by the President has been changed. In my view, it is still a very blank check for war with Iraq. I certainly cannot support a blank check. I think it is an affront to the people of this country to do that. Originally, it was an even blanker check, allowing the President to go to war anyplace in the region.

The role of checks and balances that we play is already evident. I know that. I also know in the greatest country on the face of this Earth, in the country that is great because of its middle class and its productivity, in that country, in our country, it is necessary to not only deal with the issue of Iraq, to deal with the issue of terrorism, to protect our people when they fly in an airplane or walk past a nuclear plant or a chemical plant or cross a bridge, it is also important to deal with the impact of this administration's economic record: The worse stock market decline in 70 years, the worst economic growth in 50 years, the greatest loss of jobs in the private sector in 50 years, and the threat that people feel from retirement insecurity and job insecurity, runaway health care costs, and a falling median income.

Now, there are those who say the administration is bringing up Iraq now to avoid scrutiny from this volatile and miserable economy. There have been memos that show this to be their strategy. There have been anonymous statements to this effect. And whether that is true or not, I leave to the American people. I trust the American people to look at this.

We must take care of the security of the American people. Economic security is part of that. I believe this administration is AWOL in this regard. As we deal with foreign policy challenges, we Democrats will insist we deal with domestic challenges, too. And again, let the people decide if they agree with us or not.

This I will also say clearly: We are told constantly that the President has not decided yet whether he wants to go to war with Iraq. We hear it over and over. I sit on the Foreign Relations Committee. I am proud to sit on that committee. I chair the terrorism subcommittee. Recently, Colin Powell said to us in an open hearing:

Of course the President has not made any decision with regard to military action. He's still hopeful for a political solution, a diplomatic solution.

Secretary Rumsfeld said:

The President's not made a decision with respect to Iraq.

National Security Adviser Rice said:

The President has not made a decision that the use of military force is the best option.

Ari Fleischer, the press spokesman, makes that same statement day after day after day.

I ask, if the President hasn't decided to go to war yet, if the administration has not decided to go to war yet, if the military has not been told there is going to be a war, then why is the President coming to Congress now, before he has made a somber decision, and before he has answered many key questions?

If our questions could be answered, the many questions we have, it would be one thing. However, I want to say unequivocally that the myriad of questions I have asked have not been answered.

In good conscience, how can I vote to take our country to war alone, which is what the President wants from us, without allies and without the facts that I need to fulfill my responsibilities to the people of California.

Madam President, you know my State very well. We have more than 30 million people. Out of the 880,000 reservists in the military, 61,000 are from California. I owe them the best decision I can make. Those reservists, as Senator INOUYE has pointed out, many of them have families. At times you will have a wife and a husband called up to go into the danger zone. I need my questions answered before I could vote to send this country, alone—alone—into battle.

Here are the questions I have asked in one forum or another. Here are the questions that I either do not have answers to or the answers I have are incomplete. If we give the President the blank check he is asking for, which I will not vote for, if we give him the go-it-alone preemptive strike authority, which I will not vote for, then I think those who are considering voting for that ought to ask these questions. I will lay them out.

How many U.S. troops would be involved?

What are the projected casualties?

Would the United States have to foot the entire cost of using force against Iraq?

If not, which nations will provide financial support?

Which nations will provide military support?

What will the cost be to rebuild Iraq?

How long would our troops need to stay there?

Would they be a target for terrorists?

What will the impact be on our fight against terrorism?

Will Iraq use chemical or biological weapons against our troops?

Will Iraq launch chemical or biological weapons against Israel?

How will Israel respond?

What impact will that have?

How will we secure Iraqi chemical and biological weapons once the fighting starts?

How do we make sure such weapons do not get into the hands of terrorists or terrorist nations?

How do we make sure that Iraqi weapons experts, from Iraq, do not migrate to terrorist organizations or terrorist states?

Have we given enough thought to alternatives to avoid war?

Why haven't we worked with the United Nations to try Saddam Hussein as a war criminal? He is a war criminal.

During the Foreign Relations Committee hearing with Secretary Albright, I raised the idea put forward by the Carnegie Endowment on coerced inspections. Has this or a similar idea been pursued?

If we are concerned about Saddam Hussein acquiring weapons of mass destruction, why are we not fully supporting the Nunn-Lugar weapons dismantlement program?

I do not doubt that Iraq is up to no good. I know they are. That is why I voted for the Iraq Liberation Act. We know that Iraq has biological and chemical weapons and that they used them against Iran and against its own Kurdish minority. We know that following the Persian Gulf war, Iraq promised to abide by the demands of the U.N. but failed to live up to its commitment. They have not allowed unfettered inspections. They have lied about chemical and biological weapons programs. And they continue to seek the capability to produce nuclear weapons.

I do not doubt that there are some members of al-Qaida in Iraq. But there is al-Qaida in Syria. There is al-Qaida in Africa. There is al-Qaida in Pakistan and in Afghanistan. There are cells in 60 nations, including the United States of America.

The fight against bin Laden and his organization must not be weakened. I want to quote what the head of our Senate Intelligence Committee, Senator BOB GRAHAM, has to say about this. You and I know he is not a man of overstatement. He said:

At this point I think Iraq is a primary distraction from achieving our goals of reducing the threat of international terrorism.

Listen to what Wesley Clark has said. He headed our NATO troops.

Unilateral U.S. action today would disrupt the war against al-Qaida.

Despite statements by staff to the contrary, the President appears to want to go it alone in war when we are already in a war. According to the President, we are in a war, one that will require all of our wits and lots of our treasure, both in human capital and in tax dollars.

I do not think it is enough to be critical of this blank check resolution the President is supporting. I want to say how I would approach this question. Iraq must be held to its word, as expressed in U.N. resolutions, that it will submit to thorough inspections and dismantlement of weapons of mass destruction, period.

Let's repeat that. Iraq must be held to its word that it will submit to thorough inspections, unfettered inspections, and dismantlement of weapons of mass destruction, period. That is what they agreed to. They signed on the dotted line to do it. And that is what must happen. Those were United Nations resolutions, and we must work for an updated resolution ensuring that such unfettered inspections do take place or there will be consequences. These weapons are a threat to the world, and the world must respond. I believe if we handle this right, the world will respond.

But if our allies believe we have not made the case, if they believe this is a political issue here, or if they believe it is a grudge match here, or if they believe that the whole thing is being manipulated for domestic political reasons, I believe that will hurt our Nation. I believe that will isolate us. I do not think that is a good path for our country.

Can we rule the world with our weapons and our guns and our might? I am sure we can. I know we can.

Can we win every military confrontation that anyone could ever imagine? Yes. We can.

But I believe the greatness of our Nation has been built on other things: The power of our persuasion, not the power of our arsenal; the power of our ideals, not the power of our threats; the power and greatness of our people, not the power and the greatness of our machines.

America at her best has been seen as a beacon of hope, not fear; an example not of ''Might makes right,'' but ''Might backing right.'' What is right at a time like this? I believe it is laying out a path for peace, not just a path for war; trying everything we can to avoid chaos and devastation to our own and to innocent civilians who may well be used as pawns in urban warfare.

I believed that Madeleine Albright, the former Secretary of State under President Clinton, and Dr. Henry Kissinger laid out a path for peace when they spoke before the Foreign Relations Committee. They talked about unfettered inspections and dismantlement of weapons of mass destruction. As they said, and I agree, it will not be easy. Maybe it will be impossible. But there is no doubt in my mind that we should lay out that path and try for complete, unfettered inspections, with nothing off limits, to be followed by dismantlement of those weapons.

For those who say it will never work, maybe they are right. But we have never pulled the massive trigger of our weapons on a nation that has not attacked us first. At the least—at the least—we should see if we can exhaust all other options.

That is why I support the chairman of the Armed Services Committee, Senator CARL LEVIN, and his resolution that will be introduced. This is what it does:

No. 1, it urges the United Nations Security Council to quickly adopt a resolution that demands immediate, unconditional, and unrestricted access for U.N. inspectors so that Iraq's weapons of mass destruction and prohibited missiles will be destroyed.

No. 2, it urges this new U.N. Security Council resolution to authorize the use of necessary and appropriate force by U.N. member states to enforce the resolution if Iraq refuses to comply.

No. 3, it reaffirms that, under international law and the U.N. Charter, the United States has the inherent right to self-defense.

No. 4, it authorizes the use U.S. Armed Forces pursuant to the new U.N. Security Council resolution that deals with weapons of mass destruction.

In closing, let me say very clearly that I will not vote for a blank check for unilateral action. I also will not vote for a resolution that is dressed up to look like Congress has powers when, in fact, all the words really call for are consultations and determinations.

That is when Senator BYRD said ''pretty'' words. He said, ''Pretty, pretty, pretty words.'' Sounds good—consultations and determinations. What does it really mean? Nothing. It means the administration tells us what they think. We already know what they think.

To me, consultations and determinations without a vote by Congress are like a computer that is not plugged in. It looks good, it looks powerful, it looks impressive, but it does nothing.

I didn't come to the Senate for the title. I didn't come to the Senate to debate meaninglessly on the Senate floor. I didn't come to the Senate to do nothing. I didn't come to the Senate to run away from a hard vote. I came to uphold the duties of my office. I came to represent the people of California.

In the past 4 years, I have voted to use force twice—once against Milosevic to stop a genocide and once after September 11 when we suffered a barbarous attack. But, in this case, if any President wants to go to war alone or outside the type of coalitions we have built for the war on terror, or the last Persian Gulf war, then let him come to the American people, through the Congress for another debate and a vote.

It is one thing to go with a coalition. It is one thing to determine that we will be part of a multinational force. It is another thing to do it alone, without a specific vote of the Congress before the President has decided to do so. As I have said, his aides keep telling us he has not made the decision. So why do we have to give him a blank check today? If he wants to go it alone, if he wants to send my people to a place where we don't even know if chemical or biological weapons will be used, we don't even know what the estimates of casualties are, we don't even know what it is going to cost, we don't even know how long we are going to have to stay there, we don't know what will happen if Israel responds—we don't know so many things—I don't think it is asking too much to ask my colleagues to support a resolution by Senator LEVIN. He said that if he wants to go it alone, then the President has to come back.

In the CARL LEVIN resolution, it is implicit that he must come back if he wants to go it alone. CARL LEVIN's resolution authorizes force as part of the U.N. enforcement action to dismantle Iraq's weapons of mass destruction. But again, if the President wants to go it alone, he must come back to us.

I believe the people of my State expect me, on their behalf, to get my questions and their questions answered, not to engage in guesswork, and, above all, not to abdicate my responsibility as a Senator to anyone else. If our Founders wanted the President—or any President—to have the power to go to war without our consent, they would have said so. But, again, this is what our Founders said in article I, section 8: Congress shall have power to declare war.

Thank you very much, Madam President. I yield the floor.

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

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

WEST COAST PORT CLOSURE

Mr. BOND. Madam President, we have talked some about our fragile economy and the problems we are facing. Growth, which began slowing in 1999, coupled with the tragic impact of September 11, has resulted in hardship for many. We have seen unemployment, reduced value of market securities, more problems with health care, and other difficulties.

There are measures pending in this body I believe would do a great deal to help the economy. They are such things as passing a terrorism risk reinsurance bill, which could get our building trades back to work; passing an energy bill, which has the potential of employing more than three-quarters of

a million people, and securing our energy independence. We have not been able to work on those.

But now we face a further challenge, which is a self-inflicted attack on our economy by our own people; and that is the contract dispute which has closed the West Coast docks, providing a terrible bottleneck for crucial exports and imports.

This is the line of commerce: Trade going out, agricultural products being sold; inputs, goods coming into the United States; and it is shut down by this dispute.

Many Missouri constituents are asking us what can be done. Retailers are asking where their goods are for them to be able to make sales and continue to employ their people. Agricultural producers, who have meat for export rotting on their docks, are saying something must be done.

According to the Wall Street Journal, goods valued at more than $300 billion move annually through these ports. According to the New York Times, these ports handle half the Nation's imports and exports. Further estimates are that this shutdown could cost our economy $1 billion per day and grow further as the shutdown continues to $2 billion per day. The longer it goes, the worse it gets. Regrettably, the State of Missouri has the highest unemployment growth rate in the Nation, and we cannot afford economic homicide of this nature.

This affects jobs upstream and downstream throughout the entire economy. It affects truckers and railroad workers and farm workers and retail clerks and consumers and others. These are real workers who are real people and have real families. They are hurting.

I am not an expert on the specific grievances of these several hundred workers and their unions and the employers at the docks, but this major facility is nothing to toy with. I don't care if the grievances are moderate or petty, it is not worth the harm that could be done to thousands of other working people and our economy. The parties have to be brought together. One would think that workers reportedly earning $106,000 per year for less than 40 hours a week could resolve the grievances on the job without hurting other workers in my State who earn far less. While they sit on their chairs at the docks, people around the country are the ones suffering. This power play will have too much collateral damage to be allowed to continue.

One company, National Cart Company, in St. Charles, MO is a manufacturer that employs 140 people. They manufacture material handling equipment and rely on some components from Asia. This is the busiest time of their year because their customers need their products to stock shelves for Christmas. Unless this is resolved, they will be laying off workers in 2 weeks or slightly more.

Another company, TRG, located in St. Louis, with 80 employees, can't stock their shelves with recreation and travel accessories that they sell. When they shut down, their employees are out of work.

Another St. Louis company, Donelly and Associates, manufactures telecommunications products. They only have seven employees, but if they do not get supplies in a week to 10 days, they will shut down, and those workers will be laid off. The president of that firm told my office that for every day the supply is disrupted it takes as many as 5 days to get it back on line. He told us that the airlines have already stopped taking bookings out of Asia.

Another plant manager from Magnet LLC in Washington, MO said they are unable to get supply, and he predicts that if this is not resolved, they may be forced to lay off workers in 2 to 3 weeks. They have 375 employees and are urgently trying to make product to satisfy Christmas demand.

There is a story in the Washington Post this morning about how people in Hawaii are stockpiling goods, and perishable food products are at risk of rotting on the docks. The retailers are trying to get winter and Christmas goods inventoried. Over 60 percent of beef exports and 50 percent of pork exports and one quarter of our chicken exports travel through these ports. Meat is rotting on the docks. Many freezers in the country are at capacity and inventories will become further backed up and prices will be depressed below levels that are already low.

Yesterday, according to the Los Angeles Times, ''picketers tried to prevent a banana-carrying ship from leaving the dock, provoking a confrontation that brought out police in riot gear.''

The Los Angeles Times has another story about how ''the labor dispute is putting a strain on independent truckers who move port-related cargo.'' They quote a truck driver named Jose Louis Martinez who ''doesn't care whether labor or management is to blame in the dispute * * * he cared only that the wallet he would bring home to his wife and two daughters would be empty for the third time in four days.''

There are over 10,000 truckers—the majority of them independent—who normally make as many as three visits a day to the ports, according to the California Trucking Association. Burlington Northern-Santa Fe said it has suspended shipments of marine containers to all West Coast ports and grain to ports to Washington and Oregon.

I can't speak to the fairness of the labor negotiations, but I can speak to the unfairness of a few people being willing to injure many people to get their own way and to destroy a vital sector of our economy. I can't see how a dispute about bar code readers—they are objecting to bringing in bar code readers, things that they use in every supermarket I have been in, and most retail stores—should cost the economy billions of dollars and intentionally throw people out of work. Frankly, my constituents don't understand the approach being taken, which seems to be: We will tear down everyone we can until we get our own way. I think it is outrageous. I think these matters should be resolved immediately. They should be resolved with the docks open for business.

This is extortion, where the hostages are ordinary working families, many of whom will never earn in any year as much as the dock workers earn in three-quarters of a year. If they were only hurting themselves, I would advise that we stay out of it and have at it. But they are dragging everyone else with them. Since when is the economic leader of the world closed for business? This is an outrage.

Here our President and his team are working vigorously to open foreign markets. We gave them the power. But why? So labor disputes can have export products rot on the docks? We can all have disagreements about whether raising taxes or lowering taxes will help our economy. I have some strong views on that. People in this body disagree with me. But one thing we certainly ought to be able to agree on is that a tactic of this nature is bad for the economy, bad for working families, and should be resolved yesterday.

I have asked the President—and sent a letter to him—to use his authority to intervene. I hope he will do that. I have read that some in this body object to his intervening. I know the President has agreed these people should get back to work. He expressed that view in strong terms and made mediation services available.

Working families in my State cannot wait. It is a terrible shame it would come to this. It is a shame that people haven't worked this out on their own, as they should. But our economy is too fragile for self-interested, shortsighted, and self-inflicted wounds of this nature.

I urge the President to take further steps to stop this dispute, to get commerce flowing, and to get people back to work. Whether it be truckers and railroad workers in California or retail clerks throughout the Nation or agricultural producers in our heartland or other industrial workers who are making products for export to the Southeast Asian market, they are being denied a livelihood because of a dispute over bar code readers, something that is not really that advanced a technology but is in use every day in stores we visit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I ask unanimous consent that I may speak as in morning business for 15 minutes.

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

Mr. BURNS. Madam President, I thank my good friend from Missouri

for his words today because they echo mine.

Today I sent a letter to the White House and the President asking him to intervene in this slowdown and lockout, however you want to interpret it, of west coast ports. Today, 29 west coast ports, representing about half of our Nation's seaborne commerce, remain closed. Furthermore, we have another situation that complicates it. Weather conditions have temporarily limited the seaborne and other modes of commerce on the gulf coast due to Hurricane Lili. Our ability to export our goods or import our goods is quickly becoming paralyzed.

The latest attempt at renegotiation between the Pacific Maritime Association and the International Longshore and Warehouse Unions has stalled, and they have stalled based on protocol and the presence of security personnel.

Isn't that something? While they are arguing that in those negotiations, we are just coming through a crop year in my State of Montana, and already that is having an effect on us. I am also a little bit disturbed about the negotiations on salaries of $110,000 to $140,000 a year; they are on the table also. I want to give you a little comparison on why we are a little out of kilter here.

According to the USDA, the average farm operator household income is $65,000 a year. I don't like averages. That is on-farm and off-farm income. I don't like to deal in averages because I know there are exceptions to the rule. Averages are like: If you have one foot in a bucket of ice and the other foot in the oven, on average, you ought to feel pretty good. That doesn't always work. The average farmer in my State makes around $30,000 to $40,000 a year. That is net. And they are forced—after we make the investment, put in our labors—they are forced to watch their yearly harvest sit while the longshoremen and management squabble about salaries that are sometimes two to three times the amount of their gross.

So I think it is about time that President Bush intervene. If the parties are unable to negotiate a compromise by the end of this week, it is time to take action before they do too much damage to our national economy, and particularly those people who are impacted by a stalemate at our ports. The President can invoke the Taft-Hartley Act to resolve this matter. According to law, a Taft-Hartley injunction can be invoked if ''a threatened or actual strike or lockout affecting an entire industry, or a substantial part thereof, engaged in trade, commerce, transportation, transmission, or communications among the several States, or with foreign nations, or engaged in the production of goods for commerce will, if permitted to occur or to continue, imperil the Nation's health and safety.''

What it does, basically, is allow for a cooling-off period while workers go back to the ports and commerce is allowed to continue. It gives the negotiators this time to work out a compromise. An agreement is necessary, and the President does have the power to impose that agreement. Economic consequences have the potential to injure workers, employers, and consumers alike.

The crisis is costing the U.S. economy up to $1 billion a day and will affect the economy that is struggling to grow. If you can imagine, fruits and vegetables and other perishables rotting at the ports—those coming in, and those to be exported. My good independent trucker friends are sitting around just letting their trucks idle, waiting for work. The alternative, such as air freight, is limited due to capacity and also security issues. Auto manufacturers are waiting on parts and components. One manufacturer has announced closure of its California plant.

Of course, the retail impact is immeasurable, considering that right now all the goods and services are moving for the upcoming holiday season. The west coast labor crisis is no longer about ''the rights of workers'' or ''management negotiating philosophy.'' It is about American prosperity and protecting the principles of commerce for this Nation.

If this shutdown is allowed to go on at the west coast ports, there is no doubt about the impact it will have on my State of Montana. It could not come at a worse time. Because of drought, and droughts in other countries, and a little bit of a shortage, wheat prices have gone up approximately $2 higher than we have had in the last 5 years. In 5 years, this is the first time we have had a market—any kind of a market. And 90 percent of what we produce in my State is marketed in huge volumes, and it goes for export. The timing of this price advance is particularly fortuitous in light of the economic effects of a 4-year drought along with it. However, the labor crisis has already led to an 8-cent to 12-cent drop in that market just since Sunday.

We are feeling the effects in another way. What about my railroaders? Earlier this week, Burlington Northern and Union Pacific Railroads announced an embargo on all grain movements to the west coast of the United States, citing overcapacity and lack of storage.

The net effect of those embargoes, again, will lead to overcapacity in grain storage facilities in my State of Montana. It is harvest time, folks, and this is the first time we have had a market, whenever the grain is ready. In other words, it is harvested and ready to roll, and it is ready to be shipped. Furthermore, right behind it, we are less than 30 days away from the corn harvest season; that will be in its peak.

Grain car shortages will force farmers to find alternative storage capacity or leave their wheat on the ground exposed to the elements. We have seen that before. Even if the lockout concludes this week, the residual impact will lead to several weeks, possibly months, of delay in the movement of those products to our major ports. Even those who have sold their grain will not be able to deliver against their contracts and, more importantly, the income from that delivery is needed at this time of the year. This is the time we make our land payments. This is the time we pay our taxes.

There is another aspect involved. We have spent hundreds of thousands of dollars in developing the Asian and other Pacific markets, on which we have to compete with our friends in Canada and Australia. We can do that for the simple reason that we have always been a reliable source. They can count on us not only for volume but also quality. We are jeopardizing that market development.

So this is our opportunity, in normal times, to recapture some of those major exports that we lost over the last 2 or 3 years. We can do it. The only thing that is holding us back is this squabbling over salaries of $90,000 to $140,000, which are triple that of my average farmer in Montana. We are able to take advantage and recoup from years of drought, and it all could be lost with our inability to export.

An extended work stoppage or slowdown by the west coast port workers, who enjoy some of the highest pay rates in the country, is already having its effect. Our shoes are getting a little tight. Grain millers of the world are coming to the United States for their supply, and they are denied delivery.

In my letter to the President, I laid out that this is no longer a standard labor-management negotiation. It has become the groundwork for a potentially grave economic slowdown that will jeopardize consumer confidence and our national commercial infrastructure.

Who says one little group cannot impact an economy that is suffering and trying to dig itself out of a 5-year hole?

I hope the President takes note of the letter. I know Senator BOND has sent a letter to the White House asking the President to intervene and use the Taft-Hartley law with which to do it.

I thank the Chair, and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CARPER) The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak on a matter other than the Department of Justice authorization bill but the time continue to run under the cloture rule.

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

MEMBERS' PAY RAISE

Mr. FEINGOLD. Mr. President, I had the opportunity to speak last Thursday night with regard to the issue of the possibility of war with Iraq. I am, of course, listening carefully to my colleagues as they discuss the prospect of war. Nothing could be more serious, and I am pleased this body will be engaged in this matter in earnest.

The public nature of that debate stands, though, in great contrast to another matter. While the country is focused on whether or not to go to war, Members of Congress will once again be quietly sidestepping the issue of their own pay raise, an evasion that is made all the more inappropriate by the very fact that we may be on the brink of war.

The cloakrooms have advised their offices that we are likely to consider another continuing resolution this week, and there is speculation that we are not likely to consider the individual appropriations bills that remain before we adjourn for this year.

I raise this because there is increasing reason to believe that this body may not be able to consider the scheduled Member pay raise. Current law provides Members with an automatic pay raise without a debate or a vote, a stealth pay raise. The pay raise scheduled for January 2003 will be about $5,000. It follows automatic pay raises in January 2002, January 2001, and January 2000. Altogether these pay raises for Members of Congress, four pay raises in the last 4 years, total $18,000.

The current system of stealth pay raises is already inaccessible, and the current legislative position of the body makes it even more so. We are unlikely to consider the Treasury-Postal appropriations bill, which is the traditional vehicle for amendments to stop the Member pay raise, and we may not consider other amendable vehicles.

Members who favor the scheduled pay raise should not be comforted by this. Congress is not going to sneak this by without anyone noticing, nor will it be lost on the average citizen that Congress is allowing this to happen on what may be the eve of war.

In his more recent volume on the life of Lyndon Johnson, Robert Caro recounts similar events early in World War II.

He writes:

During the war's very first months, while an unprepared America—an America unprepared largely because of Congress—was reeling from defeat after defeat, a bill arrived on Capitol Hill providing for pensions for civil service employees. House and Senate amended the bill so that their members would be included in it, and rushed it to passage—before, it was hoped, the public would notice. But the public did notice: the National Junior Chamber of Commerce announced a nationwide Bundles for Congress program to collect old clothes and discarded shoes for destitute legislators. Strict gasoline rationing was being imposed on the country; congressmen and senators passed a bill allowing themselves unlimited gas. The outrage over the pension and gasoline ''grabs'' was hardly blunted by a hasty congressional reversal on both issues. Quips about Congress became a cottage industry among comedians: ''I never lack material for my humor column when Congress is in session,'' Will Rogers said. The House and the Senate—the Senate of Webster, Clay, and Calhoun, the Senate that had once been the ''Senate Supreme,'' the preeminent entity of American government—had sunk in public estimation to a point at which it was little more than a joke.

Mr. President, let's not let history repeat itself. I call upon the leadership to ensure we have a debate and a vote on the scheduled pay raise. I am willing to accept a very short time limit, understanding the very important business we have, 20 minutes equally divided, even 5 minutes equally divided. This will not take long. But the public is entitled to a debate and a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, for the benefit of all Members, we expect to have a vote in the next hour, hour and 15 minutes on the motion to invoke cloture. We hope to have a voice vote on the conference report that is before the Senate. I, therefore, ask unanimous consent that the Senator from Arizona, Mr. KYL, be recognized to speak postcloture for up to 1 hour and he can speak on any subject he desires; following that, the two leaders will be recognized, Senator LOTT and then Senator DASCHLE, and then we will proceed to a vote on a cloture motion.

I ask unanimous consent for Senator KYL, but I am alerting Members, following that, Senators LOTT and DASCHLE will speak, and then we will vote on the cloture motion.

I ask the Chair to approve my unanimous consent request regarding Senator KYL.

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

Mr. REID. Senator KYL is in the building and will come to speak shortly. After that, the two leaders will appear, and we will vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the assistant majority leader for his courtesy. I wish to address a matter that is not directly related to the conference report before us, though there is some indirect relationship to it. I assume I do not have to ask unanimous consent.

The PRESIDING OFFICER. Unanimous consent has already been granted.

Mr. KYL. I thank the Chair.

USE OF FORCE AGAINST IRAQ

Mr. KYL. Mr. President, we have really already begun the debate on a resolution to authorize the use of force against Iraq if the President deems it necessary. Several Members have come to the Chamber and spoken about the issue. We are going to begin that debate formally sometime this evening, I believe, and it will continue on through Friday, Monday, and then shortly thereafter we will be voting on this important resolution.

As with the debate 11 years ago when force was authorized and we repelled Saddam Hussein's invasion of Kuwait, Members of both bodies discussed the issue at a level, frankly, that we are unaccustomed to doing. When we are making a decision to send our young men and women into harm's way, when we are literally authorizing war, I think a degree of seriousness begins to pervade all of our thinking. We address these issues with the utmost of seriousness because we are aware of the consequences, and they deserve no less, and our constituents and our military deserve no less than that degree of consideration.

When we debate this issue, we will find there are good arguments on both sides of the issue, and I realize there will be different nuances, so it is not as if there are just two sides to the debate. But at the end of the day, we are going to have the question before us: Are we going to authorize the use of force?

There will be some alternatives before us. That debate needs to be based upon the very best information, the very best intelligence, the very best analysis we can bring to bear, and it also has to be based upon a good relationship between the legislative and the executive branches because in war we are all in it together. We have to cooperate. We have to support the Commander in Chief.

The last thing we would ever do is to authorize the Commander in Chief to take action and then not support that action. Our foes abroad, as well as our allies abroad, need to know we will be united once a decision is made, and we will execute the operation to succeed, if it is called for.

I am very disturbed at the way that part of this debate is beginning, and that is what I wanted to speak to today. There has been an effort by some to broadly paint the administration as uncooperative in sharing intelligence information with the Senate, and more specifically the Senate Intelligence Committee.

I have been a member of the Senate Intelligence Committee now for almost 8 years, and I have been involved in the middle of a lot of disputes about information sharing. When we are sharing information about intelligence, those issues are inevitable, just as they are sometimes with law enforcement. In our democracy, these become very difficult decisions because we are a wide open country. We tend to want to share everything, but we also recognize there have to be a few things we cannot share with the enemy, and the lines are not always brightly drawn. Sometimes the executive branch and the legislative branch get into tiffs about what information should be shared, what information cannot be shared. Again, reasonable minds can differ about the specifics of those issues, but what has arisen is a very unhealthy war of words about motives and intentions, and we need to nip that in the bud today.

I read a story in the New York Times reporting on a meeting of the Intelligence Committee, which I attended yesterday in the secure area where the Intelligence Committee meets, under strict rules of classification. We were briefed by two of the top officials of the intelligence community about matters of the utmost in terms of importance and secrecy, and yet there is a three-page story in the New York Times which discusses much of what was discussed in that meeting, without ever

attributing a single assertion or quotation. There is no name used of anybody who was in that room, and so we do not know exactly who it was who went to the New York Times and talked about what went on in our meeting.

I am not suggesting classified information was leaked. I would have to have an analysis done to determine whether anything in the article was actually classified information. What was discussed was a purported dispute between our committee and the executive branch about the release of certain information and the preparation of certain reports. I will get into more detail about this in a minute.

Obviously, somebody from the committee, a Member or staff, went complaining to the New York Times and spread, therefore, on the pages of this paper a whole series of allegations about motives and intentions of the Bush administration relating to the basis for seeking authority to use force against Iraq, if necessary. This is exactly what will undercut the authority of the President in trying to build a coalition abroad as well as in the United States, and it is the very people who demand the President achieve that international coalition before we take action who are the most exercised about what they perceive to be a slight from the administration and who, therefore, are being quoted in this story.

I do not know the names, but there is a limited universe of people involved. I am going to go over this article in fine detail just to illustrate my point.

One of the sources cited in the story is a congressional official. I will quote the entire sentence.

One congressional official said that the incident has badly damaged Mr. Tenet's relations with Congress, something that Mr. Tenet has always worked hard to cultivate.

Mr. Tenet is George Tenet, the director of the CIA. Sometimes I agree with Mr. Tenet and sometimes I do not agree with Mr. Tenet, but I believe Mr. Tenet has the best interests of the United States of America at heart when he is working with the President and Congress to present information and develop the appropriate approach to the use of force, if that is necessary.

My point was this, though: The article quotes one congressional official. What is a congressional official? It is either a Member of the Senate or the House of Representatives—though no Representatives were in this meeting; it was just a meeting of Senators—or it is a staff person hired by the Senate.

I find it interesting the article quotes a congressional official.

Most of the article quotes congressional leaders, Government officials, or lawmakers. Either a Member of the Senate or a member of our staff talked to the press about what went on in the meeting and did so in order to damage, or to call into question, I should say, the relationship between the Senate and the executive branch, and to question whether the administration was being cooperative with the Senate in providing information.

Let me discuss this in detail now. The central theme is identified in the first line of the story:

The Central Intelligence Agency has refused to provide Congress a comprehensive report on its role in a possible American campaign against Iraq, setting off a bitter dispute between the agency and leaders of the Senate Intelligence Committee, congressional leaders said today.

Those are Senators—not staff but congressional leaders. Only Senators were in the meeting. So some Senators said the CIA had refused to provide us with a comprehensive report on the agency's role in a possible American campaign, and this set off a bitter dispute between the CIA and leaders of the Senate Intelligence Committee.

Leaders of the Senate Intelligence Committee would be probably two people, the chairman and ranking member. Mr. SHELBY, the ranking member, the Senator from Alabama, will have to speak for himself. The chairman is Senator GRAHAM from Florida. I suggest they need to clarify what their view is with respect to this story.

In the first place, it is not true the Central Intelligence Agency has refused to provide us with the report described in the story. There were two reports requested. As the article discloses, the first report has been provided. It was done at breakneck speed. It has to do with Iraq's capabilities; what kind of chemical and biological weapons does Iraq really possess; how far along is it in developing its nuclear capability; what means of delivery does it have; and a host of other questions that were put to the intelligence community. It is obviously important for us to have the answers to those questions before we take action.

The reality is the information was all there. It had simply not been put together in one report, as the committee requested. What we requested was something called a national intelligence estimate. A national intelligence estimate is not requested by the Congress. A national intelligence estimate is ordinarily requested by the President or the National Security Council, and it is essentially a document which is supposed to analyze a particular country's or region's threat, or threat from weapons of mass destruction. It frequently takes a long time, up to a year, perhaps, to prepare. The purpose for it is to inform both the administration and others such as the Congress that would be dealing with the issues, but it is not intended to be an operational document; that is to say, to be integrated in operational military plans. Nevertheless, even though this is not the normal way the document would be prepared, the agency people worked overtime to produce, in a matter of several days, a very thorough report. About 100 pages in length was produced in about 3 weeks, according to the story, under very tight deadlines.

It was presented yesterday. Most of the information had been presented before in a different way. But it was put together in one package.

Leaders of the committee expressed their outrage that Director Tenet was not there in person to testify. He was with the President at the time. The two people who briefed us were very top officials of the intelligence community who probably knew more on a firsthand basis what was in the report even than Director Tenet. Some Members did not want to ask them questions but wanted to wait for Director Tenet to arrive, a pretty petulant attitude when we are trying to seriously address questions of war and peace.

The information was before us. No one questioned the veracity of the information. We had a good hearing in discussing the various elements. That was one of the reports. There was complaining it should have been earlier, it should have been done more quickly. As pointed out, ordinarily these are the kind of reports that usually take a year to put together; it was done in a matter of 3 weeks. Under the circumstances, the community is to be complimented.

The other report requested had to do with the role of the intelligence community in military operations, potential military operations against Iraq. In effect what was being asked, if we take forcible action against Iraq, and any aspect of the intelligence community is used in those operations, what is it likely to be? What is the likely response going to be? How effective do you think it will be? That is what the article means, in the first sentence, when it talks about a comprehensive report on its role in a possible American campaign against Iraq.

The intelligence community, wisely, has a standard policy against doing analyses of U.S. action that is not overt and tied to military operations. We do not know our military plans for military action against Iraq if it were to come. Only the President and a handful of people involved in those plans know what they are. Thank goodness for that. There is so much leaking in this Government—both at the executive branch level and the legislative branch level—it would be folly in the extreme for operational plans to be discussed broadly before an operation begins or during the operation, for that matter. That is why we do not present that kind of analysis to anyone. Members of the Intelligence Committee ought to know that and ought not to feel slighted because it was not presented to us and because it will not be presented to us. That kind of information would be directly related to the plan of attack that the President may eventually approve.

We know our leaders get called just before an operation begins and once it is begun, we begin to get information about how we will conduct the operation. But can anyone reasonably believe the plans of our military and intelligence community, in cooperating

with some kind of action, should be put in a document and released to the Congress, even in classified form? If this article is any indication, it would be 1 day before it would be in the newspaper. We cannot do that, putting at risk the lives of the men and women we may send in harm's way.

One success in the Afghanistan operation was the fact that we were able to combine good intelligence with military capability. Without going into a lot of detail, everyone appreciates the fact we were able to get assets on the ground from whatever source, providing information to our aircraft, for example, about very specifically where certain targets were. As a result of having that good intelligence, we were able to strike at the heart of the enemy, avoid for the most part civilian casualties, or collateral damage, and very quickly overthrow the Taliban government, and rout or capture a lot of the al-Qaida.

We do not know much publicly about the interrelationship between the intelligence community and the military, but we know they combined efforts to make this a successful operation. That is all most Members need to know.

We do not need to know in advance of a military operation how the intelligence community is going to be integrated with the military in conducting this campaign, what they are each going to do, and what the enemy might do in response and so on.

The article itself alludes to this when it talks about the ordinary purpose of a national intelligence estimate. But intelligence officials say a national intelligence estimate is designed to assess the policies of foreign countries, not those of the United States. I quote:

''They were asking for an assessment of U.S. policy, and that falls outside the realm of the NIE and gets into the purview of the Commander and Chief,'' an intelligence official said.

That is correct. So there was a misunderstanding of what a national intelligence estimate was, on the first part; second, the request for the information went far beyond what the administration should have been asked to provide and what it could provide. Yet Members of the committee were indignant that the administration had stiffed the committee, had stonewalled, had refused to provide this information.

We have to engage in a serious debate about a very serious subject in a relatively objective way. We all bring our biases and prejudices to the debate. But one thing that should be clear to all of us is that the thing that is paramount is the security of American military forces in the conduct of an operation. And that cannot be jeopardized by either the inadvertent or advertent leak of material that pertains directly to those military operations.

What was being requested here was wrong. And the administration was right to say: I'm sorry, we cannot give that to you. The debate should not be adversely influenced by this unfortunate set of circumstances. We should decide whether we want to authorize force and what kind of force is authorized based upon the merits of the argument as we assess them.

No one here should be led down this path that says one of the reasons we should not act yet, or that we should deny the administration the authority is because they have stonewalled us. They have not given us information we need before we can make a judgment.

As a member of the Intelligence Committee, that is simply not true. There are briefings being conducted now—both in an informal way, very classified but informally, as well as formally—to Members of this body and the House of Representatives, to answer Members' questions about Iraqi's capabilities and intentions as we see them and our assessment of circumstances. I encourage all Members to get those briefings and to ask any question they can think of asking and to try to keep it up until the questions have been answered. Some perhaps may not be answered.

For the most part, they will learn of the primary reasons the President has decided it may be necessary to take military action against Iraq. What they will not learn, should not learn, and for national security purposes cannot learn, is how the intelligence community is going to be working with the military in the campaign should one be authorized. Those are operational plans that only the President and his military and small group of advisers can be aware of before there is military action begun.

There is other information in this news story that is inaccurate, in suggesting that there has been this huge tug of war between the committee and the CIA about getting information. In my own personal view, a lot of it has to do with lack of communication, lack of clear specificity about what was requested. I remember when the original request was made, it was a rather routine kind of request, certainly not the big deal that some members of the committee are trying to turn it into. Information was given orally about when it would be provided to us, and information was given orally about the fact that the military operations could not be discussed. Yet members of the committee seemed to be pretty upset about the fact that we had not gotten a formal letter from George Tenet laying this all out.

The members of the Intelligence Committee who were there apologized and said: If we had thought a formal letter was necessary or we could have gotten it to you sooner and didn't do that, we are sorry about that. But here are the facts. You wanted to know what the facts are, and here are the facts.

So I do not think we should be dissuaded from basing a decision on the merits of the case, one way or the other, however we decide to vote, on the phony issue of whether or not somebody is providing us information or whether they got it to us soon enough or whether the head guy came down to testify as opposed to people directly below him.

As I said, he will be there to testify tomorrow in any event. This is all a smokescreen. It may be useful to some people who want to find some reason not to support the President other than simply outright opposition to taking military action. I understand that. There seems to be a popular view that most Americans want to take military action and politically people had better get on that bandwagon, so maybe people who do not really want to take that action have to find some reason, some rationalization, for not doing it.

But I really don't think that is right. I think a lot of American people are where most of us are. We would prefer not to have to take military action. We would hope to have a coalition of allies. We hope there will be some way to avoid this. But at the end of the day, if the President decides it is necessary, we are probably willing to go along and authorize the use of force.

There is nothing wrong with taking the position that at the end of the day we are not yet ready to make that decision and therefore not vote to authorize the use of force. If that is where Members come down and that is what they in their hearts believe, that is what they should say and that is how they should vote. But what they should not do is try to latch onto an artificial reason for saying no, predicated upon some perceived slight by the Director of the CIA or failure to provide information quickly enough or in exactly the form they wanted it or most certainly on the grounds that the intelligence community has not provided the kind of information about operations of the intelligence community that they would like to get. That information should not be provided, and nobody should base a decision here on the failure to obtain that information.

Let me just speak a little bit more broadly. I will ask unanimous consent that at the conclusion of my remarks this particular article be printed in the RECORD.

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

(See exhibit 1.)

Mr. KYL. A lot of people are approaching this issue on the basis that there has to be some demonstration that, in the relatively near future, Saddam Hussein is going to use a weapon of mass destruction against us or else this is not the time that we should take military action against him. That is a rational position to take, in a way. If you do not think that there is a real threat or that it is imminent, you could reach the conclusion that we should not engage in war, or at least ought to be continuing to try to engage in diplomacy or whatever.

But there is another side to the coin. It is the way the President has chosen

to look at it. I think, because he has chosen to look at it this way, he will go down in history as a very prescient leader.

Noemie Emery, who is a fine writer, in an article in a periodical a week ago, observed that most Presidents have had to fight a war but only two Presidents have had to perceive a war. Harry Truman perceived the cold war. He instinctively knew at the end of World War II, when the Soviet Union was beginning to assert its power in regions of southern Europe, for example, and elsewhere, that it was important for the United States and other Western allies to stand and say no to the further expansion of the Soviet Union and communism, even though that was going to mean a longtime confrontation with the Soviet Union which might even escalate into a hot war.

The Marshall plan to assist countries in southern Europe was a part of that perception, and we are well aware of all the other events that followed that. He perceived the need to stand and thwart the continued aggression of an evil power, and we are grateful to him for that.

Emery said the other President to perceive a war is George W. Bush. Of course, September 11, you can say, made that easy. But I submit it is not necessarily that easy. Over time, people will begin to wonder whether our commitment to a war on terror is really all that important if there are not further attacks. If we go another several months, hopefully even a year or two, without a major terrorist attack on the United States, will the American people continue to believe that this is a war worth fighting? Or was it a one-time-only proposition?

George W. Bush perceived the need to conduct a war on terror because he understood that from a historical point of view, over the course of the last dozen or 15 years, there had been a whole series of attacks against the United States or our interests, and when we in Congress Monday morning quarterback the FBI and CIA and say, ''You failed to connect the dots,'' I wonder what those same people say about President Bush's understanding of the history leading up to September 11. He is connecting the dots between the Khobar Towers and the *Cole* bombing and the embassy bombings in Africa. You can even go back further than that, bringing it on forward all the way up to September 11. Does an event have to occur every 6 months for us to believe this is really a war worth stopping or worth winning and bringing to conclusion? I do not think so.

I think the President, when he said to the American people, we are going to have to be patient in this war, understood that we would have to be patient, that it could take a long time. I have been very gratified at the response of the American people in not being as impatient as we usually are as a people.

Americans love to get in, get the job done, and move on. That is a great trait of Americans. But the President here is saying be patient. So far, I have been very impressed that the American people have been very patient. What the President has perceived, that not everybody has perceived, is that this is a struggle that has been going on for some time and it is going to continue in that same vein for as far out as we can see, unless we defeat terrorism.

So the wrong question to be asking at this time is: Can you prove that there is an imminent threat to the United States as a result of which we have to take military action against Iraq? That is the wrong question.

There are many fronts in this war on terror, from Lackawanna in New York where we get the six people who we think were connected to terrorism, to Tora Bora, Afghanistan, where we had to rout out members of al-Qaida; to Pakistan, where we are fighting remnants of al-Qaida; to places such as Yemen and Sudan and Somalia and the Philippines and Malaysia; Hamburg, Germany, where we have had to roll up al-Qaida operatives; and then other places in the Middle East where there is terrorism going on every day and when there are people such as Saddam Hussein building weapons of mass terror who would not be doing that, would not be spending the resources and trying to hide them, simply to play some kind of game. They are obviously serious people with evil intentions. I think everybody concedes that.

Then the question becomes: Why should you put the burden on the President to prove that at a particular time Saddam Hussein is going to strike the United States in order to conclude that we have to do something about him? It is the same kind of thinking as in the late 1930s, that, in retrospect, we look back on and say: Anybody could have realized that Hitler was somebody who had to be stopped. Why did Neville Chamberlain act so foolishly when he came back from Munich and said, ''Peace in our time''?

I submit there are people today who are hoping against hope that Saddam Hussein will never use these weapons, weapons that are far greater than anything Adolph Hitler ever had in terms of their potential for destruction and death. I just wonder whether there are people who really believe we should wait until something specific and objective happens before we have a right to act, or whether preventative action is called for. Some call it preemption; some call it prevention. But the idea is that with war on terrorism you shouldn't have to wait until you are attacked to respond. That creates too many deaths, too much misery, and is unthinkable after September 11.

The President, based upon good intelligence, has concluded that Saddam Hussein has a very large stock of very lethal weapons of mass destruction. By that, we mean chemical agents and biological agents which have been or can be ''weaponized''; that is to say, there are means of delivering those agents that can cause massive amounts of casualties; that he has been working to acquire a nuclear weapon.

All of this is in open, public debate. And there is no doubt about any of it. The only doubt with respect to nuclear weapons is exactly where he is in the process. Of course, we don't know because he hasn't allowed us to inspect the places in his country where we believe he is trying to produce these nuclear weapons or, more specifically, the enriched uranium that would be a part of the weapons.

For 4 years now, we have had no inspectors in the country, and before that most of the information that we got was based upon information from defectors—people who came out of Iraq and told us: You guys are missing what Saddam Hussein is doing. This is where you need to look. This is what you need to look for.

When our inspectors then demanded to go to those places, one of three things happened. Either they said, no, you can't go there; that is a Presidential palace or whatever it is, or they went there and as they were walking in the front door satellite photos showed people running out of the backdoors with the stuff, or in the couple of cases we actually did find evidence of these weapons of mass destruction. Of course, at that point, Saddam Hussein said: Oh, that's right. I forgot about that. But whatever the defector said, that is all there is.

So he was confirming exactly what we already knew and gave us nothing more than that. Yet there are those who believe through some kind of new inspection process that we are going to learn more than we did before; that this will be an adequate substitute for going in and finding these weapons of mass destruction in an unrestricted way.

Saddam Hussein first said, You can have total access with no conditions, and he immediately began tying on conditions, the basis of which are laughable. You can't go into the Presidential palaces. They are grounds or areas with 1,000 buildings the size of the District of Columbia. We are going to send three inspectors in there? OK. There is the District of Columbia with all the buildings, and so on. Have at it.

We are not going to find anything. We are going to be running around for years. So inspections are merely a means to an end. They are not the end. The goal here is not to have inspections. The goal is disarmament. And we know from intelligence that he has certain things he has not disarmed; that he hasn't done what he promised to do—both to the United States and the United Nations; that he hasn't complied with the United Nations resolutions. In fact, we see his violation of those resolutions almost every day. We don't have inspectors in there anymore who he was harassing and precluding from doing their job.

But we do have aircraft flying in the no-fly zones and having American pilots and British pilots shot at every

month, necessitating our taking those SAM sites and radar sites out of action by military force. So, in a sense, this is unfinished business from the gulf war which has never stopped. At a low level we have been trying to enforce the resolutions ever since the end of the gulf war. Our effort to rid many of these weapons of mass destruction is but the latest chapter.

We made the decision in 1998 that Saddam Hussein had to go. We voted on a resolution here, and everybody was for it in 1998. If it was the right thing to do then, why is it no longer necessarily the right thing to do? He has had 4 more years to develop these weapons and to get closer to a nuclear capability.

We now have a group of terrorists in the world who we know talk to each other, help each other, and give each other safe passage and access and places for training, and so on. We are developing information on connections with these terrorists and the State of Iraq. All of this has happened in the meantime. But now, suddenly, it is not the time.

If we establish too high a burden of proof here we are going to be fiddling until we become absolutely sure it is time, and then it will be too late. That is why I believe the President is on the right track to say we don't know exactly when, where, or how but we know that this is a man who has very evil intentions and is working very hard to be able to strike at us. We can't let it happen. We can't wait until he has hit us to get him.

For those reasons, and a variety of others that I will be talking about, I believe it is important for us to go into this debate with a view towards supporting the President, and the action that he has called for publicly and in the resolution that he has negotiated with congressional leaders and which has been placed on the floor.

I believe at the end of the day we will conclude that the President should be supported and that we should authorize the use of force, and that we will have intelligence satisfactory for all of us to back up this resolution. And the final point—going back to the original point of my conversation today—that it is a phony issue to somehow demand that the intelligence community provide us with information to which we haven't been given access. We have gotten all that we need to have access to. Our Members have asked for that information, and they can get it. The only information that they can't get is information that should not be provided anybody, including you, Mr. President, myself, and the distinguished minority leader who now joins us on the floor.

I will have more to say later. I know the minority leader has some things he would like to say. At this point, I yield the floor.

EXHIBIT 1

[From the New York Times, Oct. 3, 2002]

C.I.A. REJECTS REQUEST FOR REPORT ON PREPARATIONS FOR WAR IN IRAQ

(By James Risen)

WASHINGTON, October 2.—The Central Intelligence Agency has refused to provide Congress a comprehensive report on its role in a possible American campaign against Iraq, setting off a bitter dispute between the agency and leaders of the Senate Intelligence Committee, Congressional leaders said today.

In a contentious, closed-door Senate hearing today, agency officials refused to comply with a request from the committee for a broad review of how the intelligence community's clandestine role against the government of Saddam Hussein would be coordinated with the diplomatic and military actions that the Bush administration is planning.

Lawmakers said they were further incensed because the director of central intelligence, George J. Tenet, who had been expected to testify about the Iraq report, did not appear at the classified hearing. A senior intelligence official said Mr. Tenet was meeting with President Bush. Instead, the agency was represented by the deputy director, John McLaughlin, and Robert Walpole, the national intelligence officer for strategic and nuclear programs.

The agency rejected the committee's request for a report. After the rejection, Congressional leaders accused the administration of not providing the information out of fear of revealing divisions among the State Department, C.I.A., Pentagon and other agencies over the Bush administration's Iraq strategy.

Government officials said that the agency's response also strongly suggested that Mr. Bush had already made important decisions on how to use the C.I.A. in a potential war with Iraq. One senior government official said it appeared that the C.I.A. did not want to issue an assessment of the Bush strategy that might appear to be ''second-guessing'' of the president's plans.

The dispute was the latest of several confrontations between the C.I.A. and Congress over access to information about a range of domestic and foreign policy matters. Just last week, lawyers for the General Accounting Office and Vice President Dick Cheney argued in federal court over whether the White House must turn over confidential information on the energy policy task force that Mr. Cheney headed last year.

The C.I.A.'s rejection of the Congressional request, which some lawmakers contend was heavily influenced by the White House, comes as relations between the agency and Congress have badly deteriorated. The relations have soured over the ongoing investigation by a joint House-Senate inquiry—composed of members of the Senate and House intelligence committees—into the missed signals before the Sept. 11 attacks.

Mr. Tenet in particular has been a target of lawmakers. Last Friday, Mr. Tenet, a former Senate staffer himself, wrote a scathing letter to the leaders of the joint Congressional inquiry, denouncing the panel for writing a briefing paper that questioned the honesty of a senior C.I.A. official before he even testified.

A senior intelligence official said Mr. Tenet's absence at the hearing today was unavoidable, and that no slight was intended. The official said that he missed the hearing because he was at the White House with Mr. Bush, helping to brief other Congressional leaders Iraq. The official said Mr. Tenet had advised the committee staff several days ago that he would not be able to attend. Mr. Tenet has promised to testify about the matter in another classified hearing on Friday, officials said.

One Congressional official said that the incident has badly damaged Mr. Tenet's relations with Congress, something that Mr. Tenet had always worked hard to cultivate.

''I hope we aren't seeing some schoolyard level of petulance,'' by the C.I.A., the official said.

While the House and Senate intelligence oversight committee have received classified information about planned covert operations against Iraq, the C.I.A. has not told lawmakers how the agency and the Bush administration see those operations fitting into the larger war on Iraq, or the global war on terrorism, Congressional officials said.

''What they haven't told us is how does the intelligence piece fit into the larger offensive against Iraq, or how do these extra demands on our intelligence capabilities affect our commitment to the war on terrorism in Afghanistan,'' said one official.

Congressional leaders complained that they have been left in the dark on how the intelligence community will be used just as they are about to debate a resolution to support war with Iraq.

Congressional leaders said the decision to fight the Congressional request may stem from a fear of exposing divisions within the intelligence community over the administration's Iraq strategy, perhaps including a debate between the agency and the Pentagon over the military's role in intelligence operations in Iraq.

Defense Secretary Donald H. Rumsfeld has been moving to strengthen his control over the military's intelligence apparatus, potentially setting up a turf war for dominance among American intelligence officials. Mr. Rumsfeld has also been pushing to expand the role of American Special Operations Forces into covert operations, including activities that have traditionally been the preserve of the C.I.A.

Congressional leaders asked for the report in July, and expressed particular discontent that the C.I.A. did not respond for two months. Lawmakers had asked that the report be provided in the form of a national intelligence estimate, a formal document that is supposed to provide a consensus judgment by the several intelligence agencies.

The committee wanted to see whether analysts at different agencies, including the C.I.A., the Defense Intelligence Agency, the National Security Agency and the State Department, have sharply differing views about the proper role of the intelligence community in Iraq.

But intelligence officials say that a national intelligence estimate is designed to assess the policies of foreign countries—not those of the United States. ''They were asking for an assessment of U.S. policy, and that falls outside the realm of the N.I.E., and it gets into the purview of the commander in chief,'' an intelligence official said.

Committee members have also expressed anger that the C.I.A. refused to fully comply with a separate request for another national intelligence estimate, one that would have provided an overview of the intelligence community's latest assessment on Iraq. Instead, the C.I.A. provided a narrower report, dealing specifically with Iraq's program to develop weapons of mass destruction.

Lawmakers said that Mr. Tenet had assured the committee in early September that intelligence officials were in the midst of producing an updated national intelligence estimate on Iraq, and that the committee would receive it as soon as it was completed.

Instead, the Senate panel received the national intelligence estimate on Iraq's weapons of mass destruction program after 10

p.m. on Tuesday night, too late for members to read it before Wednesday's hearing.

The committee had ''set out an explicit set of requests'' for what was to be included in the Iraq national intelligence estimate, said one official. Those requirements were not met. ''We wanted to know what the intelligence community's assessment of the effect on a war in Iraq on neighboring states, and they did not answer that question,'' the official said.

A senior intelligence official said the 100-page report on Iraq's weapons of mass destruction program was completed in three weeks under very tight Congressional deadlines, and the writing had to be coordinated with several agencies.

The PRESIDING OFFICER. The minority leader.

Mr. LOTT. Mr. President, I believe in just a moment the Senate will be ready to move to completion on the Department of Justice authorization conference report.

Mr. President, I say to Senator KYL from Arizona, who has been speaking for the last several minutes, that I appreciate his speech and his very effective and diligent work. He cares an awful lot about national security, about our defense capability, and about our intelligence communities, and his position on what we need to do in Iraq. It is not easy being a member of the Intelligence Committee sometimes. It takes a lot of extra meetings, a lot of briefings, and an awful lot that you can't talk about. For a Member of the Senate, that is tough. But Senator KYL certainly does a good job in that effort.

ORDER OF PROCEDURE

Mr. REID. Mr. President, this unanimous consent has been cleared by both leaders. I ask unanimous consent that the yeas and nays be vitiated and that the conference report be adopted, without intervening action, motion, or debate; that the motion to reconsider be laid upon the table; that following adoption of the conference report, there be a period of morning business until 4:20 p.m.; that the time until 4:20 be divided between the majority and minority leaders, and that Senator DASCHLE have the last period of time to speak; that without any intervening action or debate, at 4:20, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S.J. Res. 45.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The conference report was agreed to.

Mr. LEAHY. Mr. President, I commend the majority leader for filing cloture on the bipartisan 21st Century Department of Justice Authorization Act conference report. I regret that consideration and a vote on final passage on this important measure has been delayed. I had hoped this measure would have been considered and passed by the Senate last week, following House passage by a vote of 400 to 4 last Thursday.

Unfortunately, Members from the other side of the aisle threatened opposition to the motion to proceed to the conference report and they have refused to proceed to vote on final passage of the conference report. All Democrats were prepared to pass the conference report last Thursday and then agreed to vote immediately, after limited debate earlier this week. Given the objection by the other side, however, to proceed to a vote or agree to a time agreement, the majority leader was required to file cloture on this conference report.

I do not understand why anyone would filibuster this conference report. This legislation is truly bipartisan. It passed the House 400 to 4.

The conference report was signed by every conferee, Republican or Democrat, including Senator HATCH and Representatives SENSENBRENNER, HYDE, and LAMAR SMITH.

I thank Senator HUTCHISON for coming to the floor on Tuesday to support this conference report. Senator HUTCHISON has spoken to me many times about the need for more judgeships along the Texas border with Mexico to handle immigration and criminal cases.

The conference report includes three new judgeships in the conference report for Texas, one more than was included in the bill reported to the Senate by the Senate Judiciary Committee and passed by the Senate last December.

I thank Senator SESSIONS for his statement on Tuesday in support of this bipartisan conference report.

Although he opposes Senator HATCH's legislation regarding automobile dealer arbitration, which enjoys more than 60 Senate cosponsors and 200 House cosponsors and was included in the conference report, Senator SESSIONS is supporting this conference report because it will improve the Department of Justice and support local law enforcement agencies across the nation. I appreciate Senator SESSIONS' work on the provisions in the conference report on the Paul Coverdell Forensic Sciences Improvement Grants and the Centers for Domestic Preparedness in Alabama and other States.

I thank Senator FEINSTEIN for her excellent speech earlier this week in support of this conference report. Senator FEINSTEIN has been a tireless advocate for the needs of California, including the needs of the federal judiciary along the southern border. She has led the effort to increase judicial and law enforcement resources along our southern border. I am proud to have served as the chair of the House-Senate conference committee that unanimously reported a bill that includes five judgeships for the Southern District of California. Long overdue relief for the Southern District of California could be on the way once this conference report is adopted.

Of course, our bipartisanship is evidenced by our included authorization for additional judgeships not only in California but in Texas, Arizona, New Mexico, Ohio, North Carolina, Illinois and Florida, as well. In essence, in the six and one-half years that they controlled the Senate the Republican majority was willing to add only eight judgeships to be appointed by a Democratic President, and most of them were in Texas and Arizona, states with two Republican Senators.

We have, on the other hand, proceeded at our earliest opportunity to increase federal judgeships where most needed by 20 to be appointed by a Republican President who has shown little interest in working with Democrats in the Senate, and we have included a number of jurisdictions with Democrats Senators.

I also commend the senior senator from California for her leadership on the ''James Guelff and Chris McCurley Body Armor Act,'' the State Criminal Alien Assistant Program reauthorization, and the many anti-drug abuse provisions included in this conference report.

She spoke eloquently on the floor of the Senate regarding many of the important provisions she has championed in this process.

This conference report will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

This conference report is the product of years of bipartisan work. The conference report was unanimous. By my count, the conference report includes significant portions of at least 25 legislative initiatives.

I urge my colleagues to support final passage of this conference report so that all of this bipartisan work and all the good that this legislation might is not flushed down the drain.

Over the past 2 days of debate, I have heard only a few Members raise objections to passage of the Department of Justice Authorization Conference Report. I thank these Members for coming to the floor to discuss their views and concerns so that they may be addressed. I should note that even in posing an objection to and delaying passage of the conference report—as is their rights as Senators—these Members acknowledged that there were parts of this bill they liked or may like upon review.

I appreciate that not all Members were or could be conferees and participate in the conference, but I do hope that after they have had a full opportunity to study the conference report passed last week in the House by a vote of 400 to 4, that they will find that on the whole this is a good, solid piece of legislation. Senator HATCH worked very hard to help construct a good, fair and balanced conference report as did all of the conferees. We all owe him thanks for his attention to this matter and his work.

This legislation is neither complicated nor controversial. It passed the House 400 to 4 in short order. It was

signed by every conferee, Republican or Democrat, including Senator HATCH and Representatives SENSENBRENNER, HYDE, and LAMAR SMITH. Senators SESSIONS and HUTCHISON came to the floor to support it. I did not think there was a need for extensive debate in the Senate on this measure and had hoped that Members would be willing to allow an up or down vote of the conference report.

Contrary to those who may argue that this legislation is not a priority, it is. Congress has not authorized the Department of Justice in more than two decades. While the Justice Department would certainly continue to exist if we were to fail to reauthorize it, that is not an excuse for shirking our responsibility now. I know that Senator HATCH and Representatives SENSENBRENNER and CONYERS share my view. It is long past time for the Judiciary Committees of the House and Senate—and the Congress as a whole—to restore their proper oversight role over the Department of Justice.

Through Republican and Democratic administrations, we have allowed the Department of Justice to escape its accountability to the Senate and House of Representatives and through them to the American people. Congress, the people's representative, has a strong institutional interest in restoring that accountability. The House has recognized this, and has done its job. We need to do ours.

I agree with those Members who say that we need to give anti-terrorism priority, but not lose sight of the other important missions of the Department of Justice.

The conference report takes such a balanced approach. Those critics who say that there is nothing new in this legislation to fight terrorism, have missed some important provisions in the legislation as well as my floor statements over the past week outlining what the conference report contains to help in the anti-terrorism effort.

Let me repeat the highlight of what the conference report does on this important problem.

The conference report fortifies our border security by authorizing over $20 billion for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration. It also authorizes funding for Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont and Pennsylvania, and adds additional uses for grants from the Office of Domestic Preparedness to support State and local law enforcement agencies. These provisions have strong bipartisan support, including that of Senator SESSIONS.

Another measure in the bill would correct a glitch in a law that helps prosecutors combat the international financing of terrorism. I worked closely with the White House to pass the original provision to bring the United States into compliance with a treaty that bans terrorist financing, but without this technical, noncontroversial change, the provision may not be usable. This law is vital in stopping the flow of money to terrorists. Worse yet, at a time when the President is going before the U.N. emphasizing that our enemies are not complying with international law, by blocking this minor fix, we leave ourselves open to a charge that we are not complying with an anti-terrorism treaty.

I agree with other Members that we should do more to help the FBI Director in transforming the FBI from a crime fighting to a terrorism prevention agency and to help the FBI overcome its information technology, management and other problems to be the best that it can be. The Judiciary Committee reported unanimously the Leahy-Grassley FBI Reform Act, S. 1974, over 6 months ago to reach those goals, but this legislation has been blocked by an anonymous hold from moving forward. This conference report contains parts of that bipartisan legislation, but not the whole bill, which continues to this day to be blocked to this day.

Since the attacks of September 11 and the anthrax attacks last fall, we have relied on the FBI to detect and prevent acts of catastrophic terrorism that endanger the lives of the American people and the institutions of our country. Reform and improvement at the FBI was already important, but the terrorist attacks suffered by this country last year have imposed even greater urgency on improving the FBI. The Bureau is our front line of domestic defense against terrorists. It needs to be as great as it can.

Even before those attacks, the Judiciary Committee's oversight hearings revealed serious problems at the FBI that needed strong congressional action to fix. We heard about a double standard in evaluations and discipline. We heard about record and information management problems and communications breakdown between field offices and Headquarters that led to the belated production of documents in the Oklahoma City bombing case. Despite the fact that we have poured money into the FBI over the last five years, we heard that the FBI's computer system were in dire need of modernization.

We heard about how an FBI supervisor, Robert Hanssen, was able to sell critical secrets to the Russians undetected for years without ever getting a polygraph. We heard that there were no fewer than 15 different areas of security at the FBI that needed fixing.

The FBI Reform Act tackles these problems with improved accountability, improved security both inside and outside the FBI, and required planning to ensure the FBI is prepared to deal with the multitude of challenges we are facing.

We are all indebted to Senator GRASSLEY for his leadership in the area. Working with Republicans and Democrats on the Senate Judiciary Committee we unanimously reported the FBI Reform Act more than six months ago only to stymied on our bipartisan efforts by an anonymous Republican hold.

The conference report does not contain all of the important provisions in the FBI Reform Act that Senator GRASSLEY and I, and the other members of the Judiciary Committee, agreed were needed, but it does contain parts of that other bill.

Among the items that are, unfortunately, not in the conference report and are being blocked from passing in the stand-alone FBI Reform bill by an anonymous Republican hold are the following: Title III of the FBI Reform bill that would institute a career security officer program, which senior FBI officials have testified before our Committee would be very helpful; title IV of the FBI Reform bill outlining the requirements for a polygraph program along the lines of what the Webster Commission recommended; title VII of the FBI Reform bill that takes important steps to fix some of the double standard problems and support the FBI's Office of Professional Responsibility, which FBI Ethics and OPR agents say is very important; and title VIII to push along implementation of secure communications networks to help facilitate FISA processing between Main Justice and the FBI. These hard-working agents and prosecutors have to hand-carry top secret FISA documents between their offices because they still lack send secure e-mail systems.

The FBI Reform bill would help fix may of these problems and I would hope we would be able to pass all of the FBI Reform Act before the end of this Congress. These should not be controversial provisions and are designed to help the FBI. Yet passage of these provisions are being blocked both in a stand-alone FBI Reform bill, S. 1974, and the provisions we were able to include in this conference report. I urge my colleagues to support final passage of the conference report so that we can start making progress on the important reforms in the bill.

Some Members have complained that we included provisions in this conference report that were not contained in either the Senate or House bills. Now, each of the proposals we have included are directly related to improving the administration of justice in the United States. We were asked to include many of them by Republican members of the House and Senate.

Let me give you some examples. The conference report reauthorizes the State Criminal Alien Assistance Program, which President Bush has sought to eliminate. On March 4 of this year, Senator KYL and Senator FEINSTEIN sent me a letter asking me to include an authorization for SCAAP—which was not authorized in either the House- or Senate-passed bill—in the conference report. That proposal had been

considered and reported by the Judiciary Committee but a Republican hold has stopped Senate consideration and passage. I agreed with Senator KYL that we should authorize SCAAP. I still believe that it is the right thing to do.

In addition to including the reauthorization of SCAAP, the conferees also authorized an additional judge for Arizona. Members have been arguing for years that their States need more judges. We took those arguments seriously, and added another new judge for Arizona on top of the two that were added in 1998 and the third that was added in 2000. As I said before, we have added twenty new judge positions in this conference report.

Some have been critical of the conference report's authorization of funding for DEA police training in South and Central Asia, and for the United States-Thailand drug prosecutor exchange program. I believe that both of these are worthy programs that deserve the Senate's support.

I have listened to President Bush and other in his Administration and in Congress argue that terrorist organizations in Asia, including al Qaeda, have repeatedly used drug proceeds to fund their operations.

The conferees wanted to do whatever we could to break the link between drug trafficking and terror, and we would all greatly appreciate the Senate's assistance in that effort.

Beyond the relationship between drug trafficking and terrorism, the production of drugs in Asia has a tremendous impact on America.

For example, more than a quarter of the heroin that is plaguing the northeastern United States, including my State of Vermont, comes from Southeast Asia. Many of the governments in that region want to work with the United States to reduce the production of drugs, and these programs will help. It is beyond me why any Senator would oppose them.

Some have complained that the conference report demands too many reports from the Department of Justice and that this would interfere with the Department's ongoing counterterrorism efforts. It is true that our legislation requires a number of reports, as part of our oversight obligations over the Department of Justice. I assure the Senate, however, that if the Department of Justice comes to the House and Senate Judiciary Committees and makes a convincing case that any reporting requirement in this legislation will hinder our national security, we will work out a reasonable accommodation.

I think, however, that such a turn of events is exceedingly unlikely, as no one at the Department has mentioned any such concerns.

Some Members have complained that the conference report includes pieces of legislation that had not received Committee consideration. Let me deal with some of the specific proposals that have been cited.

The Law Enforcement Tribute Act was mentioned as a provision not considered by the Judiciary Committee, but this is incorrect. In reality, the Committee reported that bill favorably on May 16. Its passage has been blocked by an anonymous Republican hold.

Complaints have been made about inclusion of the motor vehicle franchise dispute resolution provision in the conference report for bypassing the Committee. But, again, that is incorrect. The Judiciary Committee fully considered this proposal and reported Senator HATCH'S Motor Vehicle Franchise Contract Arbitration Fairness Act last October 31. It has been stalled from the Senate floor by anonymous Republican holds.

A section allowing FBI danger pay was cited as a proposal that bypassed Committee consideration, but, again, the Judiciary Committee did consider this proposal as part of the original DOJ Authorization bill, S. 1319.

Some have complained that the Federal Judiciary Protection Act, which is included in the conference report, had not come before the Committee, but on the contrary, this legislation, S. 1099, was passed the Judiciary Committee and the Senate by unanimous consent last year and in the 106th Congress, as well.

There has been a complaint on the floor about the provisions on the U.S. Parole Commission being included in the conference report. That was included because the Bush Administration included it in its budget request.

Some have complained on the floor about the conference report's provision establishing the FBI police to provide protection for the FBI buildings and personnel in this time of heightened concerns about terrorist attacks. Contrary to the critics, this proposal was considered by the Judiciary Committee as part of the FBI Reform Act, S. 1974, which was reported unanimously on a bipartisan basis but has been blocked by an anonymous hold.

Similarly, a complaint was made on the floor about bypassing the Committee with the provision in the conference report for the FBI to tell the Congress about how the FBI is updating its obsolete computer systems. Again, this is incorrect. This provision was included in the FBI Reform Act, S. 1974, which was considered by the Judiciary committee and unanimously reported without objection.

Some critics have complained that the conference report includes intellectual property provisions that have passed neither the House or the Senate. It is not for lack of trying to pass these provisions through the Senate, but anonymous Republican holds have held up for months passage of the Madrid Protocol Implementation Act, S. 407. This legislation has passed the House on three separate times in three consecutive Congresses. Let us get it passed now in the conference report.

The conference report also contains another intellectual property matter, the Hatch-Leahy TEACH Act, to help distance learning. Contrary to the critics' statements, this passed the Senate in June, 2001.

The intellectual Property and High Technology Technical Amendments Act, S. 320, contained in this conference report, was passed by the Senate at the beginning of this Congress, in February, 2001. It is time to get this done.

The criticism made on the floor that the juvenile justice provisions in the conference report never passed the House or Senate is simply wrong. The conference report contains juvenile justice provisions passed by the House in September and October of last year, in H.R. 863 and H.R. 1900.

The criticism that the conference report contains criminal justice improvements that were passed by neither the House or the Senate glosses over two important points: First, that many of the provisions were indeed passed by the House, and, second, that others have been blocked from Senate consideration and passage by anonymous Republican holds. Let me give you some examples.

The conference report contains the Judicial Improvements Act, S. 2713 and H.R. 3892, that passed the House in July, 2002, but consideration by the Senate was blocked after the Senate bill was reported by the Judiciary Committee.

The Antitrust Technical Corrections bills, H.R. 809, had the same fate. After being passed by the House in March, 2001, and reported by the Senate Judiciary Committee, consideration was blocked in the Senate.

This conference report is a comprehensive attempt to ensure the administration of justice in our nation. It is not everything I would like or that any individual Member of Congress might have authored.

It is a conference report, a consensus document, a product of the give and take with the House that is our legislative process. It will strengthen our Justice Department and the FBI, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen and protect our judiciary, and offer our children a safe place to go after school.

I hope that it will merit the support of every Member of the United States Senate. At the very least, it deserves an up-or-down vote. I was pleased to see some Republicans come to the floor to support this conference report. For the sake of the Justice Department, the United States Congress, and the American people, we should pass this legislation today.

• Mr. HATCH. Mr. President, I rise in support of the 21st Century Department of Justice Appropriations Authorization Act. The Conference Report is now before the Senate. The title of the Conference Report—''The 21st Century Department of Justice Appropriations Authorization Act''—is appropriately named—the bill is a forward-

looking measure which will strengthen the Justice Department and our judicial system as we face the new challenges of the 21st century. More specifically, the bill provides the Justice Department with the necessary tools and resources: to detect and prevent future terrorist attacks; to reduce drug abuse and prevent drug-related crimes; to enhance our country's ability to compete in international markets by improving our intellectual property and antitrust laws; and to address the growing needs of our at-risk youth by offering meaningful alternatives to the temptations of crime. The House last week passed the Conference Report by a vote of 400–4. I urge my colleagues to support this important piece of legislation.

Before I address the substance of the Conference Report, I want to take a moment to thank my distinguished colleagues, Chairman LEAHY, and House Judiciary Chairman SENSENBRENNER, and Ranking Member CONYERS, for all of their hard work, commitment and determination on this important matter. Senator LEAHY and I have been working together for years to enact a Department of Justice reauthorization bill, and I am pleased that we are finally able to bring the matter to the Senate for its consideration.

The Department of Justice's main duty is to provide justice to all Americans, certainly of central importance to our national life. It has the primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of federal criminal laws, protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. Additionally, among the Department's key duties is providing much needed assistance and advice to state and local law enforcement agencies.

It has been over two decades since Congress reauthorized the Justice Department. If enacted, H.R. 2215 will be a significant step in Congress's efforts to reassert its rightful role in overseeing the operation of the Justice Department. By instituting a regular reauthorization procedure for the Justice Department, Congress will be able to ensure that the Justice Department has all the necessary tools to carry out its critical functions.

Let me be clear that I am not advocating that we micro-manage the Department of Justice. I have full confidence in Attorney General Ashcroft and the thousands of employees who competently manage the Department daily. However, we cannot continue to neglect our responsibility to exercise responsible oversight of the Justice Department which so profoundly affects the lives of all Americans.

The tragic events of September 11th have underscored the need for Congress to work closely with the Justice Department. Last year, we worked with the Justice Department to ensure swift passage of the PATRIOT Act, which has strengthened America's security by providing law enforcement with the necessary tools to fight the war against terrorism. We will continue to provide the Justice Department with the legislative tools and resources needed to win this war against terrorism.

The 21st Century Department of Justice Appropriations Authorization includes a number of important provisions which I will briefly highlight. Most significantly, the bill fully authorizes the Justice Department and its major components for fiscal years 2002 and 2003. Among these authorizations are funding for the Federal Bureau of Investigation to protect against terrorism and cyber-crime, the Drug Enforcement Administration to combat the trafficking of illegal drugs, and the Immigration and Nationalization Service to enforce our country's immigration laws. The bill also adds 94 new Assistant United States Attorneys to implement the President's Project Safe Neighborhoods initiative which is aimed at reducing gun violence in our communities.

With respect to congressional oversight, the conference report strengthens the authority of the Department's Inspector General in order to address internal issues within the Justice Department. It specifically expands the Inspector General's authority to include responsibility for investigating the FBI. In order to establish a baseline from which to focus future oversight of the Justice Department, the bill requires the Department to submit to Congress reports detailing the operation of the Office of Justice Programs and all of the Justice Department's litigation activities.

The conference report enacts many of the provisions of the Drug Abuse Education, Prevention, and Treatment Act of 2001, S. 304, which I introduced in the Senate with Senators LEAHY and BIDEN more than 18 months ago, and which has received wide bipartisan support. This legislation marks a watershed event in the national effort to combat drug addiction, and makes a significant, sustained commitment to providing federal resources for reducing the demand for illicit drugs. Investing in proven prevention and treatment programs can help reduce the wreckage and the unwarranted burden of drug abuse on society.

Specifically, the Drug Abuse Education, Prevention and Treatment provisions: No. 1, increase drug treatment grants for prisoners and residential aftercare programs; No. 2, require a study and review of drug-testing technologies and all federal drug and substance abuse treatment and prevention programs in order to recommend necessary reforms to these programs; No. 3, expand drug abuse and addiction research; No. 4, expand the Drug Courts program; No. 5, provide post-incarceration vocational and remedial educational opportunities for federal inmates; and No. 6, provide grants to states to establish demonstration projects to promote successful reentry of criminal offenders.

While ensuring effective drug treatment and prevention programs, the conference report includes a broad set of measures designed to protect our youth. Specifically, the bill supports the creation and expansion of Boys and Girls Clubs in our communities, enhances juvenile criminal accountability, and provides states with block grants to address juvenile crime. In addition to our nation's youth, the bill strengthens our criminal justice system by increasing penalties for those who tamper or threaten federal witnesses, or those criminals who harm Federal judges and law enforcement personnel.

In addition to our Nation's youth, the bill provides increased attention to crimes against women by establishing a Violence Against Women Office within the Justice Department, which will be headed by a presidentially appointed and Senate confirmed Director. The Director, in part, will serve as a special counsel to the Attorney General on issues related to violence against women, provide information to the President, the Congress, State and local governments, and the general public, and maintain a liaison with the judicial branches of federal and State governments.

The conference report addresses the operation of our federal judiciary by enacting long-needed judicial improvements and reforms to judicial disciplinary procedures. It also creates judgeships in various districts where there is a chronic shortage of federal judges to handle existing caseloads, particularly in our border States such as Texas, New Mexico, California, Nevada, Florida and Alabama. We need to do more here, and add judges in other districts where caseloads are high, and I am hopeful we will be able to do that next Congress.

The bill also promotes America's economic security by enhancing our competitiveness in the world economy. Specifically, the bill makes some needed changes to our antitrust laws, and creates a commission to review our antitrust laws to determine what reforms, if any, are needed to ensure the effective operation of our free markets in our ''new'' high-tech economy.

The conference report enacts critical amendments to the Radiation Exposure Compensation Act of 2000, S. 898, which I introduced in order to clarify the eligibility standards and to ensure appropriate compensation under the program. In addition, the bill enacts ''The Motor Vehicle Franchise Contract Arbitration Act,'' S. 1140, which I introduced, was passed by the Senate Judiciary Committee, and which received

bipartisan support. This bill restricts the use of mandatory arbitration provisions in motor vehicle franchise contracts.

Further, the bill includes several important provisions to reform intellectual property law. First, the bill directs the Justice Department to increase its enforcement of intellectual property laws. Second, aside from enforcement, the bill enacts the Technology, Education and Copyright Harmonization Act (TEACH Act, S. 487, which I introduced and has received bipartisan support. This Act enhances our country's education system by revising federal copyright law to extend the exemption from infringement liability for instructional broadcasting to digital distance learning. Third, the Conference Report enacts several important reforms of our patent and trademark system which I supported, including: authorization of the Patent and Trademark Office for fiscal years 2003 to 2008; revision of the filing and processing procedures for patent and trademark applications; and enactment of the Madrid Protocol Implementation Act, S. 407, which ensures international protection of United States trademarks.

Finally, the conference report refines INS administrative procedures in two specific areas in order to reduce INS processing delays. First, the bill extends H–1B status for alien workers who wish to continue working beyond the authorized 6-year period. Second, the bill includes provisions for removal of conditional basis of permanent resident status applicable to certain alien entrepreneurs.

The conference report is a long-awaited and much-needed measure which will ensure that Congress provides the required oversight—and support of—the Justice Department as it continues its critical role of enforcing our country's laws, protecting our country from terrorist attacks, enhancing our competitiveness in the world economy, and making our communities safer. Working together in a spirit of bipartisanship, the bill provides the necessary framework to ensure that Congress and the Administration will be able to identify solutions to the challenges faced by federal law enforcement, and to ensure the efficient operation of the Justice Department and each of its components.

I would also like to take this opportunity to recognize the tireless work of the dedicated Staff members on both sides of the aisle whose work around the clock made this legislation possible. First, on my staff, I want to specifically commend my former staff member Leah Belaire, who recently joined the United States Attorney's Office for the District of Columbia as an Assistant United States Attorney. She along with my counsels, Mike Volkov, Wan Kim, Shawn Bentley, Patti DeLoatche, Rebecca Seidel, Bruce Artim, Dustin Pead, and my Chief Counsel and Staff Director, Makan Delrahim, all poured their hearts into this legislation. On Chairman LEAHY's staff, I want to thank Tim Lynch and Ed Pagano, as well as Chairman LEAHY's able General Counsel, Beryl Howell, and Chief Counsel and Staff Director, Bruce Cohan. On Chairman SENSENBRENNER's staff, I want to commend Will Moschella, Steve Pinkos and Phil Kiko, for their hard work and dedication. On Congressman CONYER's staff, I want to thank Perry Apelbaum, Sam Garg, and Ted Kalo for their commitment to this legislation.

Mr. President, this is an important piece of legislation that deserves our full support. I urge my colleagues to vote in favor of the conference report.●

Mr. CRAIG. Mr. President, I regret to point out one very important provision that is missing from H.R. 2215: a district judgeship for Idaho. This is a matter of great urgency to the citizens of my State.

Idaho has two Federal district judgeships, created in 1890 and 1954. We are one of only three States in the union with two Federal district judgeships.

There are three distinct and widely-distant geographical areas in my State: the Southeast, the Southwest and the North. A district judge must travel up to 450 miles between division offices. This distance is greater than that traveled in other rural district courts, including those of Montana, Wyoming, North Dakota, South Dakota or Eastern Washington. In fact, only a district judge in Alaska has a greater distance to travel, when comparing these rural district courts. Because of the State's sheer size, its extraordinary increase in population, and tremendous growth in caseload over nearly five decades, the current situation is becoming increasingly unworkable, and we are seeking one additional judgeship.

Unlike other States, we have no senior judges to fill in the gaps. We are depending on judges borrowed from other districts to help us, but obviously that can only be a temporary fix for the problem.

To remedy this crisis, the State of Idaho has requested a third Federal district judge. All members of the Federal bench in Idaho agree with this request, and the Idaho State Legislature even passed a resolution petitioning Congress for this change.

I have been working on this issue throughout the 107th Congress, introducing legislation along with my Idaho colleague Senator CRAPO, consulting with the Senate Judiciary Committee and lobbying its members, writing to the Judicial Conference. Our senior district judge in Idaho personally visited Capitol Hill and talked with staff and members of the Judiciary Committee.

When it became apparent that H.R. 2215 was the only legislative vehicle in this Congress for the creation of new judgeships, the entire Idaho Congressional Delegation, Senator CRAPO and I, as well as our House colleagues Representative MIKE SIMPSON and Representative BUTCH OTTER, wrote to each member of the conference committee on this bill, reiterating our request.

To date, not a single member of the Senate or House has opposed our request. Yet at the end of the day, H.R. 2215 fails to include an additional judge for Idaho.

It is my understanding that our request was not given priority because the Judicial Conference of the United States refused to endorse it. While Idaho did not originally meet the narrow requirements imposed by the Conference before it recommends an additional judgeship, I have been informed in the last few weeks that we now meet those requirements, and Idaho hopes to obtain that critical endorsement in the future.

With that, let me put the Senate on notice that my State will return in the next Congress with this request and will work for a better result. There should not be waiting list for people to obtain justice in our courts, but there is in Idaho until relief arrives in the form of a third Federal district judge.

Mr. KYL. Mr. President, I rise to address one aspect of the ''21st Century Department of Justice Appropriations Authorization Act,'' H.R. 2215. Section 312 creates a number of Federal judgeships, including a temporary judgeship for the District of Arizona. Under the bill, the temporary addition of an extra seat to the 12-member Federal district court will commence in July 2003 and will end with the first judicial retirement that occurs after that ten-year period expires, returning the court to twelve seats.

The District of Arizona sorely needs this judgeship. According to the Administrative Office of the United States Courts, the District of Arizona ranks 10th in total weighted filings among all 94 districts. The general standard for weighted filings established by the U.S. Judicial Conference as an indicator of a need for additional judgeships is 430. With 604 weighted filings per judgeship, the District of Arizona exceeds this criteria by 29 percent, despite the recent and much appreciated addition of four new judges. The high level of filings in the District of Arizona is not temporary. The weighted filings in this district have been substantially higher than the national average since 1985.

The District of Arizona reported 6,300 civil and criminal case filings in 2001, a 26 percent increase in filings over a five-year period. The District's criminal felony caseload has increased 104 percent over the past 5 years. The District ranks third among the Nation's 94 districts in weighted criminal felony filings per authorized judgeship, 231 percent above the national average. In addition to the burgeoning criminal caseload, the District's civil caseload is on the rise. This District is an unenviable 71st nationally in median disposition time for civil cases and 85th nationally in median time from filing to trial in civil cases. Seven percent of

the civil cases have been pending over three years.

According to the latest population statistics as reported by the U.S. Census Bureau, Arizona's population increased by 40 percent from 1990 to 2000, while the national rate of population growth is only 13.1 percent. Arizona is ranked second only to Nevada for percentage of growth. The Arizona Department of Economic Security projects the State's population will grow another 25 percent by 2010.

This new judgeship will provide emergency aid to Arizona's District Court, whose judges are extremely overburdened by crushing federal caseloads. Arizona's Federal court, like those in other border states, suffers special burdens as a result of sharp increases in drug trafficking and immigration prosecutions. This backlog delays justice for Arizonans and disrupts the proper administration of the courts.

I would like to commend Senator LEAHY, Senator HATCH, and Representative SENSENBRENNER for including this much-needed judgeship. This temporary judgeship is at least one reason to support the ''21st Century Department of Justice Appropriations Authorization Act.''

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period of morning business.

IRAQ

Mr. LOTT. Mr. President, there is no more solemn and important duty for the Senate, in my opinion, than to debate the momentous issues of war and peace. I remember in 1991 when we debated the gulf war resolution that it took on a very serious aura. Every Senator spoke. Senators actually came to the floor and listened to the debate. It was a challenge. Not a one of us didn't feel some amount of concern and trepidation and respect for the importance of that vote. I think we are fixing to embark on a debate of that magnitude again today.

The issue of Iraq is one that we are concerned about and which we have been wrestling with for 11 years. But I think that today on the issue of Iraq we have reached what Winston Churchill called ''not the beginning of the end but the end of the beginning.''

After weeks of careful preparation and bipartisan negotiation—it has been truly bipartisan on both sides of the aisle in the Senate, and in the House it has been a bicameral effort—I believe the Senate will, once again, show why it is called ''the greatest deliberative body.'' I think we will have some very interesting and very thoughtful speeches that will be given next week. Obviously, we will not all agree. Obviously, we will have respect for each other—no matter what the position may be.

But I think, in the end, we are going to see we are going to have a very broad, bipartisan vote expressing our concern about what this situation is in Iraq, about the fact the United Nations resolutions—all 16 of them—have been ignored, for the most part, for 11 years, and it is time we take action to avoid some horrendous events that could occur if we do not.

I believe we will give the President the authority he needs to deal with this problem. I want to emphasize this President has listened, and he has also challenged us. He has shown commitment and leadership. Some of us in Congress were saying: We want to hear from the President. Come to us. Tell us what you know. Tell us what you want. Let us have a debate. Let us have a vote. He did so, and he continues to work with us to this very moment.

Some people said: Oh, well, you have to take your case to the United Nations. Let the United Nations be a part of this. Encourage the United Nations—in fact, demand the United Nations—live up to its responsibility and its own resolutions.

The President did that. He went to the United Nations and gave one of the most impressive speeches I believe he has ever given. He gave the bill of particulars to the world community about what the problems are and why we had to deal with this menace. I think it changed the United Nations. And while we still do not have a resolution from the United Nations, I know Secretary Powell is working on that.

I know the President and others are talking to the world community. I have had the occasion, as the Republican leader of the Senate, to talk to representatives from seven countries over the past 2 weeks and get a feel for what they are thinking and what their concerns are, what their suggestions are.

So this President is working with us, with the United Nations, and with the world community.

As the Republican leader, I have entertained views from all sides of our own caucus. When we got the first draft of the Iraq resolution, every word was not accepted as being perfect or brilliant. There were some suggestions made, and I listened to them. In fact, I remember there was one phrase in the resolution, when I read it the first time, I said: What does that really mean? I don't think I really like that.

So we did have input. We did have the first draft sent by the President, but the President invited our input and our participation in the development of this resolution, and changes were made. We had the first resolution, the second resolution, the third resolution, and now the bipartisan resolution that was introduced in the Senate by Senator LIEBERMAN, Senator WARNER, Senator MCCAIN, and Senator BAYH. It is the resolution we should consider. Will there be another alternative? Perhaps. I have no problem with that. Will there perhaps be an amendment that is agreed to in advance? Perhaps. I have no problem with that. I do think we are going to have a problem if we just allow this to be endlessly amended. It would be a filibuster by amendment.

I think we need to have a full debate but be prepared to go to votes on these important issues by the middle of next week. Senator DASCHLE, perhaps, will give his own thinking about the specifics of when we might begin to get to some votes.

I have listened to opinions on the other side of the aisle, too. I did not just talk to Senator SHELBY or Senator LUGAR or Senator MCCAIN or Senator WARNER or Senator HUTCHINSON. I talked to Senators on both sides of the aisle, and so did the administration. Because of this, I think we have been able, with the help of the White House and the combined House leadership, to emerge with a strong resolution we now present to the Congress and to the world.

For those who brought us to this moment—the President, the Speaker, Congressman GEPHARDT, SENATORS LIEBERMAN, WARNER, MCCAIN, BAYH, DASCHLE, and others—who are involved in this process, I think the Nation should be grateful. I believe the result of this debate, and the resolution we will vote on next week, will lead to a safer world.

Let me make it clear from the outset, no one—not the President, not any Member of Congress—desires to see our men and women engaged in a fight in Iraq or anywhere unless it is absolutely necessary.

Our history shows that Americans do not seek war; we always are slow to anger. But we got plenty mad last year because of the horror we saw here at home. We now realize the danger is not just over there, as they said in World War I and World War II. Oh, no, it is here. One suicide bomber, with a weapon of mass destruction, is a threat to thousands, perhaps millions.

We are the only Nation in history, though, after having been involved in a war, a conflict, that has turned around and offered a helping hand to all the peoples of the world, including our enemies. We helped in Japan. We helped in Germany. We have done it over and over again.

There is no greater force for good than the United States of America. When our security and our people are threatened, we act swiftly and decisively. But what we want for everybody is opportunity and freedom and democracy—or to choose what they want if they don't want democracy; make that choice.

We want to be safe and secure here at home. That is what this is all about. We are good people, with attributes from our forefathers I am very proud of. But we are very serious about protecting our people at this critical time.

I will save the catalog of Saddam Hussein's crimes for another time, probably about the middle of next week. But today we begin the process of ensuring this violent and cruel man can no longer menace us, his neighbors,

and his own people. It is up to us today to send a message to the world, and to America's friends—particularly the Prime Minister of Great Britain, who has shown great strength—that we do appreciate what they have done, and we thank them for their support and courage, and we are committed to stand with them to eliminate the threat this rogue regime poses to peace in the world.

Let there be no mistake either; the elimination of the Iraqi threat is essential if we are to win the war on terror. We know Saddam Hussein's ongoing relationship with the dark forces of international terrorism. Some people say: Show us a smoking gun. Well, there is a lot of smoke out there. We do know of a lot of things that are ongoing, and we will get into some greater discussion of that next week.

We know other evil regimes are looking to see if he, Saddam Hussein, can once again bluff his way out of trouble, thereby emboldening others to seek more deadly means to threaten the United States and the civilized world.

This has huge meaning. If we now go through the process of huffing and puffing and saying we are going to take action, and there are going to be inspections, and there is going to be the destruction of these weapons, and if not, we are prepared to do whatever is necessary, including using force, and we do not do it, the ramifications will be endlessly negative.

The President, answering his critics who decry so-called American unilateralism, has put the case before the world. For 11 years, Saddam Hussein has flaunted the will of the United Nations. He has amassed stockpiles of weapons of mass destruction. He has gassed his own people. He has shown blatant contempt for the rule of law and the United Nations.

If the United Nations is to be a force for peace, it must show it stands ready to meet this ongoing threat in the international community. If it does not, it will be consigned to the ash heap of history, as the League of Nations was before it—a grand idea unable to cope or confront evil dictators bent on the destruction of world peace.

I said at the outset this vote is the ''end of the beginning.'' The Senate will rise to the occasion, as it has throughout its eventful history. As we engage in this momentous debate, let us ensure by its conclusion we will have set in motion ''the beginning of the end'' of Saddam Hussein and all for which he stands.

Now, I see Senator DASCHLE is in the Chamber. I thank him for his effort in this regard. We do not always agree. We have a lot of conversations people don't even know about to try to come to a fair agreement on how to proceed. We talk about process, and we still have a way to go. But here, in a few minutes, we will officially begin this debate, an important debate. Every Senator will have his or her chance to have their say.

I believe Senator DASCHLE has in mind a process most Senators will feel is fair—I hope all Senators. At the end of the day, in a reasonable period of time, we will get to a vote. But as we started, I thought it was important we express our appreciation for what has been done, and our reassurance to the American people and our colleagues we are going to ensure it be done in a respectful way, regardless of positions, but that it produces a result which is going to be good for America.

Madam President, may I inquire, is it anticipated this would be the last vote of the day but that we would continue in session as long as any Senator wishes to speak?

The PRESIDING OFFICER (Ms. CANTWELL). The majority leader.

Mr. DASCHLE. Responding to the distinguished Republican leader, the answer to that is, yes, this will be the final vote of the day. There will be no votes tomorrow, but we will be in session.

It is my hope and expectation that Senators will avail themselves of the opportunity to come to the floor to not necessarily debate the resolution but to express themselves on the resolutions. The Senate will be available for that purpose today, tomorrow, Monday, and we will have more to say with regard to the specific schedule, perhaps as early as tomorrow. This will be the final vote today.

The PRESIDING OFFICER. The majority leader.

DEBATE ON IRAQ RESOLUTION

Mr. DASCHLE. Madam President, I did not have the opportunity to hear all of the distinguished Republican leader's remarks, but I have a pretty good understanding of the tone of his statement and agree very much with what I did hear of his remarks.

Let me say I would pick up where he left off. I want very much for this debate to be respectful, to recognize our solemn obligation as Senators to debate, and our role in providing advice and consent on issues of this import. That will be what we set out to do over the course of the next several days.

In consultation with the Republican leader, I also had hoped we could have a prompt debate. That is also part of our motivation in bringing the resolution to the floor in the form of a cloture motion this afternoon.

There will be differences of opinion expressed, but there is no difference of opinion with regard to our ultimate goal. Our goal is to address the very understandable and serious concern shared not only by the administration but the American people that we have to address the threat that exists today in Iraq, the threat that it poses to us in a number of ways but especially with regard to weapons of mass destruction.

It is my hope that debate can begin in earnest today, that people can come to the floor to express themselves, to indicate their support and their proposals for ways in which we might address this issue through resolutions that will be offered over the course of the next several days.

I am confident that as we begin this debate, we will debate with every expectation that in spite of what differences exist, the similarities will be far greater than the differences; that ultimately we can come to some resolution that will bring about perhaps a broad bipartisan coalition in support of a resolution that authorizes this administration and our country to move forward.

There is a growing appreciation of the role of the United Nations. There is a growing appreciation of the role of the international community. There is a recognition that the extent to which we work in and through the international community, as we did in 1991, we will do it again successfully today.

I come to the floor with an expectation that there will be an opportunity at some point for Senator LEVIN to introduce his resolution. We will have a debate and a vote on that resolution sometime next week. We would then lay down—perhaps simultaneously—the resolution that has been the subject of negotiations and discussions now with the administration over the course of the last couple of weeks. Agreement was reached with some members of leadership over the course of the last day or so. That certainly will be one of the primary vehicles we will address as we consider debate on this issue in the coming days.

I might suggest that it be used as the primary vehicle, although we have not entertained a unanimous consent request in that regard.

It is also my expectation that Senators BIDEN and LUGAR may have an amendment that they wish to offer that would go to some of the concerns they have with regard to the need for further clarity of that resolution. That may be the amendment that would be offered to the administration resolution at some point next week.

In the meantime, Senators are encouraged to come to the floor to express themselves in general or to express themselves with regard to any one of those specific resolutions or amendments to the resolution.

I would hope that at some point we could reach an agreement that we would have those three votes—a vote on the Levin resolution, a vote on the Biden-Lugar amendment to the administration resolution, and then ultimately a vote on the administration resolution itself.

As I said today, I am not prepared to propound it because we have not had enough opportunity to consult with colleagues on either side of the aisle. I have had many consultations with the distinguished Republican leader. It will be our intent to suggest that to our caucuses with the hope that we can put that framework in place as we debate this very important matter in the days ahead.

I encourage Senators to come to the floor today, tomorrow, Monday, and all next week as we hope to complete our work. My expectation is that we would complete our work on this resolution, on this set of issues relating to this resolution, sometime by midweek next week.

I know we are scheduled to have a vote at 4:15. That time has arrived.

I yield the floor.

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

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq:

Harry Reid, Jeff Bingaman, Jean Carnahan, Daniel K. Inouye, Bill Nelson of Florida, Ben Nelson of Nebraska, Ernest F. Hollings, John Edwards, Tim Johnson, Joseph I. Lieberman, Herb Kohl, John Breaux, Joseph R. Biden, Jr., Max Baucus, Mary Landrieu, Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. HATCH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 95, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—95

Allard	Burns	Craig
Allen	Campbell	Crapo
Baucus	Cantwell	Daschle
Bayh	Carnahan	Dayton
Bennett	Carper	DeWine
Biden	Chafee	Dodd
Bingaman	Cleland	Domenici
Bond	Clinton	Dorgan
Boxer	Cochran	Durbin
Breaux	Collins	Edwards
Brownback	Conrad	Ensign
Bunning	Corzine	Enzi
Feingold	Landrieu	Santorum
Feinstein	Leahy	Sarbanes
Fitzgerald	Levin	Schumer
Frist	Lieberman	Sessions
Graham	Lincoln	Shelby
Gramm	Lott	Smith (NH)
Grassley	Lugar	Smith (OR)
Gregg	McCain	Snowe
Hagel	McConnell	Specter
Harkin	Mikulski	Stabenow
Hollings	Miller	Stevens
Hutchinson	Murkowski	Thomas
Hutchison	Murray	Thompson
Inhofe	Nelson (FL)	Thurmond
Jeffords	Nelson (NE)	Torricelli
Johnson	Nickles	Voinovich
Kennedy	Reed	Warner
Kerry	Reid	Wellstone
Kohl	Roberts	Wyden
Kyl	Rockefeller	

NAYS—1

Byrd

NOT VOTING—4

Akaka	Helms
Hatch	Inouye

The PRESIDING OFFICER. On this vote, the yeas are 95, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 112, a 1-week continuing resolution, just received from the House, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 112) making further continuing appropriations for the fiscal year 2003, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid on the table, with no intervening action or debate.

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

The joint resolution (H.J. Res. 112) was read the third time and passed.

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

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

UNANIMOUS CONSENT REQUEST—S. 2766

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

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I did not quite catch the request. To clarify, this would set aside the homeland security bill? This would set aside the Iraqi resolution?

Mr. HARKIN. Yes. The appropriations bill for Labor, Health and Human Services, and Education passed the subcommittee unanimously, and passed the committee unanimously. We are now in a new fiscal year. Our schools out there need this help. Every day that we don't pass it means they are getting less money for special education, less money for teacher training, less money for title I to help, as a result of the bill we passed just a year ago, to leave no child behind. So I have asked unanimous consent that the leader turn to the consideration of S. 2766, the Labor, Health and Human Services, and Education appropriations bill.

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I, again, say I am sorry that we hear an objection from the other side. We are not doing much around here. Every day we sort of hang around and have a couple of cloture votes and that is about it. We could bring up this education bill.

As I said, it passed unanimously. That means both Republicans and Democrats supported this bill. It has money in it for Pell grants. We have a lot of middle-class kids going to college who are counting on these Pell grants. This bill had a $100 increase to help these middle-class kids go to college. Yet we are being denied the opportunity to get that $100 increase per year for the Pell grant.

We just passed a leave-no-child-behind bill last year. I ask Senators to go and talk to the principals in the schools. Where are the resources to back them up? Without the resources, a lot of children are going to be left behind.

So this bill has resources in it for title I—as I said, about $700 million. That is going to be denied to our public schools because the other side objected.

Special education—almost $1 billion is tied up because the other side objects to going to our appropriations bill.

I am sorry that the Republican whip has objected to bringing up this bill. But every day that we are here, I intend to ask unanimous consent to bring up the education funding bill.

This is our ticket out of the recession. It is our ticket to a better future. It is a ticket to a stronger America. We can't back off of our support for education.

I am sorry that we have gotten this objection on the Republican side. But, as I said, every day that we are here I will try to bring it up to get our education funding bill through.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

THE SENATE SCHEDULE

Mr. NICKLES. Mr. President, the Senate is not working. The Senator from Iowa is correct. The Senate is almost being dysfunctional when it comes to appropriations bills and the budget process. We haven't passed a budget. I could ask unanimous consent to bring up the budget.

This is the first time since 1974 that the Senate has not passed a budget. The Senate has not passed any appropriations bills and sent them to the President. I can't remember any time that at the beginning of the fiscal year we haven't sent one appropriations bill to the President. I fault the Senate because we haven't passed a budget. Therefore, we haven't worked out an agreement with the House on the total amount of money we are going to spend. The House has passed some appropriations bills because they have a budget, and we don't have a budget. So the Senate passes bills that are much higher than the House. They don't want to go to conference when the two numbers are not the same. Usually, if you have a budget, both the House and the Senate will at least be working with the same figures and it is much easier to reconcile and actually have a bill that would pass.

Also, I might mention that the President has already said he would veto a bill that would be in excess of what the House passed. We would be wasting our time in that respect.

I would love to take up more appropriations bills, but we haven't finished the appropriations bill that is pending before the Senate. Since we came back on, I believe, September 3, the day after Labor Day, the majority leader said we would do a dual track. We would take up the Interior appropriations bill in the morning and then we would take up the Department of Homeland Security in the afternoon. We would double track those. We didn't object. It took unanimous consent to do that. One would have thought we would have rapidly finished both bills. Unfortunately, we haven't finished one in the entire month of September when we usually do a lot of appropriations bills. We have not done one appropriations bill.

The Department of the Interior appropriations bill is still pending before the Senate. It is not up to the individual chairman of the subcommittee to advance this bill on the floor. It is up to the majority leader to move to consideration of the appropriations bill, and the majority leader did not do so—I would guess because we still had other items on the floor. The Department of the Interior appropriations bill should have taken 2 days. We have been on it for 4 weeks.

We have been stuck on an issue dealing with fire management. The State of South Dakota has an exemption. They have fire management that the majority leader was able to pass earlier to deal with cleaning up their forests so they do not have such a volatile fire situation in their forests. Many Senators wanted to do the same thing for their States. They have offered amendments to do so, and they have yet to get a vote on their amendments. I have stated repeatedly that they are entitled to a vote. That is on the Department of the Interior appropriations bill. Hopefully, we can vote on those amendments and finish the bill. We should be able to do that in no time. It should not take too long.

People should be able to offer amendments. If people don't like the amendment, they can object. It doesn't take too long to finish appropriations bills if the managers and the leaders are willing to vote to table the amendments and find out where the votes are. If you win, you win. If you lose, you lose. We are willing to do that.

We haven't finished the Department of the Interior appropriations bill, nor the homeland defense bill.

People say, let us add another bill to the equation. I disagree. We just voted on a cloture motion. We have had several cloture votes. I happen to disagree. Every time we turn around we are voting on cloture. I disagree with that.

I think we are trivializing the rules of the Senate. Cloture should be used to break a filibuster. There was no filibuster on the Department of Justice authorization bill. We had a cloture vote.

Some of us were hoping we could get some agreement on when we would have more votes on judges. We are disappointed in the fact that we have a lot of judges who were nominated a long time ago and who have yet to get a vote, and in many cases even a hearing in the Judiciary Committee. I spoke to that yesterday. I don't need to repeat it. But several outstanding nominees have not been voted on and in some cases have not even had a hearing before the Judiciary Committee. That bothers me because we are going to finish this Congress and these people have been waiting in some cases 1½ years and they are not going to get a vote.

John Roberts comes to mind. He was nominated on May 9. He has argued 35 cases before the Supreme Court and he didn't even get a hearing this year. He is eminently qualified. He is a former assistant solicitor general and he didn't even get a hearing this year.

I have been pushing and I hope maybe we will be successful in getting a vote on Michael McConnell this year. At least the committee has had a hearing on him. He is from Utah. He is from Senator HATCH's State. He was nominated by President Bush and is supported by Senator HATCH. The tradition of the Senate is that surely the ranking minority member of the Judiciary Committee is entitled to get a vote on his judge.

I have asked for the Judiciary Committee—and I hope it is not too late—to put Michael McConnell on the docket to be voted on next week. I hope they will. I understand he is not on it yet. I am going to encourage our colleagues to include him, as well as Dennis Shedd and others.

There is a lot of work to be done. Now we have a whole succession of people coming in asking to take up their bills. The majority leader has the right to move to whatever item is on the floor of the Senate. That is his prerogative. That is the prerogative of the majority leader, and I support maintaining that tradition. Obviously, we have others who are saying: Wait a minute. I want to take up my bill.

Labor-HHS has not passed because we haven't passed a budget. Other bills haven't passed because the Senate didn't pass a budget. Unfortunately, the majority leader never called the budget up to put it on the floor for a vote. It may well have been because he didn't have the votes.

But I know when Senator DOMENICI was chairman of the Budget Committee he had a difficult time. And every once in a while we went to the floor and fought lots of battles. We won some and we lost some. But we ended up with a budget resolution that we were able to work out with the House. We would pass a budget resolution, and it would be identical figures, total spending figures, between the House and the Senate. That enabled us to move forward on the appropriations bills. We did not get it done this year, so we have not passed appropriations bills.

I would also like to say I heard: Well, all these education accounts, they are being cut, cut, cut. That is not actually correct. I believe the correct statement would be: We are continuing appropriations. We just passed a continuing resolution for funding until next week, and that continues at last year's level—not an increase, not a decrease.

So I just mention that. I think people should understand we may be on a continuing resolution, unfortunately—because we have not done our work, because we have not passed a budget, because we have not passed appropriations bills—we may be on a continuing resolution for months, but that will not be a cut for anybody. It is basically going to be a continuation of funding levels at last month's, last year's level. I say that just for people's information,

so they will not be saying: Well, this group is being cut or this group is being hurt, and so on. There may be some groups for which there would be pluses or minuses as to what they would have received compared to last year, but basically a continuing resolution says: Continue at last year's level. So I want to make sure that is noted as well.

IRAQ

Mr. NICKLES. Mr. President, the majority leader filed a cloture motion on the motion to proceed to the resolution dealing with Iraq. I happen to be proud of the fact the Senate has bipartisan support for this resolution.

The President has worked hard on it, as well as Senator LIEBERMAN, Senator WARNER, Senator MCCAIN, Senator BAYH, and others. I compliment them for that. I look forward to the debate. I think we can have a good debate.

We can pass a positive resolution that will reaffirm the United States in saying we believe the resolutions we supported and passed in the United Nations should be enforced. This body and the United Nations have passed several resolutions telling Iraq they must comply, and then not enforcing them, and we have done it year after year.

In 1998, we passed a resolution unanimously saying we should enforce the existing resolutions requiring Iraq to disarm. Unfortunately, that resolution was good on paper, but it was not enforced.

Now we have an administration that says they are willing to enforce it. I believe this Congress will stand behind President Bush in saying: Yes, we will give you the authorization to enforce it.

These resolutions mean something. We don't think it is acceptable to have a person with Saddam Hussein's known history of using weapons of mass destruction against his own people, and also invading his neighbors, and lobbing missiles against Israel and Saudi Arabia—it is not acceptable for him to be developing further these weapons of mass destruction. That is against the United Nations resolutions.

We are saying these resolutions mean something. Let's enforce them. We said that unanimously in 1998. It is going to be interesting to see if people want to weaken what we passed in 1998.

I hope our colleagues read President Clinton's statement he made in 1998 to the Pentagon that talked about the need for strong enforcement. That is not the same speech President Clinton made yesterday in London, unfortunately. And I am very disappointed in President Clinton's speech.

Former Presidents usually have a tradition to not undermine current administrations in foreign policy, certainly in foreign lands, and that is not what President Clinton did. President Clinton, in London, I think, made a speech that very much undermines the current administration, including the administration in London, in trying to develop an international coalition to stand up to Iraq and Saddam Hussein.

I mention that. I don't really like being critical of anyone or any administration, but for the former administration, which did not enforce the existing U.N. resolutions during their tenure, during their 8 years in office, did not pursue terrorists, including terrorists that were al-Qaida, who were directly responsible for blowing up two U.S. Embassies in Africa in 1998, and the USS *Cole* in the year 2000—when they did not go after the terrorists aggressively after those two terrorist attacks, did not enforce the U.N. resolutions, then to have President Clinton being critical of President Bush in Great Britain I think is very demeaning to the office, and I am very regretful a former President would make such a statement.

Mr. President, I yield the floor and 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. REID. 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. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business.

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

CONFIRMATION OF RONALD CLARK

Mr. LEAHY. Mr. President, last night, the Senate confirmed its 79th and 80th judicial nominees, and its 65th and 66th nominees to the Federal district courts since the change in Senate majority and reorganization of the Judiciary Committee less than 15 months ago. In so doing, we have confirmed more judicial nominees than were confirmed in the first 15 months of any of the past three Presidents, and more nominees than were confirmed in the last 30 months that a Republican majority controlled the Senate. We have done more in half the time. We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated.

Since the summer of 2001, we have held more hearings for more judicial nominees and more hearings for circuit court nominees than in any 15-month period of the six and one-half years in which Republicans last controlled the Committee. With our hearing last week, the Democratic-led Judiciary Committee has not held 25 hearings for 96 district and circuit court nominees. This is approximately double the pace at which the Republican majority considered President Clinton's nominees. The Judiciary Committee has likewise voted on more judicial nominees, 83, and on more circuit court nominees, 17, than in any comparable 15-month period of prior Republican control. In fact, Democrats have given votes to more judicial nominees and, in particular, to nominees to the Courts of Appeals, than in 1996 and 1997 combined, and than in 1999 and 2000 combined.

Last night, the Senate voted on the nomination of Ronald Clark to the United States District Court for the Eastern District of Texas. I was troubled by a number of aspects of Mr. Clark's background. Since 1997, Mr. Clark has been a Representative in the Texas State Legislature. His record as a State legislator is controversial, as he has taken positions that would, among other things, limit civil rights, consumer rights and women's reproductive rights. But he has never served as a judge, and he assured us that, as a judge, he would follow precedent and apply the law as written, without partisanship. I am hopeful that Mr. Clark will be a person of his word: that he will follow the law and not seek out opportunities to decide cases in accord with his private beliefs rather than his obligations as a judge.

The confirmation of Mr. Clark last night made the 28th nominee that we have confirmed to fill a judicial emergency vacancy since the change in Senate majority last year, and the 21st judicial emergency vacancy that we have filled this year. Despite Republican claims about a crisis in the courts, this Administration has failed to nominate people to ten seats that have been declared judicial emergencies, seven vacancies on the Courts of Appeals and three vacancies on the District Courts.

I would note that President Bush has nominated nine people to fill district court vacancies in Texas, and with yesterday's vote, we have already considered seven of them and confirmed six of them. Mr. Clark's confirmation made the 13th Texas nominee that we have confirmed and the second nominee that we confirmed to the District Court for the Eastern District. With his confirmation, there are no longer any vacancies on the district Court for the Eastern District of Texas. With our confirmations earlier this year of Randy Crane and Andrew Hanen to the District Court for the Southern District of Texas, we filled the remaining vacancies in that court as well. We have provided much needed help to the courts in Texas, which are facing large caseloads and some of the highest number of filings of criminal cases in the country.

Under Republican control of the Senate, three Texas judicial nominees never received hearings or votes. The Republican-led Senate failed to provide any hearings on nominees to the Court of Appeals for the Fifth Circuit, which includes Texas, in the six years of their majority during the Clinton Administration. Moreover, they delayed action

or gave no hearings to a number of district court nominees.

It was not long ago when the Senate was under Republican control that it took 943 days to confirm Judge Hilda Tagle to the United States District Court for the Southern District of Texas. She as first nominated in August 1995, but not confirmed until march 1998. When the final vote came, she was confirmed by unanimous consent and without a single negative vote, after having been stalled for almost three years. I recall the nomination of Michael Schattman to a vacancy on the Northern District of Texas. He never got a hearing and was never acted upon, while his nomination languished for over two years. These are district court nominations that could have helped respond to increased filings in the trial courts if acted upon by the Senate over the last several years.

Yesterday's confirmation of Mr. Clark serves as another example of the Democrats' proven record of action and fairness on this President's judicial nominees. Even though Mr. Clark is a conservative Republican, as the Chairman of the Judiciary Committee, I voted to report him out of Committee and I voted to confirm him yesterday, based on his testimony before the Committee and his written word. Far from payback for Republican actions in the recent past, the Democratic-led Senate continues to take action notwithstanding those wrongs and to help solve a vacancy crisis created solely by the Republican obstruction and defeat of more than 50 of President Clinton's nominees.

Despite the right-wing and partisan din about blockades and obstructionism, Democrats are actually achieving almost twice as much as our Republican counterparts did to staff the Federal courts. But let me be clear. We would be even farther along if so many circuit court and district court nominees of the prior administration had not been purposely blocked and defeated, and if we received more timely reviews from the ABA, even a little cooperation from this unilateralist Administration and received the nominations of more moderate, mainstream judicial nominees.

CONFIRMATION OF JUDGE JAMES GARDNER

Mr. LEAHY. Mr. President, with last night's votes on two district court nominees, including Judge James Gardner to the United States District Court for the Eastern District of Pennsylvania, the Senate has confirmed its 79th and 80th new judges since the change in majority last summer. In less than 15 months, we have confirmed more judges than the Republican majority confirmed in its final 30 months in the majority. We have been more than twice as productive as they were and Republicans are nonetheless complaining that we have not worked three or four times as fast as they did to fill vacancies that their inaction perpetuated. Similarly, in less than 15 months of Democratic control of the Judiciary Committee, we have confirmed more judicial nominees than Republicans did in the first 2 full years they controlled the Senate in 1995 and 1996, combined, and we have confirmed more judges than Republicans allowed to be confirmed in 1999 and 2000 combined. We have been more fair and more expeditious regarding judicial nominations than Republicans were during their prior 6½ years of control of the Senate.

Last night's vote is another example. The Senate has acted quickly on this nomination to the District Court in Pennsylvania. Judge Gardner was nominated at the end of April, received an ABA peer review in July, participated in a hearing in August, was reported out of the Senate Judiciary Committee in September, and was confirmed last night. The Judiciary Committee has held hearings for 11 district court nominees from Pennsylvania and the Senate has now confirmed all 11 of them in just 6 months.

In addition, a Third Circuit nominee, Judge Brooks Smith of Pennsylvania, was also confirmed, although not without controversy based on his record. With the confirmation of 12 judges from Pennsylvania, there is no State that has had more Federal judicial nominees confirmed by this Senate than Pennsylvania. The Senate Judiciary committee and the Senate as a whole have done well by Pennsylvania. This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate, particularly regarding nominees in the western half of the State.

Despite the best efforts and diligence of the senior Senator from Pennsylvania, Senator SPECTER, to secure confirmation of all of the judicial nominees from every part of his home State, there were seven nominees by President Clinton to Pennsylvania vacancies were never given a hearing or a vote.

A good example of the contrast between the way the Democrats and Republicans have treated judicial nominees is the case of Judge Legrome Davis, a well qualified and uncontroversial judicial nominee. He was first nominated to the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned after 2 more years.

Under Republican leadership, Judge Davis' nomination languished before the Committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania during the Republican control of the Senate. This year, the Democratic-led Senate moved expeditiously to consider Judge Davis, and he was confirmed in just 84 days. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret, anonymous holds by Republicans for reasons that were never explained.

In contrast, the hearing we had earlier this year for Judge Conti was the very first hearing on a nominee to the Western District of Pennsylvania since 1994, despite President Clinton's qualified nominees. It is shocking to me that this was the first hearing on a nominee to that court in 8 full years. No nominee to the Western District of Pennsylvania received a hearing during the entire period that Republicans controlled the Senate in the Clinton administration. In fact, one of the many nominees to the Western District, Lynette Norton, waited for almost 1,000 days, and she was never given the courtesy of a hearing or a vote. Unfortunately, Ms. Norton died earlier this year, having never fulfilled her dream of serving on the Federal bench. With the confirmation of Judge Conti earlier this year, we confirmed the first nominee to the Western District of Pennsylvania since October 1994.

Despite this history of poor treatment of President Clinton's nominees, the Democratic-led Senate continues to move forward fairly and expeditiously. Democrats have reformed the process for considering judicial nominees. For example, we have ended the practice of secretive, anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his or her home State, his or her own circuit or any part of the country for any reason, or no reason, without any accountability. We have returned to the Democratic tradition of regularly holding hearings, every few weeks, rather than going for months without a single hearing. In fact, we have held 25 judicial nominations hearings in the past 15 months, and we plan to hold our 26th judicial nomination hearing this coming Monday. We have held a confirmation hearing for judicial nominees every month since the Judiciary Committee was reorganized in July 2001, including two hearings during the August recess in 2001. In contrast, during the 6½ years of Republican control, there were 30 months in which Republicans held no hearings on judicial nominees.

By already holding 25 hearings for 96 of this President's judicial nominees in just 15 months, we have held hearings for more circuit and district court nominees than in 20 of the last 22 years during the Reagan, first Bush, and Clinton administrations.

While some complain that a handful of circuit court nominees have not yet

had hearings, they fail to acknowledge that Democrats have held hearings for more of President Bush's circuit court nominees, 20, than in any of the 6½ years in which the Republicans controlled the Committee before the change in majority last summer. This is more nominees than received hearings in either of the first 2 years of the Clinton administration when the White House and the Senate were controlled by the same party. The fact that Democrats have treated this Republican President just as fairly as Democrats treated a President of their own party with regard to hearings for circuit court nominees is remarkable. Republicans have utterly failed to acknowledge this fairness. The myth of Democratic obstruction of judicial nominees fits the partisan Republican political strategy better than the truth.

The years of Republican inaction on a number of circuit court vacancies has made it possible for Democrats to have several ''firsts'' in addressing judicial vacancies. For example, we held the first hearing for a nominee to the Sixth Circuit in almost 5 years, that is more than one full presidential term, and confirmed her, even though three of President Clinton's nominees to the Sixth Circuit never received a hearing or a vote. One of those Clinton nominees waited more than 1,500 days and never received a hearing or a vote, up or down, by the Committee.

We held the first hearing on a Fifth Circuit nominee in 7 years, including the entire period of Republican control of the Senate, and confirmed her last year, while three of President Clinton's Fifth Circuit nominees never received hearings or votes on their nominations. We also held the first hearing on a Tenth Circuit nominee in 6 years, and we have confirmed two of President Bush's nominees to the Tenth Circuit, while two of President Clinton's nominees to that circuit never received hearings or votes.

With last night's confirmation of Judge Gardner, the 12th judicial nominee from Pennsylvania to be confirmed in just 15 months, in addition to the other 79 judicial nominees confirmed in this short period, the Democratic-led Senate has had a record-breaking year of progress and fairness in the judicial confirmation process.

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 December 10, 2000 in Jacksonville, FL. Three white men, all 20 years old, assaulted a black man. The victim was walking down the street when the three allegedly said, ''There's one, let's get him'' before running toward him. The assailants, who sources say met at a white supremacist rally, knocked the victim to the ground, then punched and kicked him.

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.

Mr. BINGAMAN. Mr. President, I rise today in strong support of the actions taken by the administration to create a viable international regime that stops trade in conflict diamonds, and I encourage the administration to increase their efforts to further expand this regime so it attains an effective and comprehensive level of coordination, certification, monitoring, and enforcement.

The Kimberley process has its origins in a decision by African countries to end trade in diamonds that fuel regional conflict but sustain trade in diamonds that create economic stability. This effort has been supported by a number of countries, non-governmental organizations, and the diamond industry. In March 2002, the principals concluded their last full session, and it is now the responsibility of the countries involved in this process to enact implementing legislation.

A number of Senators and I are currently engaged in discussions with the administration as to what this legislation would look like and what an appropriate vehicle for the legislation would be. I would like the legislation to be more expansive than the administration wants at this time, and I would like the legislation to directly address the problems related to certification and accountability mentioned in a recent GAO report. But that said, I believe the administration is negotiating in good faith, and that they want the same outcome in the end that I do. Thus I fully expect that we will find common ground for action in the next few days. I also fully expect that discussions will continue so we can find appropriate remedies on all the outstanding issues.

I traveled to Africa in August, and I know from my briefings there that trade in conflict diamonds is a despicable practice that must end. It is incredibly disturbing and sad that one of the most promising means to attain real economic growth and political stability in certain areas of Africa—the natural wealth represented by diamonds and the diamond industry—has instead become a deadly tool by which rebel movements can purchase weapons, maim and massacre civilians, destroy communities, overthrow governments, and perpetuate uncertainty. Of equal significance, there is increasing and incontrovertible evidence that funds from the illicit trade in conflict diamonds are being used by Al-Qaeda to finance terrorism. The problem of conflict diamonds must be confronted, it must be confronted now, and it must be confronted in a way that ends both the brutal violence that is pervasive in Africa and the possibility that conflict diamonds may fund terrorist activities in countries around the world.

In my view, it is incumbent on the United States to play an active and prominent role in creating a framework that ends trade in conflict diamonds. In my view, it is incumbent upon Congress to work with the administration to ensure that this effort occurs. I believe the Kimberley process should move more rapidly toward its stated goals and the more robust goals outlined by the United Nations. But I also understand that multilateral action will be essential for this regime to work, and that multilateral agreements take time to arrange. I am willing to be patient, but only with the understanding that people are dying in Africa at this time and we must help them soon. More delay means more suffering, and we all have to be cognizant of that as we contemplate solutions.

Thus I think it is essential to state on the floor of the Senate today that I stand solidly behind the ongoing effort to end trade in conflict diamonds, and I encourage the administration to continue its effort to create a strong international regime that will engender political stability and economic growth in Africa. I am ready to work intensively with my colleagues and the administration to this end.

I yield the floor.

IN RECOGNITION OF THE 100TH ANNIVERSARY OF 4–H

Mr. DOMENICI. Mr. President, I rise today to celebrate the 100th anniversary of 4–H in America. For 100 years in our great Nation, and since 1911 in New Mexico, 4–H has molded generations of involved citizens and leaders, providing an enduring contribution to the development of America's youth.

This organization, rooted in hands on learning, grew from the interest of seven boys from Doñ a Ana County in each planting a pound of seed corn they acquired from the New Mexico College of Agriculture and Mechanic Arts, now New Mexico State University. This 1911 experiment was the first of a growing number of activities of this kind in rural communities around the territory that led to the establishment of precursor 4–H clubs in schools, led by teachers. Local merchants, bankers and farmers began the organization's long history of community support by donating prize money, goods and expertise to the young peoples' activities. The 1912 State fair saw the first ever competition between 4–H club members, who earned premiums for prize-winning corn, kafir corn, milo, peanuts, bread and sewing.

Today, New Mexico 4–H boasts more than 50,000 members, part of the 6.4

million youth involved globally in what is the world's largest youth organization. Though 4–H maintains its rural and agricultural roots, its leadership development activities have shown even broader influence as the organization has adapted to changing times. I am proud of the unique and remarkable way New Mexico's 4–H clubs teach responsibility, decision-making, communication skills and citizenship, all key ingredients to purposeful lives and strong communities. Through hands-on experience, 4–Hers learn what it takes to follow a project through to completion, keep records, and make presentations to others about their work. Whether it is baking, showing or judging livestock at the fair, sewing or public speaking, club members are challenged to set and achieve goals, find creative solutions to problems, overcome obstacles along the way, and demonstrate their progress to others.

I would also like to take this opportunity to commend the parents and community leaders of 4–H. Those who donate time, expertise and assistance to 4–H are often alumni who appreciate the lessons they learned in their clubs, and this has created the legacy of involvement that makes the organization so strong after 100 years. The mentorship and wealth of experience these leaders provide produce the tangible results we see in exhibits at the fair and community projects. However, they also sow the seeds of confident leadership and citizenship that may not reach full bloom until later in a member's life. I am also extremely proud to continue supporting 4–H's Share/Care afterschool program and the Rio Arriba County Clover Club, which have proven invaluable in giving young people the chance to get involved in fun, educational activities instead of drugs.

The long, proud record of 4–H in New Mexico, the United States, and around the world is testimony to the enduring viability of this organization and its central values, firmly rooted in our hard-working rural and agricultural communities. I would like to take this opportunity to reaffirm the valuable contribution of 4–H's ''head, heart, health and hands,'' to New Mexico's youth and the very fabric of our society. It is a great pleasure to celebrate the national centennial of 4–H, and I congratulate this organization on beginning another century of ''making the best better.''

THE ELDER JUSTICE ACT OF 2002

Mr. BURNS. Mr. President, I rise today to support a bipartisan bill to end the longstanding and pervasive problem of elder abuse, the Elder Justice Act of 2002. To care for the aging population in this Nation has been pushed aside for too long. This comprehensive measure centralizes the oversight of elder justice in one Federal office; all while listening to the differing needs of States and localities. To take proactive steps to prevent abuse from occurring, this bill calls for widespread training and maintenance of a national clearinghouse of information. This includes studies, statistics, and a broad review of State practices to ensure adequate protection of our aging population. This bill also deals with abuse after it has occurred, and significantly reforms the security, prosecution, and safe-havens available for seniors.

Most importantly, this bill sets an important precedent: the unspeakable and innumerable accounts of violence against seniors will finally have a long-overdue response from the U.S. Senate. Once again, I appreciate the work and leadership of Senators BREAUX and HATCH, and I am proud to join as a cosponsor of this legislation.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO THE CALDWELL COUNTY FFA

• Mr. BUNNING. Mr. President, I rise today to honor and congratulate the Caldwell County High School Future Farmers of America, FFA, chapter.

The Caldwell chapter has been selected as one of 10 finalists in the country for student development and will compete to be one of three top Models of Innovation at the 75th National FFA Convention in Louisville, KY.

Across the Nation, FFA chapters are rated according to a star system. The Caldwell High School FFA chapter was one of only 103 FFA chapters across the entire United States to receive the highest rating of three stars. This was the first time this chapter ever achieved a three star rating.

All 122 FFA students at Caldwell County High School deserve special recognition for their hard work and innovative spirit. The agricultural industry today needs and deserves folks like the ones at Caldwell County High School. I am confident that this group of young men and women will help further transform the agricultural industry and take innovation to a new level.•

RECOGNIZING SPORTSMEN'S IMPACT ON OUR ECONOMY

• Mrs. LINCOLN. Mr. President, earlier this week I was proud to represent the Congressional Sportsmen's Caucus in a press conference to announce the results of the 2001 National Survey of Fishing, Hunting, and Wildlife Associated Recreation. This report confirms something that many of us have believed for some time, that hunting and fishing are an integral part of the fabric of this Nation and an essential part of our economy.

I was joined in this announcement by Secretary of the Interior Gale Norton; Director of the U.S. Fish and Wildlife Service Steve Williams; Melinda Gable with the Congressional Sportsmen's Foundation; Brent Manning with the International Association of Fish and Wildlife Agencies; Mike Nussman with the American Sportfishing Association; and Doug Painter with National Shooting Sports Foundation.

Hunting and fishing are an important part of people's lives in my home State of Arkansas and all around the country. It is an activity that brings friends and families together and the impressive statistics that the U.S. Fish and Wildlife Service is releasing today are hard for those of us in Congress to ignore. As an avid sportswoman myself, I understand first-hand the importance that should be placed on promoting and preserving our ability to hunt, fish, and pursue outdoor activities. In fact, one of my fondest memories is of sitting with my father, brother, and sisters in a duck blind as the sun rose over the Arkansas Delta. And now, I get the joy of taking my boys outdoors to go fishing and hunting.

I first joined the Congressional Sportsmen's Caucus because of my lifelong love of the outdoors and my commitment that as sportsmen, we have a duty to protect and provide for sustainable uses of America's renewable wildlife resources. And now as the cochair of the Congressional Sportsmen's Caucus, I, along with my colleagues, am working to enact legislation to provide ample resources to conserve wildlife and America's rich tradition of outdoor recreation.

Wildlife and our Nation's lands and waters are the foundation for our outdoor recreation as well as the ecosystems in which we survive. A perfect example of this is Arkansas' RICE, Rice Industry Caring for the Environment, project, where farmers voluntarily set aside 171,000 acres of farmland to provide for waterfowl habitat which in turn provides enormous environmental benefits.

The survey shows that last year over 1.4 million Arkansans and 38 million Americans went hunting, fishing, or wildlife watching. And that translated into over $1 billion to Arkansas' economy and a whopping $108 billion impact on this Nation's economy. It also shows that over 20,000 Arkansans and well over 1 million nationally are employed directly in hunting and fishing related businesses.

Those numbers show that hunting and fishing are not just worthwhile pastimes, they're big business, too.

On top of that, in 2001 Arkansas' sportsmen paid over $112 million in State and federal taxes. And nationwide, sportsmen paid in over $11.4 billion. That's $11.4 billion going to fund many of our most pressing national priorities such as our national defense, education, highway construction, and conservation programs.

We must continue to recognize the American sportsman's impact on this nation's economy and protect our outdoor legacy for future generations. And I look forward to continued work with

my colleagues in the Senate to promote and preserve our ability to hunt, fish, and pursue outdoor activities.

I encourage each of my colleagues to take note of this survey's results and the direct impact of sportsmen and sportswomen on his or her State's economy.●

CONGRATULATIONS TO HUNT DOWNER

● Ms. LANDRIEU. Mr. President, I rise today to congratulate Hunt Downer of Houma, LA, for his Senate confirmation to the rank of Brigadier General in the Army National Guard. I have known General Downer for years, and I know he will make an excellent member of the general officer corps. Moreover, he will serve with great competence, skill, and leadership in the Louisiana Army National Guard.

General Hunt Downer epitomizes the Citizen Soldier and has dedicated his life to public service. Not only has Hunt had a long and successful career in the Louisiana National Guard, but Hunt has served in the Louisiana House of Representatives since 1975. During that time, he has always been an advocate for his constituents and the entire State of Louisiana. I served with Hunt in the House of Representatives, where I gained great respect for him. Moreover, he was respected by his peers because they chose him to serve as the Speaker of the House of Representatives. Despite the pressures on his time stemming from his commitments to the Louisiana National Guard and his duties as an elected official, Hunt also runs a successful legal practice in Houma, LA.

Most importantly, Hunt Downer has a wonderful family. I know they must be proud of Hunt. So today, I also want to congratulate Hunt's wife, Linda Lee, and his children, Mary and Blair.●

TRIBUTE TO DEBBIE FOWLER

● Mr. ALLARD. Mr. President, I would like to take a moment to recognize a woman who last week went to work like she does every day, but returned home as a hero.

Debbie Fowler serves at the Veterans Administration Medical Clinic in Colorado Springs as the Homeless Program Assistant. On Tuesday, September 24, Debbie made a call to a VA clinic in Arizona trying to locate some hospital records of a gentleman who had just checked into Debbie's place of work. Her phone call confirmed that the man who had just entered the clinic was wanted for at least 14 sexual assaults in Arizona, California, Oklahoma, and Nevada.

Knowing the type of criminal that was in her midst, Debbie was told by U.S. Marshals over the telephone to keep him in the clinic. With remarkable poise, Ms. Fowler was able to persuade the man to stay. Local police soon arrived at the clinic and apprehended the man, and commended Debbie for a job well done. Families of the victims have called Debbie a hero for what she did, and I concur. Although this women humbly declined that title, I would like to thank Ms. Fowler for her efforts and her bravery.●

IN CELEBRATION OF THE CITY OF MOUNTAIN VIEW'S 100TH ANNIVERSARY

● Mrs. BOXER. Mr. President, I wish to take this opportunity to recognize the 100th Anniversary of the city of Mountain View in my home State of California.

The city of Mountain View began as a stagecoach stop and agricultural center for the Santa Clara Valley. Like other areas in the Santa Clara Valley, Mountain View was once filled with bountiful orchards and vineyards. When Mountain View was incorporated as a city in 1902, there were fewer than one thousand residents living there; today there are 72,200. The population grew after World War II alongside the electronic and aerospace industries. Today, Mountain View is located in the heart of California's Silicon Valley, the technology capital of the world. From orchard and vineyard country to high tech mecca, Mountain View has been part of the rich history of California.

Mountain View combines innovative development efforts with a commitment to strong and diverse neighborhoods and resident involvement. In recent years, Mountain View has received three awards for outstanding city planning, including two at the national level. The American Planning Association, APA, gave Mountain View the ''Outstanding Planning Award for Implementation'' in honor of the city's Integrated Transit Oriented Development. Mountain View received a wonderful honor when these transit projects were selected to be part of a special exhibit at the Winter Olympics. The exhibit highlighted state-of-the-art architecture, urban design and transportation projects from cities throughout the world. And California's Local Government Commission awarded Mountain View the 2001–2002 Ahwahnee Award Certificate of Merit for Integrated Transit Oriented Development that ''reflects the continued evolution toward more livable and sustainable communities.''

I am delighted that Mountain View has been recognized around the nation as an outstanding place to live. While the city receives national attention, it also has been recognized around the San Francisco Bay Area for a wide array of neighborhood parks, the Shoreline at Mountain View regional park created from reclaimed landfill, a civic center that includes the Mountain View Center for the Performing Arts, a state-of-the-art library and the Shoreline Amphitheatre. Mountain View's community pride is also evident by the locally organized neighborhood associations that exist to address resident needs. This local pride is one of the things that makes this city such a California treasure.

I am thrilled that the city of Mountain View, its local government and its residents maintain such a strong community spirit while its high-tech companies provide new products to change the way we live. The city's mission statement, to ''provide quality services and facilities that meet the needs of a caring and diverse community in a financially responsible manner,'' could not be more appropriate. I hope the people of Mountain View enjoy this community-wide centennial celebration, and I wish them another 100 years of success.●

MESSAGES FROM THE HOUSE

At 1:27 p.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 joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 112. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 476. Concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the National Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

At 4:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4628) 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, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as managers of the conference on the part of the House: From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. GOSS, Mr. BEREUTER, Mr. CASTLE, Mr. BOEHLERT, Mr. GIBBONS, Mr. LAHOOD, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. BURR of North Carolina, Mr. CHAMBLISS, Mr. EVERETT, Ms. PELOSI, Mr. BISHOP, Ms. HARMAN, Mr. CONDIT, Mr. ROEMER, Mr. REYES, Mr. BOSWELL, Mr. PETERSON of Minnesota, and Mr. CRAMER. From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities: Mr. STUMP, Mr. HUNTER, and Mr. SKELTON.

The message also announced that the Speaker appoints the following Member as an additional conferee in the

conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes:

From the Committee on Resources, from consideration of the House bill and the Senate amendment, and modifications committed to conference.

ENROLLED JOINT RESOLUTION SIGNED

At 5:42 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.J. Res. 112. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolution were read the second time, and placed on the calendar:

H.R. 3534. An act to provide for the settlement of certain land claims of Cherokee, Choctaw, and Chickasaw Nations to the Arkansas Riverbed in Oklahoma.

H.R. 4793. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases.

S.J. Res. 46. Joint resolution to authorize the use of United States Armed Forces against Iraq.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2608: A bill to amend the Coastal Zone Management Act of 1972 to authorize the acquisition of coastal areas in order better to ensure their protection from conversion or development. (Rept. No. 107–296).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 958: A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes. (Rept. No. 107–297).

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 Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 3036. A bill to establish a commission to assess the performance of the civil works functions of the Secretary of the Army; to the Committee on Environment and Public Works.

By Mr. JEFFORDS:

S. 3037. A bill to amend the Federal Water Pollution Control Act to improve protection of treatment works from terrorists and other harmful intentional acts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire):

S. 3038. A bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species; to the Committee on Environment and Public Works.

By Mr. WYDEN:

S. 3039. A bill to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 3040. A bill to direct the Secretary of the Interior to conduct a study on the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 3041. A bill to require the Secretary of Health and Human Services to conduct a study and submit a report to Congress on new technology payments under the Medicare prospective payment system for hospital outpatient department services; to the Committee on Finance.

By Mr. HATCH:

S. 3042. A bill to provide for the recognition of new medical technologies under the medicare inpatient hospital prospective payment system; to the Committee on Finance.

By Mr. HATCH:

S. 3043. A bill to provide for an extension of the social health maintenance organization (SHMO) demonstration project; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. VOINOVICH):

S. 3044. A bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release; to the Committee on Governmental Affairs.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 3045. A bill to amend the Federal Water Pollution Control Act to provide for the protection and enhancement of the environmental integrity and the social and economic benefits of the Finger Lakes Region in the State of New York; to the Committee on Environment and Public Works.

By Mr. CRAIG:

S. 3046. A bill to provide for the conveyance of Federal land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 3047. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ENZI, Mr. JOHNSON, Mrs. MURRAY, Mrs. CLINTON, and Mr. ROBERTS):

S. 3048. A bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN:

S. 3049. A bill to prohibit the Administrator of the Environmental Protection Agency from issuing or renewing certain national pollutant discharge elimination system permits; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 3050. A bill to provide multiparty, multiform jurisdiction of district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3051. A bill to extend H–1B status for aliens with lengthy adjudications; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3052. A bill to increase scholarship assistance under the Police Corps program, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3053. A bill to provide immigration benefits, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DURBIN , Mr. KENNEDY, Mr. JEFFORDS, and Mr. SCHUMER):

S. 3054. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 3055. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to modify the terms of the community disaster loan program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself and Mr. DEWINE):

S. 3056. A bill to amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol; 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. NELSON of Florida:

S. Con. Res. 149. A concurrent resolution recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. GRAHAM, the name of the Senator from South Dakota (Mr. DASCHLE) 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. 724

At the request of Mr. BOND, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S.

724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 917

At the request of Ms. COLLINS, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1739

At the request of Mr. CLELAND, the names of the Senator from Maine (Ms. SNOWE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1739, a bill to authorize grants to improve security on over-the-road buses.

S. 2488

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2488, a bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

S. 2596

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2750

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2750, a bill to improve the provision of telehealth services under the medicare program, to provide grants for the development of telehealth networks, and for other purposes.

S. 2776

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2776, a bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

S. 2826

At the request of Mr. REID, his name was added as a cosponsor of S. 2826, a bill to improve the national instant criminal background check system, and for other purposes.

S. 2844

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2844, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Utah (Mr. HATCH) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2933

At the request of Mr. BREAUX, the name of the Senator from Nebraska (Mr. NELSON) was withdrawn as a cosponsor of S. 2933, a bill to promote elder justice, and for other purposes.

S. 2933

At the request of Mr. BREAUX, the names of the Senator from Florida (Mr. NELSON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2933, supra.

S. 2943

At the request of Mr. FEINGOLD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2943, a bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts.

S. 2968

At the request of Mr. SARBANES, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2968, a bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program.

S. 3009

At the request of Mr. WELLSTONE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 3009, a bill to provide economic security for America's workers.

S. 3012

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3012, a bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders.

S. 3016

At the request of Mr. DASCHLE, the names of the Senator from Oregon (Mr. SMITH), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 3016, a bill to amend the Farm Security and Rural Investment act of 2002 to require the Secretary of Agriculture to establish research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States.

S.J. RES. 46

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. J. Res. 46, a joint resolution to authorize the use of United States Armed Forces against Iraq.

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Virginia (Mr. ALLEN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. Con. Res. 142, a concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

S. CON. RES. 147

At the request of Mr. BURNS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 147, a concurrent resolution encouraging improved cooperation with Russia on energy development issues.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 3036. A bill to establish a commission to assess the performance of the civil works functions of the Secretary of the Army; to the Committee on Environment and Public Works.

Mr. DASCHLE. Mr. President, today I am introducing, with my colleagues Senator JOHNSON, legislation to investigate and hopefully change the culture of disregard for environmental values that infects the Corps of Engineers' management of America's great rivers. My own experiences in South Dakota and my discussions with many of my

constituents and others around the Nation have led me to conclude that protecting the future health of our Nation's waterways demands that Congress consider relieving the Corps of its current river management responsibilities.

For the last decade, I have watched as the Corps has steadfastly refused to change its management of the Missouri River to reflect the environmental and economic needs of the 21st century. The agency's refusal to change the management of the river will further jeopardize endangered species, drive river-dependent businesses into bankruptcy, and lead to further erosion of Native American burial and cultural sites along its banks. As a Senator from South Dakota and as a citizen of that State who enjoys hunting and fishing along the Missouri, I share the sense of betrayal that so many upstream residents feel watching the Corps' management slowly degrade this once thriving river.

Last spring, just when sport fish were spawning and the State was facing its worst drought in decades, the Corps began to drain the reservoirs to provide water for navigation downstream. This prompted lawsuits by South Dakota, North Dakota, and Montana to force the Corps to bring common-sense management to the river. Since then, boat ramps have become unusable, while some river-based businesses have lost tens of thousands of dollars.

There is no legitimate reason for further delay in reforming management of the Missouri River. For more than a decade, the Corps has spent millions of dollars revising its operating plan for water flows on the Missouri River, the Master Manual. An overwhelming amount of scientific and technical data all point to the same conclusions: the management of the river should more closely mimic the natural flow regime. Flows should be higher in the spring, and lower in the summer, just as they nature. Yet in June, the Corps indefinitely delayed the release of the new Master Manual due to pressure from the White House.

The mismanagement of the Missouri River is illustrative of a larger problem. For example, a study of proposed upper-Mississippi lock expansion has to be retooled after the Corps whistle blower showed that the study was rigged to provide an economic justification for that billion-dollar project. A broad pattern of disregard by the Corps for environmental priorities throughout the nation's waterways is now evident. In addition, the corps has been shown time and again its unwillingness to work effectively with members of the public, States, tribes, or stakeholders to resolve ongoing challenges.

Indeed, more than ever, the Corps appears mired in the past, incapable of assimilating new scienfic and economic information into its management scheme, and, consequently, failing the people and wildlife that depend on the sound stewardship of Ameria's rivers. The time has come to ask tough questions about the institutional barriers within the Corps, and the influence of special interests, that prevent it from effectively meeting the Nation's river management needs. The time has come to ask whether those responsibilities are better left to others. This ongoing situation presents a compelling case for a thorough, independent review of the agency's operations and management, and for serious reform. Indeed, many of my Senate colleagues have introduced legislation to accomplish certain reforms, and I, along with others have made it clear that we will fight any effort to pass additional authorizations unless they are accompanied by serious, meaningful Corps reform.

Our Nation needs a river management program that is environmentally and economically sound. History does not offer much room for confidence that the Army Corps of Engineers can meet this standard under its current management structure. The management of the Missouri River, the Mississippi River, and other major waterways presents a compelling case for a thorough, independent review of the agency's operations and management, and for serious reform.

I am introducing legislation today to establish an independent Corps of Engineers River Stewardship Investigation and Review Commission. The commission will take a hard and systematic look at the agency's stewardship of our Nation's rivers and make recommendations to Congress on needed reforms. It will examine a number of issues, including Corps compliance with environmental and Indian cultural resource protection laws; the quality and objectivity of the agency's scientific and economic analysis, the Corps' cooperation with Federal agencies, States, and tribes; whether congress needs to amend river planning laws and regulations; and, ultimately, whether the Corps' river management responsibilities should be transferred to a federal civilian agency.

I urge my colleagues to review this legislation.

It is my hope that all those who care about the mission of preserving our Nation's waterways will support this effort to identify and implement whatever reforms are necessary to fulfill that mission. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3036

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 ''Corps of Engineers River Stewardship Independent Investigation and Review Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Corps of Engineers River Stewardship Independent Investigation and Review Commission established under section 3(a).

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) SESSION DAY.—The term ''session day'' means a day on which both Houses of Congress are in session.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the President shall establish a commission to be known as the ''Corps of Engineers River Stewardship Independent Investigation and Review Commission''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of not to exceed 22 members, and shall include—

(A) individuals appointed by the President to represent—

(i) the Department of the Army;

(ii) the Department of the Interior;

(iii) the Department of Justice;

(iv) environmental interests;

(v) hydropower interests;

(vi) flood control interests;

(vii) recreational interests;

(viii) navigation interests;

(ix) the Council on Environmental Quality; and

(x) such other affected interests as are determined by the President to be appropriate;

(B) 6 governors from States representing different regions of the United States, as determined by the President; and

(C) 6 representatives of Indian tribes representing different regions of the United States, as determined by the President.

(2) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 180 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) IN GENERAL.—The President shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) NO CORPS REPRESENTATIVE.—The Chairperson and the Vice Chairperson shall not be representatives of the Department of the Army (including the Corps of Engineers).

SEC. 4. INVESTIGATION OF CORPS OF ENGINEERS.

Not later than 2 years after the date of enactment of this Act, the Commission shall complete an investigation and submit to Congress a report on the management of rivers in the United States by the Corps of Engineers, with emphasis on—

(1) compliance with environmental laws in the design and operation of river management projects, including—

(A) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) compliance with the cultural resource laws that protect Native American graves, traditional cultural properties, and Native American sacred sites in the design and operation of river management projects, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.);

(D) Executive Order 13007 (61 Fed. Reg. 26771; relating to Indian sacred sites);

(E) identification of opportunities for developing tribal cooperative management agreements for erosion control, habitat restoration, cultural resource protection, and enforcement;

(F) review of policy and guidance regarding nondisclosure of sensitive information on the character, nature, and location of traditional cultural properties and sacred sites; and

(G) review of the effectiveness of government-to-government consultation by the Corps of Engineers with Indian tribes and members of Indian tribes in cases in which the river management functions and activities of the Corps affect Indian land and Native American natural and cultural resources;

(3) the quality and objectivity of scientific, environmental, and economic analyses by the Corps of Engineers, including the use of independent reviewers of analyses performed by the Corps;

(4) the extent of coordination and cooperation by the Corps of Engineers with Federal and State agencies (such as the United States Fish and Wildlife Service) and Indian tribes in designing and implementing river management projects;

(5) the extent to which river management studies conducted by the Corps of Engineers fairly and effectively balance the goals of public and private interests, such as wildlife, recreation, navigation, and hydropower interests;

(6) whether river management studies conducted by the Corps of Engineers should be subject to independent review;

(7) whether river planning laws (including regulations) should be amended; and

(8) whether the river management functions of the Corps of Engineers should be transferred from the Department of the Army to a Federal civilian agency.

SEC. 5. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal department or agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the department or agency shall provide the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or personal property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $5,000,000 for each of fiscal years 2003 through 2005, to remain available until expended.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate on the date on which the Commission submits the report to Congress under section 4(a).

By Mr. JEFFORDS:

S. 3037. A bill to amend the Federal Water Pollution Control Act to improve protection of treatment works from terrorists and other harmful intentional acts, and for other purposes; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Wastewater Treatment Works Security Safety Act. This legislation provides for the safety and security of our Nation's wastewater treatment works by providing needed funds to conduct vulnerability assessments and implement security improvements. In addition, this bill will ensure long-term safety and security by providing funds for researching innovative technologies and enhancing proven vulnerability assessment tools already in use.

Since the terrible events of September 11, we have taken several comprehensive steps to protect our water supplies and infrastructure. Almost a year ago, I spoke on the many initiatives taking place in the Committee on Environment and Public Works and at the Environmental Protection Agency. I am pleased to say that we have made some progress.

EPA worked with State and local governments to expeditiously provide guidance on the protection of drinking water facilities from terrorist attacks. Based on the recommendations of Presidential Decision Directive 63, issued by President Clinton in 1998, the Environmental Protection Agency and its industry partner, the Association of Metropolitan Water Agencies, established a communications system, a water infrastructure Information Sharing and Analysis Center, designed to provide real-time threat assessment data to water utilities throughout the nation.

Earlier this year, Senator SMITH and I worked to include the authorization of $160 million for vulnerability assessments at drinking water facilities as part of the Bioterrorism bill. Despite our advocacy during the conference, we were unable to include a provision in that bill for wastewater facilities due to jurisdictional issues in the House.

While these initial efforts are essential, our task is by no means finished. We cannot forget the vital importance of protecting our Nation's wastewater facilities. Everyday we take for granted the hundreds of thousands of miles of pipes buried under ground and the thousands of wastewater treatment works that keep our water clean and safe. But, like all our Nation's critical infrastructure, the disruption or destruction of these structures could have a devastating impact on public safety and health.

The legislation I am introducing today will take us one step further by authorizing support of ongoing efforts to develop and implement vulnerability assessments and emergency response plans at wastewater facilities.

Using existing tools such as the Sandi Laboratory's vulnerability assessment tool or the Association of Metropolitan Sewerage Association's Vulnerability Self-Assessment Tool, treatment works will be able to securely identify critical areas of need. With the funds provided by this bill, EPA will also ensure that treatment

works remedy areas of concerns. Using the results of the vulnerability assessment, treatment works will develop or revise emergency response plans to minimize damage if an attack were to occur.

This bill authorizes $185 million for fiscal years 2003 through 2007 for grants to conduct the vulnerability assessments and implement basic security enhancements. The bill also recognizes the need to address immediate and urgent security needs with a special $20 million authorization over 2003 and 2004.

In my home State of Vermont, we have only three towns of over 25,000 people. The small water facilities serving these communities have been particularly challenged to meet today's new homeland security challenges. Many times, water managers operate the town's water facilities as a part-time job or even as a free service. We must ensure that they are afforded the same consideration under this act as the medium and large facilities. This bill authorizes $15 million for grants to help small communities conduct vulnerability assessments, develop emergency response plans, and address potential threats to the treatment works. It also instructs the Administrator of the EPA to provide guidance to these communities on how to effectively use these security tools.

To ensure the continued development of wastewater security technologies, the Wastewater Treatment Works Security and Safety Act authorizes $15 million for research for 2003 and 2007. It also provides $500,000 to refine vulnerability self-assessment tools already in existence.

I am proud to say that the Association of Metropolitan Sewerage Agencies has endorsed the Wastewater Treatment Works Security Act. AMSA represents our nation's wastewater treatment works serving large cities. They have been an invaluable partner in the drafting of this bill, and I thank them sincerely for their support. I ask unanimous consent that their letter of support be entered into the RECORD.

I look forward to working with my colleagues on this legislation and other efforts to enhance the security of our Nation's water infrastructure in the weeks, months, and years to come. We truly have something to protect—clean, safe, fresh water is worth our investment.

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

ASSOCIATION OF METROPOLITAN SEWERAGE AGENCIES,
Washington, DC, October 1, 2002.

Hon. JAMES JEFFORDS,
Chairman, Environment and Public Works Committee, U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR JEFFORDS: The Association of Metropolitan Sewerage Agencies (AMSA) thanks you for the timely introduction of the Wastewater Treatment Works Security and Safety Act. This legislation marks a critical step toward ensuring the safe, uninterrupted operation of the nation's vital wastewater infrastructure. AMSA will be working throughout the closing days of the 107th Congress to secure the passage of this important legislation.

Of critical importance to AMSA member utilities is the $200 million this bill provides to assess vulnerabilities and enhance security at the nation's more than 16,000 public wastewater treatment works. AMSA also believes that the bill's $2.5 million to develop and distribute vulnerability assessment software upgrades will play a key role in ongoing security improvements. AMSA, in coordination with EPA, has developed a vulnerability self assessment tool (VSAT™) for wastewater utilities in the wake of the terrorist attacks of September 11, 2001. To this end, the $2.5 million provides much-needed support to continue and improve this important initiative.

The Wastewater Treatment Works Security and Safety Act comes at a pivotal juncture for communities struggling to secure their critical wastewater infrastructure while tackling shrinking municipal budgets. AMSA applauds your commitment to addressing municipal security needs for making your staff accessible throughout the drafting of this important legislation. AMSA looks forward to working with you, your staff and other members of the Senate and House of Representatives to ensure the passage of this legislation before Congress adjourns this year.

Sincerely,

KEN KIRK,
Executive Director.

By Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire):

S. 3038. A bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President I rise today with Senator SMITH of New Hampshire to introduce the Captive Wildlife Safety Act, a firm commitment to protect public safety and the welfare of wild cats that are increasingly being kept as pets.

Current figures estimate that there are more than 5,000 tigers in captivity in the United States. In fact, there are more tigers in captivity in the United States than there are in native habitats throughout the range in Asia. While some tigers are kept in zoos, most of these animals are kept as pets, living in cages behind someone's house, in a State that does not restrict private ownership of dangerous animals. Tigers are not the only animals sought as exotic pets. Today there are more than 1,000 web sites that specialize in the trade of lions, cougars, and leopards to promote them as domestic pets.

Untrained owners are simply not capable of meeting the needs of these animals. Local veterinarians, animal shelters, and local governments are ill equipped to meet the challenge of providing for their proper care. If they are to be kept in captivity, these animals must be cared for by trained professionals who can meet their behavioral, nutritional, and physical needs.

People who live near these animals are also in real danger. These cats are large and powerful animals, capable of injuring or killing innocent people. There are countless stories of many unfortunate and unnecessary incidents where dangerous exotic cats have endangered public safety. last year in Lexington, TX, a three-year-old boy was killed by his stepfather's pet tiger. In Loxahatchee, FL, this past February, a 58 year-old woman was bitten on the head by a 750 pound Siberian-Bengal Tiger being kept as a pet. Just last month in Quitman, AR, four 600 to 800 pound tigers escaped from a ''private safari.'' Parents living nearby sat in their own front yards with high-powered rifles scared that the wild lions might hurt their children playing the front yard.

The bill I introduce today would amend the Lacey Act Amendments of 1981 and bar the interstate and foreign commerce of carnivorous wild cats, including lions, tigers, leopards, cheetahs, and cougars. The legislation would not ban all private ownership of these prohibited species. It would outlaw the commerce of these animals for use as pets.

This is a balanced approach that preserves the rights of those entities already regulated by the Department of Agriculture under the Animal Welfare Act such as circuses, zoos, and research facilities. This Act specifically targets unregulated and untrained individuals who are maintaining these wild cats as exotic pets.

This bill also preserves the importance of local regulations already in existence. I sincerely hope that grass roots level organizing continues to direct State and local governments to increase the number of States and counties that ban private ownership of exotic cats. Full bans are already in place in 12 States and partial bans have been enacted in 7 States.

No one should be endangered by those who cannot properly keep these animals. Those exotic cats who are in captivity should be able to live humanely and healthfully.

The Captive Wildlife Safety Act represents an emerging consensus on the need for comprehensive federal legislation to regulate what animals can be kept as pets. The United States Department of agriculture states, ''Large wild and exotic cats such as lions, tigers, cougars, and leopards are dangerous animals . . . Because of these animals' potential to kill or severely injure both people and other animals, an untrained person should not keep them as pets. Doing so poses serious risks to family, friends, neighbors, and the general public. Even an animal that can be friendly and lovable can be very dangerous.''

The American Veterinary Medical Association also ''strongly opposes the keeping of wild carnivore species of animals as pets and believes that all commercial traffic of these animals for such purpose should be prohibited.''

The Captive Wildlife Safety Act is supported by the Association of Zoos

and Aquariums, the Humane Society of the United States, the Fund for Animals, and the International Fund for Animal Welfare.

I ask my colleagues to cosponsor this legislation and look forward to working with our partners in the House who have expressed interest in passing this bill into law by the end of this session.

By Mr. WYDEN:

S. 3039. A bill to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, I would like to say a few words about a bill I am introducing today, the Sports Agent Responsibility and Trust Act. The purpose of the bill is simple: to set some basic, uniform nationwide rules to prevent unscrupulous behavior by sports agents who court student athletes.

Too often, unscrupulous sports agents prey upon young student athletes who are inexperienced, naive, or simply don't know all of the collegiate athletic eligibility rules. The agent sees the student athlete as a potentially lucrative future client, and wants to get the biggest headstart possible on other agents. So the agent tries to contact and sign up the student athlete as early as possible, and does whatever it takes to get the inside track.

In some cases, the agent may attempt to lure the student athlete with grand promises. In some cases, the agent may offer flashy gifts. To make the offer more enticing, the agent may withhold crucial information about the impact on the student's eligibility to compete in college sports.

A majority of States have enacted statutes to address unprincipled behavior by sports agents, but the standards vary from State to State and some States don't have any at all. The University of Oregon tells me that this creates a significant loophole. Specifically, Oregon has a State law, but it doesn't apply when a University of Oregon athlete goes home to another State for the summer and is contacted by an agent there. Every time that athlete crosses into another State, a different set of rules apply. And if one State's laws on the subject are particularly weak, that is where shady sports agents will try to contact their targets.

That is why there ought to be a single, nationwide standard. The bill I am introducing today would establish a uniform baseline, enforceable by the Federal Trade Commission, that would supplement but not replace existing State laws. Specifically, the bill would make it an unfair and deceptive trade practice for a sports agent to entice a student athlete with false or misleading information or promises or with gifts to the student athlete or the athlete's friends or family. It would require a sports agent to provide the student athlete with a clear, standardized warning, in writing, that signing an agency contract could jeopardize the athlete's eligibility to participate in college sports. It would make it unlawful to pre-date or post-date agency contracts, and require both the agent and student athlete to promptly inform the athlete's university if they do enter into a contract.

Representative BART GORDON of Tennessee has spearheaded this legislation in the House, where the House Commerce Committee has held hearings and, most recently, unanimously approved the bill on September 25. I applaud Congressman GORDON for his leadership on this issue, and I urge my Senate colleagues to join me in addressing this matter in the Senate.

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. 3039

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 ''Sports Agent Responsibility and Trust Act''.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) AGENCY CONTRACT.—The term ''agency contract'' means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) ATHLETE AGENT.—The term ''athlete agent'' means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) ATHLETIC DIRECTOR.—The term ''athletic director'' means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(5) ENDORSEMENT CONTRACT.—The term ''endorsement contract'' means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.

(6) INTERCOLLEGIATE SPORT.—The term ''intercollegiate sport'' means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) PROFESSIONAL SPORTS CONTRACT.—The term ''professional sports contract'' means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) STATE.—The term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) STUDENT ATHLETE.—The term ''student athlete'' means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.

(a) CONDUCT PROHIBITED.—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.—

(1) IN GENERAL.—In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18 to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) SIGNATURE OF STUDENT ATHLETE.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18 by such student athlete's parent or legal guardian, prior to entering into the agency contract.

(3) REQUIRED LANGUAGE.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in boldface type stating: ''**Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.**''.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Commission shall enforce this Act in the same manner, by the same means, and with the

same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

SEC. 5. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action—

(e) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(1) is an inhabitant; or

(2) may be found.

SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.

(a) NOTICE REQUIRED.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such education institution, that the student athlete had entered into an agency contract, and the athlete agency shall provide the athletic director with notice in writing of such a contract.

(b) CIVIL REMEDY.—

(1) IN GENERAL.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) DAMAGES.—Damages of an educational institution may include losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) COSTS AND ATTORNEYS FEES.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) EFFECT ON OTHERS RIGHTS, REMEDIES AND DEFENSES.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

SEC. 7. SENSE OF CONGRESS.

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of the Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athletic to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

By Mr. HATCH:

S. 3041. A bill to require the Secretary of Health and Human Services to conduct a study and submit a report to Congress on new technology payments under the Medicare prospective payment system for hospital outpatient department services; to the Committee on Finance.

Mr. HATCH. Mr. President, since Utah is the home of many medical device and pharmaceutical companies, I have taken a special interest in legislation affecting the development of cutting-edge technologies and the ability of patients to have access to these innovative products. Three years ago, I authored legislation to ensure that Medicare patients have prompt and appropriate access to the abundant benefits of medical breakthrough products. Prior to the enactment of that law, these innovative technologies were not being properly reimbursed by the Medicare program or, in some cases, were not even being reimbursed by Medicare at all. As a result, patient care suffered.

And, while the 1999 law was a giant step in the right direction, many problems continue to exist regarding the methodology that Medicare has used in developing its hospital outpatient reimbursement payments for these new devices and medicines.

I have been working throughout the year with all parties who have a stake in improving the hospital outpatient prospective payment system methodology for new medical devices, drugs, biologicals, and other technologies. I have listened to the arguments from both the Centers for Medicare and Medicaid Services, CMS, and the industry and recognize that there are problems with this methodology from all perspectives.

And while, in my opinion, a legislative solution would be ideal, so far, we have been unable to draft legislation that would be acceptable to both CMS and industry representatives. Therefore, I now believe that authorizing a comprehensive study through the Department of Health and Human Services is the appropriate next step toward defining the flaws within the current system and developing consensus on how to address them. For this reason, I now advocate that CMS undertake such a study, and also provide recommendations to Congress on how to improve Medicare reimbursement for these products.

This matter is a serious one which needs to be reviewed and analyzed by HHS so that a more equitable reimbursement system may be created. We all agree that Medicare beneficiaries deserve access to most innovative medical technologies. In my opinion, this HHS study will help us accomplish two very important goals, fair and equitable Medicare reimbursement for innovative technology and therapies and, most important, beneficiary access to these cutting-edge products.

By Mr. HATCH:

S. 3043. A bill to provide for an extension of the social health maintenance organization (SHMO) demonstration project; to the Committee on Finance.

Mr. HATCH. Mr. President, the Social Health Maintenance Organization Demonstration Project is due to expire in the next year. I have been a strong supporter of extending the SHMO demonstration project, because these plans help keep seniors independent and out of nursing homes. SHMOs provide beneficiaries with expanded Medicare benefits, including prescription drugs, care coordination and community-based services. While many of us are working toward making this a permanent program, it has now become clear that we will not be able to accomplish this goal this year because of budget constraints. Therefore, I offer as the next best solution extending the SHMO demonstration project for five more years. This way, SHMOs will continue to operate, and, those beneficiaries who receive their Medicare coverage through SHMOs will continue to receive important services and benefits.

By Mr. DURBIN (for himself and Mr. VOINOVICH):

S. 3044. A bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release; to the Committee on Governmental Affairs.

Mr. DURBIN. Mr. President, I rise today, joined by my colleague from Ohio, Senator GEORGE VOINOVICH, to introduce the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002, to enhance the authority of the Court Services and Offender Supervision Agency for the District of Columbia.

The Court Services and Offender Supervision Agency, CSOSA, was established by Congress as part of the District of Columbia Revitalization Act of 1997. CSOSA combines under one helm the previously disparate local functions of pretrial services, parole, adult probation, and post-conviction offender supervision. Following three years of operation as a trusteeship, CSOSA was certified as an independent Federal agency within the executive branch on August 4, 2000.

CSOSA, with 950 employees, an annual budget of $132 million, and responsibility for monitoring 21,000 pretrial release defendants annually, 8,000 at any one time, and 15,338 post-conviction offenders on probation or parole, is directed by Paul A. Quander, Jr., who was confirmed by the Senate on July 25, 2002.

The legislation we introduce today aims to clarify CSOSA's authority to provide for supervision of offenders from other jurisdictions who chose to live in the District of Columbia and to arrange with other States for supervision of District of Columbia probationers who seek residence in other jurisdictions, including authority to enter into a new Interstate Compact.

Among the functions CSOSA absorbed after it was established were the supervision of probationers and parolees from other jurisdictions once their transfer to the District of Columbia was approved. Although not explicitly stated in the law, CSOSA also performs the related function of arranging for the supervision of District of Columbia Code offenders on probation and parole who seek to move from the District of Columbia to reside in other States. Our legislation would add that specific duty to CSOSA's statutory responsibilities.

The movement of adult parolees and probationers across State lines is currently controlled by an interstate compact dating back to 1937, which has all 50 States and territories as signatories. A new agreement, the Interstate Compact for Adult Offender Supervision, has been drafted to improve accountability, coordination, and enforcement mechanisms among the participating states. As of June 19, 35 States had signed on to the new compact. The District has not done so, primarily because the City itself no longer performs the functions since Congress created CSOSA to do so.

Our legislation would provide CSOSA with clear authority to enter into this new compact or any other agreements for interstate supervision with any States which may not become signatories to the new compact. Because a new Compact Commission is now being formed and scheduled to meet in November to begin developing the procedural rules for the new Compact, our legislation will enable CSOSA to actively participate in that process.

For this reason, we urge our colleagues to support this bill and vote for enactment this year. 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. 3044

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 ''Court Services and Offender Supervision Agency Interstate Supervision Act of 2002''.

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

''(G) arrange for the supervision of District of Columbia offenders on parole, probation, and supervised release who seek to reside in jurisdictions outside the District of Columbia;'';

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

''(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency's responsibilities under subparagraphs (G) and (I).''.

Mr. VOINOVICH. Mr. President, I rise today with my colleague from Illinois, Senator RICHARD DURBIN, as a cosponsor of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002. I thank my colleague from Illinois for his initiative in advancing this legislation.

As my colleague noted, Congress created the Court Services and Offender Supervision Agency, CSOSA, as part of the 1997 National Capital Revitalization and Self-Government Improvement Act to absorb the responsibilities of three local D.C. agencies. In accordance with that law the Federal Government assumed responsibility for many of the city's judicial functions, including all pre-trial services and the post-conviction supervision of parolees and probationers.

With the support of the District and CSOSA, our bipartisan legislation seeks to clarify that CSOSA is the entity responsible for all offenders, whether on parole, probation, or supervised release, who reside in the District of Columbia or those convicted in District Court and choose to relocate outside of the District of Columbia.

When CSOSA was established, it was expressly charged with the responsibility to arrange for the supervision of District of Columbia paroled offenders who wish to move outside the boundaries of Washington, D.C. Today, however, a growing number of offenders are placed on probation or supervised release, not parole. Our legislation clarifies that CSOSA is the agency responsible for arranging for their supervision.

The original legislation also did not address directly the issue of supervision of offenders who relocate to the District of Columbia. Since CSOSA absorbed the local agency that previously held this responsibility, it has been acting in that capacity. Again, our legislation clarifies that CSOSA is the entity with this responsibility.

Finally, our legislation clearly grants CSOSA the authority to enter into agreements with other states and territories to establish guidelines for offender relocation. An interstate compact, signed by all the states and territories, has established guidelines for the movement of adult offenders. The compact was created originally in 1937 and the states are in the process of revising it to enhance accountability for all offenders on parole, probation, or supervised release. More than half of the states already have signed this revised Interstate Compact for Adult Offender Supervision. The District of Columbia has not signed it, however, primarily because they do not have responsibility for offenders. Our legislation expressly grants CSOSA the authority to do so in their capacity of providing offender supervision.

This legislation clarifies CSOSA's mission, a mission critical to the public safety of our nation's capital. I urge my colleagues to support this bill.

By Mr. CRAIG:

S. 3046. A bill to provide for the conveyance of Federal land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the ''Sandpoint Land and Facilities Act of 2002.'' This bill is a unique opportunity to meet the facility needs of the Forest Service in Sandpoint, ID and to provide facilities for the local county government. This bill will transfer ownership of the local General Service Administration building currently housing the Forest Service to that agency. The bill also provides authority for the Forest Service to work with Bonner County, Idaho to exchange the existing building to Bonner County in exchange for a new and more functional building to the Forest Service. This transfer of ownership will not only provide the opportunity for the local Forest Service office to obtain a facility that best meets

their needs but also will meet the facility needs of Bonner County.

The transfer of this facility will allow the Forest Service to improve service to the public, improve public and employee safety, make the Idaho Panhandle National Forest more financially competitive, and allow increased spending on resource programs that contribute to healthier ecosystems. In turn, Bonner County will benefit by providing to them a building that consolidates county offices so that better services can be provided to the local public, including ADA compliant access to the county courtrooms.

Additionally, the GSA will dispose of a building that is only partially occupied and is remotely located from other GSA facilities.

This is a win-win situation for the Forest Service, Bonner County, GSA, and the taxpayers and an outstanding example of the federal government at the local level working with the county government to create common sense solutions that result in more efficient operations and better service to the public.

By Mr. CRAIG:

S. 3047. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Panhandle National Forest Improvement Act of 2002. This bill is an opportunity to provide lands for local benefits and to meet the facility needs of the Forest Service in the Silver Valley of Idaho. This bill will offer for sale or exchange administrative parcels of land in the Idaho Panhandle National Forest that the Forest Service has identified as no longer in the interest of public ownership and that disposing of them will serve the public better. The proceeds from these sales will be used to improve or replace the Forest Service's Ranger Station in Idaho's Silver Valley.

The Forest Service administrative parcels identified for disposal include the land permitted by the Granite/Reeder Sewer District on Priest Lake, Shoshone Camp in Shoshone County, and the North-South Ski Bowl, south of St. Maries.

The bill also directs the Forest Service to improve or construct a new ranger station in the Silver Valley. The current ranger station is in dire need of repair or replacement, and this will ensure my commitment to a continued and increased presence of the Forest Service in the Silver Valley.

This is a win-win situation for the taxpayers, the Forest Service, the residents of the Silver Valley, and the permittees on the parcels of land to be disposed of.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ENZI, Mr. JOHNSON, Mrs. MURRAY, Mrs. CLINTON, and Mr. ROBERTS).

S. 3048. A bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, each year, nearly 1 out of 4 Americans sustain an injury requiring medical attention. In 1995, injuries were responsible for 148,000 deaths, 2.6 million hospitalizations, and over 36 million emergency room visits.

The direct and indirect cost of injury is estimated to be about $260 billion a year, and the death rate from unintentional injury is more than 50 percent higher in rural areas than in urban areas. It is essential that every American have access to a trauma system that provides definitive care as quickly as possible.

In recent years, Congress has worked to address this issue through the Trauma Care Systems Planning and Development Act, which authorizes Federal grants to States for the purpose of planning, implementing, and developing statewide trauma care systems. However, this important program expires this year. Therefore, I am introducing bipartisan legislation today, along with Senators KENNEDY and ENZI to reauthorize this important program.

Among Americans younger than age 44, trauma is the killer. While injury prevention programs have greatly reduced death and disability, severe injuries will continue to occur. Given the events of September 11, 2001 and our Nation's renewed focus on enhancing disaster preparedness, it is critical that the Federal Government increase its commitment to strengthening programs governing trauma care system planning and development.

Despite our past investments, one-half of the States in the country are still without a statewide trauma care system. Clearly we can do better. We must respond to the goals put forth by the Institute of Medicine in 1999, that Congress ''support a greater national commitment to, and support of, trauma care systems at the Federal, State, and local levels.''

Today's bill, the ''Trauma Care Systems Planning and Development Act of 2002'' reauthorizes this program and includes several key improvements: first, it improves the collection and analysis of trauma patient data; second, the bill responds to State budget difficulties by decreasing the requirement for State matching funds to the Federal grants; third, the legislation provides a self-evaluation mechanism to assist States in assessing and improving their trauma care systems; fourth, it authorizes an Institute of Medicine study on the state of trauma care and trauma research; and finally, it doubles the funding available for this program to allow additional States to participate.

I appreciate the assistance of Senators KENNEDY and ENZI on this important legislation, and look forward to working to see this bill passed this year.

Mr. KENNEDY. Mr. President, it is a pleasure to join Senator FRIST, Senator JOHNSON, and Senator MURRAY in introducing the Trauma Care Systems Planning and Development Act. Our goal in this bipartisan legislation is to enable all States to develop effective trauma care systems.

Trauma is the number one killer of Americans under the age of 44. Traumatic injury robs our Nation's youth, devastates families, and costs the Nation more than $260 billion every year. In 1995 alone, injuries were responsible for 148,000 deaths, 2.6 million hospitalizations, and over 26 million emergency room visits.

Despite trauma's toll, we have done little in recent years to prevent trauma or improve the chance of recovery following traumatic injury. Part of the problem is the misunderstanding that trauma is an accident, an unfortunate, but sometimes unavoidable chance event. But the facts reveal that this is not the case.

Trauma is very similar to a disease. It has definable causes with established methods of treatment and prevention. Frequent forms of trauma include motor vehicle accidents, firearm accidents, and natural or man-made disasters. Proven preventative measures could save up to 25,000 lives every year. Putting effective trauma care systems in place would provide victims with the best chance of recovery, by delivering quality care as quickly as possible.

A trauma system is an organized, coordinated effort to provide the full range of care to all injured patients. Intervention begins in the field, at the site of injury, and proceeds along the continuum of care from prehospital to hospital to rehabilitative services. An effective system ensures that resources, supporting equipment, and personnel are ready and trained to go into action.

The skills and knowledge of health care experts alone are not enough. Optimal care is the result of advance planning, preparation, and coordination to produce smooth transitions and the proper sequence of interventions. A comprehensive trauma system accomplishes all this and has been proven to save lives and decrease costs.

Much of the progress in developing trauma systems has occurred as a result of Federal funding and involvement. In 1973, Congress passed the Emergency Medical Services Act, providing $300 million to States and communities over an eight year period. Without that funding, patients in 304 emergency medical service regions in the United States might not have had ready access to emergency care. Even today, there are areas of the United States without 9–1–1 access and prompt emergency transportation.

In 1990, Congress passed the original Trauma Care Systems Planning and

Development Act, authorizing Federal grants to States to develop integrated statewide trauma care systems. Funding for this program has been inadequate. From 1995 to 2000, States received no funding under the Act. Last year, only $3.5 million was appropriated for the entire country. As a result, only half of all States have fully functional statewide trauma systems. Clearly, we must do better in providing needed trauma care.

This legislation reauthorizes and enhances the trauma care program to establish comprehensive trauma systems in all States. The bill also addresses the urgent need for improved trauma data and research. Surprisingly, given the burden of trauma on society, only 1 percent of resources at the NIH are devoted to trauma research. The legislation asks the Institute of Medicine to investigate the quality of trauma care and identify areas for improvement.

This legislation is supported by the Coalition for American Trauma Care, the American College of Surgeons, and the American Trauma Society. Its enactment is vitally important to public safety, and I urge the Senate to approve it.

By Mr. LIEBERMAN (for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. KENNEDY, Mr. JEFFORDS, and Mr. SCHUMER):

S. 3054. A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to join with my colleagues Senators RUSS FEINGOLD, DICK DURBIN, EDWARD KENNEDY, JIM JEFFORDS, and CHARLES SCHUMER in introducing legislation that would end a terrible injustice suffered by 600,000 American citizens—that is, the denial of full Congressional representation to the citizens of the District of Columbia. This injustice is nothing less than a stain on the fabric of our democracy. To right this wrong, we are introducing the No Taxation Without Representation Act of 2002 today in order to extend full Congressional representation to the citizens of our Capital City.

This is the second bill I have introduced to this Congress in order to achieve this important goal. It is embarrassing that ours is the only democracy in the world in which citizens of the Capital are not represented in the national legislature. I can only wonder what visitors from around the world must think when they come to see our beautiful landmarks, our monuments, and our Capitol dome, proud symbols of the world's greatest democracy, and then learn that the people who live in this great city have no voice in Congress. What would we do if, for some reason, the residents of Boston, Nashville, Denver, Seattle, or El Paso had no voting rights? All those cities are roughly the same size as Washington, D.C., and I know we as a Nation wouldn't let their citizens go voiceless in Congress.

Citizens of Washington, D.C. pay income taxes, and yet they have no say in how high those taxes will be or how their tax dollars will be spent. Citizens of Washington, D.C. serve their fellow Americans both here at home and in wars abroad, and yet inhabitants of the District of Columbia cannot choose representatives to the legislature that governs them. This city's people and institutions have been the direct target of terrorists, and yet citizens of the District have no one who can cast a vote in Congress on policies to protect their homeland security.

The vote is a civic entitlement of every tax-paying citizen of the United States. It is democracy's most elemental and essential right, its most useful tool. The citizens who live in our Nation's capital deserve more than a non-voting delegate in the House. Notwithstanding the strong service of the Honorable Congresswoman ELEANOR HOLMES NORTON and her ability to vote in committee, a representative without the power to vote on the floor of the House simply isn't good enough.

The name of this bill is intended as a reminder of the inextricable link in this Nation's history between the power to tax and the right to vote. Our forebearers went to war rather than pay taxes without representation. The principles for which our Nation's revolutionary heroes fought so hard more than 200 years ago apply just as forcefully to the citizens of the District of Columbia today as they did for the men and women who founded this great Nation.

Despite its title, ''No Taxation Without Representation,'' this bill does not relieve the District residents of their tax obligations, given their non-voting status. The people of D.C. are not looking to avoid paying their fair share of taxes. Instead, the bill grants the citizens of the District of the Columbia their much-belated birthright: the right to vote for and be represented by two Senators and a full Member of the House of Representatives. Further the bill increases the permanent membership of the House of Representatives by one, a symbolic acknowledgment that all along a member was missing: the Representative casting her vote for the people of Washington, D.C.

This legislation is no less than our broadly-held American values demand for our fellow citizens. In fact, a recent national poll shows that a majority of Americans believe D.C. residents already have Congressional voting rights. When informed that they do not, 80 percent say that D.C. residents should have full representation.

In righting this wrong, we won't just be following the will of the American people. We will be following the will of history. When the framers of the Constitution placed our Capital, which had not yet been established, under the jurisdiction of the Congress, they placed with Congress the responsibility of ensuring that D.C. citizens' rights would be protected in the future, just as Congress protects the rights of all citizens throughout the land. For more than 200 years, Congress has failed to meet this obligation. And I, for one, am not prepared to make D.C. citizens wait another 200 years.

In the words of this city's namesake, our first President, George Washington, ''Precedents are dangerous things; let the reins of government then be braced and held with a steady hand, and every violation of the Constitution be reprehended: If defective, let it amended, but not suffered to be trampled upon whilst it has an existence.''

The people of the District of Columbia have suffered this Constitutional defect far too long. Let's reprehend it and amend it together.

I ask unanimous consent that the text of the No Taxation Without Representation Act of 2002 be printed in the RECORD.

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

S. 3054

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 ''No Taxation Without Representation Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The residents of the District of Columbia are the only Americans who pay Federal income taxes but are denied voting representation in the House of Representatives and the Senate.

(2) The residents of the District of Columbia suffer the very injustice against which our Founding Fathers fought, because they do not have voting representation as other taxpaying Americans do and are nevertheless required to pay Federal income taxes unlike the Americans who live in the territories.

(3) The principle of one person, one vote requires that residents of the District of Columbia are afforded full voting representation in the House and the Senate.

(4) Despite the denial of voting representation, Americans in the Nation's Capital are second among residents of all States in per capita income taxes paid to the Federal Government.

(5) Unequal voting representation in our representative democracy is inconsistent with the founding principles of the Nation and the strongly held principles of the American people today.

SEC. 3. REPRESENTATION IN CONGRESS FOR DISTRICT OF COLUMBIA.

For the purposes of congressional representation, the District of Columbia, constituting the seat of government of the United States, shall be treated as a State, such that its residents shall be entitled to elect and be represented by 2 Senators in the United States Senate, and as many Representatives in the House of Representatives as a similarly populous State would be entitled to under the law.

SEC. 4. ELECTIONS.

(a) FIRST ELECTIONS.—

(1) PROCLAMATION.—Not later than 30 days after the date of enactment of this Act, the Mayor of the District of Columbia shall issue a proclamation for elections to be held to fill the 2 Senate seats and the seat in the House

of Representatives to represent the District of Columbia in Congress.

(2) MANNER OF ELECTIONS.—The proclamation of the Mayor of the District of Columbia required by paragraph (1) shall provide for the holding of a primary election and a general election and at such elections the officers to be elected shall be chosen by a popular vote of the residents of the District of Columbia. The manner in which such elections shall be held and the qualification of voters shall be the same as those for local elections, as prescribed by the District of Columbia.

(3) CLASSIFICATION OF SENATORS.—In the first election of Senators from the District of Columbia, the 2 senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the 2 senatorial offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) CERTIFICATION OF ELECTION.—The results of an election for the Senators and Representative from the District of Columbia shall be certified by the Mayor of the District of Columbia in the manner required by law and the Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the States in the Congress of the United States.

SEC. 5. HOUSE OF REPRESENTATIVES MEMBERSHIP.

(a) IN GENERAL.—Upon the date of enactment of this Act, the District of Columbia shall be entitled to 1 Representative until the taking effect of the next reapportionment. Such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law.

(b) INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.—Upon the date of enactment of this Act, the permanent membership of the House of Representatives shall increase by 1 seat for the purpose of future reapportionment of Representatives.

(c) REAPPORTIONMENT.—Upon reapportionment, the District of Columbia shall be entitled to as many seats in the House of Representatives as a similarly populous State would be entitled to under the law.

(d) DISTRICT OF COLUMBIA DELEGATE.—Until the first Representative from the District of Columbia is seated in the House of Representatives, the Delegate in Congress from the District of Columbia shall continue to discharge the duties of his or her office.

By Mr. CORZINE (for himself and Mr. DEWINE):

S. 3056. A bill to amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President today, along with Senator DEWINE, I am introducing legislation that addresses the serious national problem of drunk driving. This bill, ''The Higher-Risk Impaired Driver Act,'' would help protect the public from those intoxicated drivers who pose the greatest threat to our safety.

This bill would target a specific population of drivers who pose a special danger on our roads. These are drivers who are convicted of driving while intoxicated within 5 years of a prior conviction; drivers who are convicted of driving while intoxicated with a blood alcohol content of .15 or greater; drivers who are convicted of driving while their license is suspended, when the suspension happened due to a driving while intoxicated offense; and drivers who refuse a blood alcohol concentration test while under arrest or investigation for involvement in a fatal or serious injury crash.

The statistics documenting the threat posed by these drivers are startling. Nationally in 2001, about 1,461 fatalities that occurred in crashes involving alcohol-impaired or intoxicated drivers who had at least one previous driving while intoxicated conviction, according to the National Institute of Highway Safety, NHTSA. Further, the AAA Foundation for Traffic Safety, in an analysis of NHTSA data from 1982 to 1999, found that over half the drivers who were arrested or convicted of driving while intoxicated during that period and 64 percent of drunken drivers who were fatally injured had a blood alcohol level of .15 or greater.

There are tragic stories behind these statistics: In my own State of New Jersey, for example, Navy Ensign John Elliott was killed by a driver who had a blood alcohol level that exceeded twice the legal limit. In that case, the driver had been arrested and charged with driving while intoxicated just three hours before the crash. After being processed for that offense, he had been released into the custody of a friend who drove him back to his car and allowed him to get behind the wheel.

The legislation I am introducing today would require states to enact a law that penalizes these higher risk offenders, reduces the threat that they pose, and gets offenders into appropriate substance abuse programs. The penalty provisions in such a law would include the suspension of an offender's drivers license for no less than one year and the requirement that the offender pay both a $1000 minimum fine as well as restitution to any victims of the offense. The reduction of the threat occurs through the requirement that the offender's motor vehicle be impounded for no less than 90 days and the requirement that the offender be imprisoned for a period of time and then shall either wear an electronic bracelet or be assigned to a DWI specialty facility. The treatment provision requires the assessment of the offender for placement into a substance abuse program.

This legislation follows the recommendations of Mothers Against Drunk Driving, MADD, in their Higher-Risk Driver Program. I look forward to working with the members of MADD nationwide to see this legislation enacted into law. 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. 3056

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 ''Higher-Risk Impaired Driver Act''.

SEC. 2. INCREASED PENALTIES.

(a) IN GENERAL.—Chapter I of title 23, United States Code, is amended by adding at the end the following:

''§ 165. Increased penalties for higher risk drivers for driving while intoxicated or driving under the influence

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

''(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

''(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

''(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated solely on a rail line or a commercial vehicle.

''(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

''(A) The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that an individual described in subparagraph (B) shall—

''(i) receive a driver's license suspension for not less than 1 year, including a complete ban on driving for not less than 90 days and for the remainder of the license suspension period and prior to the issuance of a probational hardship or work permit license, be required to install a certified alcohol ignition interlock device;

''(ii) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 90 days and for the remainder of the license suspension period require the installation of a certified alcohol ignition interlock device on the vehicle;

''(iii) be subject to an assessment by a certified substance abuse official of the State that assesses the individual's degree of abuse of alcohol and assigned to a treatment program or impaired driving education program as determined by the assessment;

''(iv) be imprisoned for not less than 10 days, have an electronic monitoring device for not less than 100 days, or be assigned to a DUI/DWI specialty facility for not less than 30 days;

''(v) be fined a minimum of $1,000, with the proceeds of such funds to be used by the State or local jurisdiction for impaired driving related prevention, enforcement, and prosecution programs, or for the development or maintenance of a tracking system of offenders driving while impaired;

''(vi) if the arrest resulted from involvement in a crash, the court shall require restitution to the victims of the crash;

''(vii) be placed on probation by the court for a period of not less than 2 years;

''(viii) if diagnosed with a substance abuse problem, during the first year of the probation period referred to in clause (vii), attend a treatment program for a period of 12 consecutive months sponsored by a State certified substance abuse treatment agency and

meet with a case manager at least once each month; and

''(ix) be required by the court to attend a victim impact panel, if such a panel is available.

''(B) An individual referred to in subparagraph (A) is an individual who—

''(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a minimum of 5 consecutive years;

''(ii) is convicted of a driving while intoxicated or driving under the influence with a blood alcohol concentration of 0.15 percent or greater;

''(iii) is convicted of a driving-while-suspended offense if the suspension was the result of a conviction for driving under the influence; or

''(iv) refuses a blood alcohol concentration test while under arrest or investigation for involvement in a fatal or serious injury crash.

''(6) SPECIAL DUI/DWI FACILITY.—The term 'special DUI/DWI facility' means a facility that houses and treats offenders arrested for driving while impaired and allows such offenders to work and/or attend school.

''(7) VICTIM IMPACT PANEL.—The term 'victim impact panel' means a group of impaired driving victims who speak to offenders about impaired driving. The purpose of the panel is to change attitudes and behaviors in order to deter impaired driving recidivism.

''(b) TRANSFER OF FUNDS.—

''(1) FISCAL YEAR 2006.—Beginning on October 1, 2006, if a State has not enacted or is not enforcing a higher risk impaired driver law, the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 solely for impaired driving programs.

''(2) FISCAL YEAR 2007.—On October 1, 2007, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 4 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in paragraph (1).

''(3) FISCAL YEAR 2008.—On October 1, 2008, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 6 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in paragraph (1).

''(4) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1), (2), or (3) may be derived from 1 or more of the following:

''(A) The apportionment of the State under section 104(b)(1).

''(B) The apportionment of the State under section 104(b)(3).

''(C) The apportionment of the State under section 104(b)(4).

''(5) TRANSFER OF OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for carrying out impaired driving programs authorized under section 402.

''(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

''(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

''(ii) the ratio that—

''(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

''(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

''(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

''(c) WITHHOLDING OF FUNDS.—

''(1) FISCAL YEAR 2009.—On October 1, 2008, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall withhold 2 percent of the amount required to be apportioned for Federal-aid highways to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

''(2) FISCAL YEAR 2010.—On October 1, 2009, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall withhold 4 percent of the amount required to be apportioned for Federal-aid highways to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

''(3) FISCAL YEAR 2011.—On October 1, 2010, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall withhold 6 percent of the amount required to be apportioned for Federal-aid highways to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

''(4) COMPLIANCE.—Not later than 4 years after the date that the apportionment for any State is reduced in accordance with this section the Secretary determines that such State has enacted and is enforcing a provision described in section 163(a), the apportionment of such State shall be increased by an amount equal to such reduction. If at the end of such 4-year period, any State has not enacted and is not enforcing a provision described in section 163(a) any amounts so withheld shall be transferred to carry out impaired driving programs authorized under section 402.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 149—RECOGNIZING THE TEAMS AND PLAYERS OF THE NEGRO BASEBALL LEAGUES FOR THEIR ACHIEVEMENTS, DEDICATION, SACRIFICES, AND CONTRIBUTIONS TO BASEBALL AND THE NATION

Mr. NELSON of Florida submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 149

Whereas even though African-Americans were excluded from playing in the major leagues of baseball with their Caucasian counterparts, the desire of some African-Americans to play baseball could not be repressed;

Whereas Major League Baseball was not fully integrated until July 1959;

Whereas African-Americans began organizing their own professional baseball teams in 1885;

Whereas 6 separate baseball leagues, known collectively as the Negro Baseball Leagues, were organized by African-Americans between 1920 and 1960;

Whereas the Negro Baseball Leagues included exceptionally talented players;

Whereas Jackie Robinson, whose career began in the Negro Baseball Leagues, was named Rookie of the Year in 1947 and subsequently led the Brooklyn Dodgers to 6 National League pennants and a World Series championship;

Whereas by achieving success on the baseball field, African-American baseball players helped break down color barriers and integrate African-Americans into all aspects of society in the United States;

Whereas during World War II, more than 50 Negro Baseball League players served in the Armed Forces of the United States;

Whereas during an era of sexism and gender barriers, 3 women played in the Negro Baseball Leagues;

Whereas the Negro Baseball Leagues helped teach the people of the United States that what matters most is not the color of a person's skin, but the content of that person's character and the measure of that person's skills and abilities;

Whereas only in recent years has the history of the Negro Baseball Leagues begun receiving the recognition that it deserves;

Whereas in 1997 Major League Baseball created a pension plan for former players of the Negro Baseball Leagues who went on to play in Major League Baseball; and

Whereas baseball is the national pastime and reflects the history of the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to both baseball and our Nation; and

(2) encourages Major League Baseball in 2002 to reach a fair compensation agreement with former players of the Negro Baseball Leagues who were excluded under Major League Baseball's 1997 pension plan.

Mr. NELSON of Florida. Mr. President, I rise today to submit a resolution recognizing the teams and players of the Negro Baseball Leagues for their contributions to baseball and the Nation.

This important resolution also calls on Major League Baseball to compensate the Negro League players who were left out of the League's 1997 pension plan.

For half a century, most of the Negro League players were excluded from the Majors.

Even though Jackie Robinson broke the color barrier in 1947, it took another decade for Major League Baseball to really become integrated, when in July of 1959, the last Major League team fielded an African American player.

During the intervening years, Baseball systemically discriminated against most Negro Leaguers.

Baseball Commissioner Bud Selig sought to correct some of the failings of the past when he awarded an annual $10,000 pension benefit to some of the Negro Leaguers, but he left out those

who played solely in the Negro Leagues from 1948 to 1960.

Major League Baseball contends they were left out because the sport was integrated during that time. But history shows it took the big leagues many years to fully integrate following Jackie Robinson's historic entry into the Majors.

The players, who were excluded, still seeking a small retirement, have been reaching out to Commissioner Selig for five long years now, without resolution.

Meantime, these ex-players are getting old. Many have passed away. Time is running out to provide them with a small measure of compensation for their time in the Negro Leagues.

I joined them last year in trying to find some resolution to this dispute. I hope this concurrent resolution will act as a catalyst to spur action by Major League Baseball to correct this injustice.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4852. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON, of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4853. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON, of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4854. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON, of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4855. Mr. REID (for Mr. MCCAIN (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 5063, An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

TEXT OF AMENDMENTS

SA 4852. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 507. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(3) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(4) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(5) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(6) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(7) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(8) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate; and

(9) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(e) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

SA 4853. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SEC. 507. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) in keeping with intelligence estimates, working to ensure adequate strategic and

operational planning, equipment, training, and exercise activities at all levels of government;

(3) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(4) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(5) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(6) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(7) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(8) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate; and

(9) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(e) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

SA 4854. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, Mr. BURNS, Mr. REED, Mr. BIDEN, Mrs. LINCOLN, Mr. FEINGOLD, Mr. THURMOND, Mr. ENZI, Mr. BREAUX, Mr. MCCONNELL, Mr. CRAIG, Mr. CLELAND, Mr. BENNETT, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. CAMPBELL, Mr. NELSON of Florida, Mr. WELLSTONE, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 507. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(b) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(c) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(3) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(4) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(5) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(6) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(7) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(8) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate; and

(9) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(e) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

SA 4855. Mr. REID (for Mr. MCCAIN (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 5063, An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes; as follows:

On page 9, strike lines 9 through 12, and insert the following:

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

On page 46, after line 14, add the following:

SEC. 203. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 9:30 a.m., to conduct an oversight hearing on ''The Administration's National Money Laundering Strategy for 2002.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 2:30 p.m., to conduct a hearing on the nominations of Mr. Alberto Faustino Trevino, of California, to be Assistant Secretary of Housing and Urban Development for Policy Development and Research; Mr. Armando J. Bucelo, Jr., of Florida, to be a Director of the Securities Investor Protection Corporation; Ms. Diana E. Furchtgott-Roth, of Maryland, to be a Director of the Federal Housing Finance Board; Ms. Carolyn Y. Peoples, of Maryland, to be Assistant Secretary of Housing and Urban Development for Fair Housing and Equal Opportunity; Ms. Deborah Doyle McWhinney, of California, to be a Director of the Securities Investor Protection Corporation; Mr. John M. Reich, of Virginia, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; Mr. Rafael Cuellar, of New Jersey, to be a member of the Board of Directors of the National Consumer Cooperative Bank; and Mr. Michael Scott, of North Carolina, to be a member of the Board of Directors of the National Consumer Cooperative Bank.

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

COMMITEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 3, 2002, at 9:30 a.m. on National Park Overflights.,

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 10:00 a.m., to hear testimony on the Final Report produced by the President's Commission to Strengthen Social Security.

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 Thursday, October 3, 2002, at 9 a.m., to hold a nomination hearing.

Agenda

Nominees

Mr. Richard A. 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; Mr. Joseph Huggins, of the District of Columbia, to be Ambassador to the Republic of Botswana; and Ms. Robin R. Sanders, of New York, to be Ambassador to the Republic of Congo.

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 Thursday, October 3, 2002, at 10:30 a.m., to hold a nomination hearing.

Agenda

Nominees

The Honorable Maura A. Harty to be Assistant Secretary of State for Consular Affairs; Mr. Kim R. Holmes to be Assistant Secretary of State for International Organization Affairs.

To be introduced by: The Honorable GEORGE ALLEN, United States Senate, Washington, DC: The Honorable Ellen R. Sauerbrey for the rank of Ambassador as the United States Representative to the Commission on the Status of Women of the Economic & Social Council of the United Nations.

To be introduced by: The Honorable GEORGE ALLEN, United States Senate, Washington, DC: The Honorable Francis X. Taylor to be Assistant Secretary of State for Diplomatic Security, and Director, Office of Foreign Missions, with the rank of Ambassador.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 9 a.m., to receive testimony on the nomination of Bruce R. James, of Nevada, to be Public Printer.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 10 a.m., to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 3, 2002, at 6 p.m., to hold a closed conference with the House Permanent Select Committee on Intelligence concerning the fiscal year 2003 Intelligence authorization.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Thursday, October 3, 2002, at 2:30 p.m., on Title IX and Science.

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent that Robert Kerr, a fellow in my office, be granted the privilege of the floor during the duration of the debate.

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

UNANIMOUS CONSENT AGREEMENT—S.J. 45

Mr. REID. Mr. President, I ask unanimous consent that the motion to proceed to S.J. Res. 45 be agreed to and that consideration of the joint resolution be limited to debate only until Tuesday, October 8.

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

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 603, H.R. 5063.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Armed Forces Tax Fairness Act of 2002''.

[SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

[(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

[''(9) MEMBERS OF UNIFORMED SERVICES.—

[''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services.

[''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a)

shall not be extended more than 5 years by reason of subparagraph (A).

[''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

[''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 250 miles from such property or while residing under Government orders in Government quarters.

[''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

[''(iii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

[''(D) SPECIAL RULES RELATING TO ELECTION.—

[''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

[''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections made after the date of the enactment of this Act for suspended periods under section 121(d)(9) of the Internal Revenue Code of 1986 (as added by this section) beginning after such date.

[SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

[(a) IN GENERAL.—Subsection (b)(3) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

[''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.''.

[(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) of such Code is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.]

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2002''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 102. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections made with respect to sales and exchanges occurring after the date of the enactment of this Act.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to offset the adverse effects on housing values as a result of a military base realignment or closure.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

*(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.*

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, in amounts not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 106. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, or ancestors or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 107. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) is amended by inserting ''and paragraph (4)'' after ''subparagraph (B)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2002.

TITLE II—OTHER PROVISIONS

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2002, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(18) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (17)'' each place it appears and inserting ''(17), or (18)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after September 12, 2002.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after September 12, 2002.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after September 12, 2002, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 202. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	***Average Fee***
Employee plan ruling and opinion	*$250*
Exempt organization ruling	*$350*
Employee plan determination	*$300*
Exempt organization determination	*$275*
Chief counsel ruling	*$200.*

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I rise today in support of the Armed Forces Tax Fairness Act of 2002. On September 12, 2002, the Finance Committee favorably reported the bill by unanimous voice vote.

This bill will not only correct inequities in the current tax code that our military men and women are subject to, but it will also provide incentives for our dedicated forces to continue their service to America.

On July 9, 2002, the House passed a bill, HR 5063, that provided limited relief to military personnel. The bill would provide a special rule for members of the armed forces in determining the exclusion of gain from the sale of a principal residence and would restore the tax-exempt status of death gratuity payments to members of the armed forces.

I support the efforts of the House, but I believe we should go farther.

These are the men and women that put their lives on the line for our freedom on a daily basis. We need to ensure that laws that we here in Congress pass do not negatively impact them.

We should also develop sound policy that serves as an incentive for our youth to follow in the steps of the men and women that went before them to defend our country.

It is with these principles in mind that I have moved forward with this military tax package and incorporate additional provisions already introduced by my colleagues.

I would now like to describe the provisions that we have chosen to include in this critical piece of legislation:

Death Gratuity Payments: On July 24, 2002, Senator CARNAHAN introduced S. 2783, which would restore the tax exempt status of all death gratuity payments. This proposal is similar to the provision included in house version of HR 5063.

Why is this provision so important? Under current law, death gratuity benefits are excludable from income only to the extent that they were as of September 9, 1986. In 1986, the death gratuity benefit was $3,000.

In 1991, the benefit was increased to $6,000, but the Tax Code was never adjusted to exclude the additional $3,000 from income. Because of this oversight, the U.S. Government has been taxing families for the death of a family member who died in combat.

This is just wrong.

We support the provisions of the House version of H.R. 5063 and S. 2783, therefore we have included them in this piece of legislation.

Exclusion of Gain on The Sale of a Principal Residence: In 1997, Congress passed legislation revising the taxation of capital gains on the sale of a person's principal residence.

The new rule states that up to $250,000, or $500,000 per couple is excluded on that sale of a principal residence if the individual has lived in the house for at least two of the previous 5 years.

However, when enacted, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad. Senators MCCAIN and GRAHAM both have introduced legislation to address this oversight.

I agree that we should adjust the rule for our service men and women. We shouldn't penalize them for choosing to serve our country. Our proposal would permit service personnel and members of the Foreign Service to suspend the 5-year period while away on assignment, meaning those years would count toward neither the 2 years nor the 5 year periods.

This is also similar to provisions in the House-version of H.R. 5063.

Exclusion of Amounts Received Under Military Housing Assistance Program: The Department of Defense provides payments to members of the Armed Services to offset diminution in housing values due to military base realignment or closure.

For example, if a house near a base was worth $140,000 prior to the base closure and $100,000 after the base closure, DOD may provide the owner with a payment to offset some, but not all, of the $40,000 diminution in value. Under current law, those amounts are taxable as compensation.

There will be another round of base closures in the near future. That fate was decided in the fiscal year 2002 Defense Authorization bill.

We should ensure that those men and women losing value in their homes due to a Federal Government decision are not adversely affected financially.

The proposal would provide that payments for lost value are not includible into income.

Recently, Senator CLELAND introduced a package that included this provision. I thank him for his unending pursuit to provide military personnel with the best quality of life available. And I am happy we have included this provision in our legislation.

Expand Combat Zone Filing Rules To Include Contingency Operations: Under current law, military personnel in a combat zone are afforded an extended period for filing tax returns.

However, this does not apply to contingency operations. This proposal would extend the same benefits to military personnel assigned to contingency operations.

It can't be easy trying to figure out our complicated tax system while you are overseas and protecting our nation's freedom. Those men and women that have been sent to uphold freedom in other countries are confronted with similar circumstances, such as in Operation Just Cause in Panama, 1989, or in Operation Restore Hope in Somalia in 1992 and 1993, or in Operation Uphold Democracy in Haiti, 1994.

Contingency operations are just as demanding as combat zone deployment, although not always in the same manner. For example, in our current war on terrorism, this proposal would help members of our Special Forces in the Philippines supporting Operation Enduring Freedom who are just as focused on accomplishing their critical mission as our troops in the Afghanistan combat zone.

I would like to thank Senator JOHNSON for introducing S. 2785. It is important that we support all our troops when they are deployed overseas.

Above-The Line-Deduction For Overnight Travel Expenses of National Guard and Reserve Members: Some reservists who travel one weekend per month and two weeks in the summer for reserve duty incur significant travel and lodging expenses.

For the most part, these expenses are not reimbursed. Under current law, these are deductible as itemized deductions but must exceed 2 percent of adjusted gross income.

For lower income reservists, this deduction does not provide a benefit, because they do not itemize. For higher income reservists, the 2 percent floor limits the amount of the benefit of the deductions.

In my home State of Montana, we have approximately 3500 reservists, 800 of which travel each month across the State for their training. These 800 reservists pay out of their own pocket the expense for travel and hotel rooms.

In Montana we rank 48th in the Nation for per capita personal income. I know it can't be easy for Montanans to incur approximately $200 in expenses each and every month. Yet, they continue selflessly to provide their services to our country at their own expense. For those reservists that travel out of State for their training, this expense is higher on average.

This proposal would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard.

This issue is currently addressed in S. 540, which Senator DEWINE introduced back in March of 2001. I can't tell you just how many people have contacted our office in support of this bill. I support what this bill does and I am glad that we can include this provision in our military tax package.

Expansion of Membership For Veterans' Organizations: Recently, Senator HARKIN introduced S. 2789, which would expand the membership for Veteran's organizations. Currently, qualified veterans' organizations under section 501(c)(19) of the Tax Code are both tax-exempt and contributions to the organization are tax-deductible.

In order to qualify under 501(c)(19), the organization must meet several tests, including 75 percent of the members must be current or former military, and substantially all of the other members must be either spouses, widows, or widowers of current or former military.

The proposal would permit lineal descendants and ancestors to qualify for the ''substantially all'' test.

It is important that our veterans' organizations continue the good work that they do. But, as the organizations age, they are in danger of losing their tax-exempt status.

I support Senator HARKIN's bill, as does the American Legion. We have included it in our tax package.

Clarification of Treatment of Child Care Subsidies: Finally, I want to ensure that parents in the military can continue their dedicated service even once they have entered parenthood knowing that their children are being well taken care of.

The military provides extensive childcare benefits to its employees. DoD employees at DoD-owned facilities provide childcare services while other areas contract out their childcare.

When Congress passed the Tax Reform Act of 1986, we included a provision stating that qualified military benefits are excluded from income. It is not absolutely clear whether child care provisions are covered under this provision.

The proposal would clarify that any childcare benefit provided to military personnel would be excludible from income. Senator LANDRIEU has introduced S.2807, a similar measure. I support this measure and am proud we have included it in this piece of legislation.

In addition, this bill includes three provisions that raise revenue, to offset the revenue loss. First, we improve the collection of unpaid taxes from people who have renounced their American citizenship in order to avoid U.S. taxes.

Second, we extend certain IRS user fees.

Third, we restore the ability of IRS to permit partial-pay installment agreements with taxpayers. These are modest, sensible changes. In fact, in the case of expatriates, the offset seems especially fitting.

All told, this bill does a small part to improve our Tax Code and, more importantly, pay respect to the men and women who are making sacrifices and risking their lives to defend us all.

I thank all of the Members who have contributed to the development of the bill, including the support by Senators LEVIN, WARNER and CLELAND of the Armed Services Committee. I especially thank the ranking member of the Finance Committee, Senator GRASSLEY, who has once again been a partner in the development of important bipartisan tax legislation.

Mr. President, it is important that we continue to show members of the armed forces our support and solidarity during this time of conflict. The War on Terrorism has brought to light the essential role the armed services play in upholding freedom throughout the world.

I am happy to see this military tax equity bill passed by the Senate today, and signed into law by the President before Congress adjourns.

Mr. GRASSLEY. Mr. President, we are here today to consider the Armed Forces Tax Fairness Act which was voted out of the Finance Committee on September 12. A similar tax relief package was passed unanimously by the House in July. No one would dispute that many national defense challenges lie ahead for our country. We have spent and will continue to spend a good deal of time discussing homeland security and the war on terrorism as we continue our efforts to secure our borders. Now, we must consider seriously the possibility of military operations in Iraq.

For those reasons, it is a particularly appropriate time to focus our attention on the important contributions of the men and women of our Armed Forces and national guard. These folks are the lifeblood of any initiative against terrorism or movement in Iraq and the first lien of defense in homeland security efforts. We need to make sure that these men and women are treated fairly in all respects and that the Tax Code does not provide any disincentives to continued service.

Our military tax bill would remedy several tax problems and inequities faced by members of our uniformed services, National Guard, and foreign service. As a starting point, the legislation would make sure that military personnel subject to relocation are not disadvantaged in the Tax Code on the sales of their homes. In 1997, we enacted a capital gains tax exclusion on the sale of personal residences for individuals who live in the home for at least 2 of the 5 years before the sale. This works well for most people, but the provision offers little help for military personnel who are frequently transferred. We should not punish members of our Armed Forces and foreign service who are asked to relocate in the name of service to their country. Like many of the provisions in this bill, the issue is one of fairness, and we should provide our military with home ownership tax incentives at least as favorable as those available to most Americans.

Our military tax relief package also makes some important additions to the military tax package sent over by the House. One of those, Senator DEWINE's proposal for the benefit of Reservists and National Guard, is both timely and important. Timely because Reservists continue to play an increasingly prominent role in our country's military operations. Historically, Reservists were used as manpower replacements only in national emergencies and wars. In fact, between 1945 and 1990, 85 percent of involuntarily activated Reservists assisted in the Korean war. In the last decade, however, we have involuntarily activated Reservists six times for a broad array of operations, including (i) nation-building operations in Haiti, Bosnia, and Kosovo, (ii) armed conflicts such as those in Iraq, and (iii) current military operations fighting terrorism. Iowa alone currently has about 800 Guard and Reservists on active duty.

Important because many Guard and Reservists who travel for weekend drills are required to spend their own money for travel expenses. If our military is unable to reimburse these folks for travel expenses related to training assignments, we should at a minimum allow these men and women to fully deduct those expenses on their Federal tax returns. Although we currently allow miscellaneous itemized deductions for such expenses, a limited number of Reservists itemize on their tax returns. Our bill includes a provision offered by Senator DEWINE that such expenses be deductible by all reservists in above-the-line form. This would ensure (i) that Reservists are at least partly compensated for training-related travel expenses paid out of their own pockets, (ii) that all Reservists are treated equally, and (iii) would eliminate a potential disincentive to service. Many Iowans have contacted me

with respect to this issue, and I ask unanimous consent to print their comments in the RECORD.

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

SNAPSHOT REPORT: INCOMING CONSTITUENT MESSAGES

Senator Grassley: Senator Max Baucus (D–MT), Chairman of the Senate Finance Committee, has introduced the ''The Foreign and Armed Services Tax Fairness Act of 2002'' (S 2616). The bill is intended to remedy a number of tax inequities that have long plagued military service members. Among the several provisions of the bill is one that is close to the hearts of members of the Guard and Reserve—restoration of the tax deductibility of Reserve component members' non-reimbursable training expenses. The deductibility issue stems from a change to the Internal Revenue Code made in 1986 that required that such unreimbursed business expenses must be treated as itemized deductions and must exceed two percent of adjusted gross income. Since only about 25 percent of all taxpayers itemize their deductions, this change has been the bane of many citizens' existence. This includes citizen-soldiers, sailors, airmen, and Marines who must now, in effect, subsidize their own military training. If S 2816 becomes law, it's bill would provide an above-the-line deduction for overnight travel costs for Guardsmen and Reservists. Please sign on as a cosponsor for ''The Foreign and Armed Services Tax Fairness Act of 2002'' (S 2816). Sincerely, Thomas J. Hicks.

Senator Grassley: Senator Max Baucus (D–MT), Chairman of the Senate Finance Committee, has introduced the ''The Foreign Armed Service Tax Fairness Act of 2002'' (S 2616). The bill is intended to remedy a number of tax inequities that have long plagued military service members. Among the several provisions of the bill is one that is close to the hearts of members of the Guard and Reserve—restoration of the tax deductibility of Reserve component members' non-reimbursable training expenses. The deductibility issue stems from a change to the Internal Revenue Code made in 1986 that required that such unreimbursed business expenses must be treated as itemized deductions and must exceed two percent of adjusted gross income. Since only about 25 percent of all taxpayers itemize their deductions, this change has been the bane of many citizens' existence. This includes citizen-soldiers, sailors, airmen, and Marines who must now, in effect, subsidize their own military training. If S 2816 becomes law, its bill would provide an above-the-line deduction for overnight travel costs for Guardsmen and Reservists. Please sign on as a cosponsor for ''The Foreign and Armed Services Tax Fairness Act of 2002'' (S 2816). Sincerely, J.D. Griffith, Burlington.

Senator Grassley: SUPPORT HEARINGS ON CHANGE IN RC RETIREMENT AGE Congressman Jim Saxton (R–NJ) recently introduced a bill (HR 3831) that would reduce the age at which Reservists could begin drawing their military retirement from 60 to 55. I regard the bill as a significant first step in the process of redefining the government's longstanding contract with its Reserve forces. The world and Reservists' terms of service have changed markedly in the half-century since Reserve retirement was passed into law. I believe that it is indeed time to reevaluate the whole question of Reserve compensation. Please contact the chairmen of the House and Senate military personnel subcommittees. Urge them to hold hearings on lowering the Reserve retirement eligibility age. This is a pivotal issue, one that has the potential to change the shape of both the Reserve and the Total Force. It is critical that the issue receive the full consideration that it merits. Sincerely, James A. Brooks.

Senatpr Grassley: The House recently unanimously passed the Armed Services Tax Fairness Act of 2002 (HR 5063). This bill eliminates two inequities in the tax code for active-duty members of the Armed Services. The bill will now be sent to the Senate and referred to the Senate Finance Committee for consideration. Although it does not directly benefit most Reserve component members, because it is almost certain to win Senate approval, HR 5063 can serve as an ideal vehicle to carry S 540, a bill we've been working on for some time now, into law. (S 540, which currently has 62 cosponsors, would provide tax credits for employers of mobilized Reservists and restore the tax deductibility of Reservists' unreimbursed training expenses.) To achieve this end, the Senate Finance Committee will have to amend HR 5063 to add the provisions of S 540 to the House bill. We need the strong support of Senator Max Baucus, the chairman of the Senate Finance Committee to make this happen. Please call Senator Baucus and ask him to add the provisions of S 540 to HR 5063. It's the right thing to do, and it will be deeply appreciated by the men and women of our Reserve forces and their employers. Sincerely, Jay R. Hildebrand.

Senator Grassley: The House recently unanimously passed the Armed Services Tax Fairness Act of 2002 (H.R. 5063). This bill eliminates two inequities in the tax code for active-duty members of the Armed Services. The bill will now be sent to the Senate and referred to the Senate Finance Committee for consideration. Although it does not directly benefit most Reserve component members, because it is almost certain to win Senate approval, H.R. 5063 can serve as an ideal vehicle to carry S. 540, a bill we've been working on for some time now, into law. (S. 540, which currently has 62 cosponsors, would provide tax credits for employers of mobilized Reservists and restore the tax deductibility of Reservists' unreimbursed training expenses.) To achieve this end, the Senate Finance Committee will have to amend H.R. 5063 to add the provisions of S. 540 to the House bill. We need the strong support of Senator Max Baucus, the chairman of the Senate Finance Committee to make this happen. Please call Senator Baucus and ask him to add the provisions of S. 540 to H.R. 5063. It's the right thing to do, and it will be deeply appreciated by the men and women of our Reserve forces and their employers. Sincerely, James A. Brooks.

Senator Grassley: The House recently unanimously passed the Armed Services Tax Fairness Act of 2002 (H.R. 5063). This bill eliminates two inequities in the tax code for active-duty members of the Armed Services. The bill will now be sent to the Senate and referred to the Senate Finance Committee for consideration. Although it does not directly benefit most Reserve component members, because it is almost certain to win Senate approval, H.R. 5063 can serve as an ideal vehicle to carry S. 540, a bill we've been working on for some time now, into law. (S. 540, which currently has 62 cosponsors, would provide tax credits for employers of mobilized Reservists and restore the tax deductibility of Reservists' unreimbursed training expenses.) To achieve this end, the Senate Finance Committee will have to amend H.R. 5063 to add the provisions of S. 540 to the House bill. We need the strong support of Senator Max Baucus, the chairman of the Senate Finance Committee to make this happen. Please call Senator Baucus and ask him to add the provisions of S. 540 to H.R. 5063. It's the right thing to do, and it will be deeply appreciated by the men and women of our Reserve forces and their employers. Sincerely, Thomas D. Heinold.

Senator Grassley: Senator Max Baucus (D–MT), Chairman of the Senate Finance Committee, has introduced the ''The Foreign and Armed Services Tax Fairness Act of 2002'' (S. 2816). The bill is intended to remedy a number of tax inequities that have long plagued military service members. Among the several provisions of the bill is one that is close to the hearts of members of the Guard and Reserve—restoration of the tax deductibility of Reserve component members' non-reimbursable training expenses. The deductibility issue stems from a change to the Internal Revenue Code made in 1986 that required that such unreimbursed business expenses must be treated as itemized deductions and must exceed two percent of adjusted gross income. Since only about 25 percent of all taxpayers itemize their deductions, this change has been the bane of many citizens' existence. This includes citizen-soldiers, sailors, airmen, and Marines who must now, in effect, subsidize their own military training. If S. 2816 becomes law, the bill would provide an above-the-line deduction for overnight travel costs for Guardsmen and Reservists. Please sign on as a cosponsor for ''The Foreign and Armed Services Tax Fairness Act of 2002'' (S. 2816). Sincerely, J. Neil McFarland.

Mr. GRASSLEY. Mr. President, finally, our tax fairness bill ensures that military families receive comparable tax treatment for child care expenses. Most American workers are permitted to exclude from income $5,000 of employer-provided child care expenses. A separate blanket exclusion is provided to the military for all benefits. The provision, however, does not specify the treatment of military-provided child care expenses and some confusion has resulted. Our bill confirms this exclusion from military personnel. This ensures that military-provided child care is not treated less favorably than employer-provided child care or other military-provided benefits.

Increased focus on national defense no doubt renews our deep appreciation for the members of our military. These men and women make tremendous sacrifices, and in some cases, risk their lives to protect and defend our freedom. It is a perfect time to ensure that men and women in service are treated fairly under our country's tax laws. In closing, I would like to thank those who continue to serve in the United States military and protect the freedoms that we so frequently take for granted. I thank my colleagues and urge them to vote for this important tax fairness measure.

Mr. HUTCHINSON. Mr. President, I rise in strong support of H.R. 5063, the Armed Forces Tax Fairness Act. As a cosponsor of the Senate companion, S. 2816, I believe that this legislation will provide well-deserved tax benefits for those in service to our nation. With the ongoing war on terrorism, it is critical

that we do everything in our power to support members of our military, and their families.

This legislation ensures that the entire benefit of $6,000 paid to the family of those individuals killed on active duty is made tax-free. Previously, only half of this benefit was exempt from taxes. H.R. 5063 also ensures that members of our military can receive the tax treatment they deserve from the sale of their home. Because those in our armed forces are required to move frequently, many are unable to take advantage of the aspect of the tax code that allows the exclusion of gains from the sale of a person's home from the capital gains tax. This legislation ensures that they will qualify for this benefit.

As the Ranking Member of the Personnel Subcommittee on the Senate Armed Services Committee, my top priority has been to improve the quality of life for members of our military and their families. H.R. 5063 is an important step toward that effort.

Mr. REID. I ask unanimous consent that the McCain-Baucus amendment at the desk be agreed to, the committee substitute amendment be agreed to, as amended, the bill as amended, be read the third time and passed, the amendment to the title be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements related to this matter be printed in the RECORD.

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

The amendment (No. 4855) was agreed to, as follows:

(Purpose: To apply the special rule for members of the uniformed services and Foreign Service to sales or exchanges after May 6, 1997, and for other purposes)

On page 9, strike lines 9 through 12, and insert the following:

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

On page 46, after line 14, add the following:

SEC. 203. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment to the title was agreed to.

The bill (H.R. 5063), as amended, was read the third time and passed as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2002''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 102. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o)

and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to offset the adverse effects on housing values as a result of a military base realignment or closure.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, in amounts not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 106. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, or ancestors or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 107. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) is amended by inserting ''and paragraph (4)'' after ''subparagraph (B)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2002.

TITLE II—OTHER PROVISIONS

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2002, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason

of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(18) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (17)'' each place it appears and inserting ''(17), or (18)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after September 12, 2002.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after September 12, 2002.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after September 12, 2002, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 202. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 203. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.''.

PHARMACY EDUCATION AID ACT OF 2002

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 621, S. 1806.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1806) to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Pharmacy Education Aid Act of 2001''.

[SEC. 2. FINDINGS.

[Congress makes the following findings:

[(1) Pharmacists are an important link in our Nation's health care system. A critical shortage of pharmacists is threatening the ability of pharmacies to continue to provide important prescription related services.

[(2) In the landmark report entitled ''To Err is Human: Building a Safer Health System'', the Institute of Medicine reported that medication errors can be partially attributed to factors that are indicative of a shortage of pharmacists (such as too many customers, numerous distractions, and staff shortages).

[(3) Congress acknowledged in the Healthcare Research and Quality Act of 1999 (Public Law 106–129) a growing demand for pharmacists by requiring the Secretary of Health and Human Services to conduct a study to determine whether there is a shortage of pharmacists in the United States and, if so, to what extent.

[(4) As a result of Congress' concern about how a shortage of pharmacists would impact the public health, the Secretary of Health and Human Services published a report entitled ''The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists'' in December of 2000.

[(5) ''The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists'' found that ''While the overall supply of pharmacists has increased in the past decade, there has been an unprecedented demand for pharmacists and for pharmaceutical care services, which has not been met by the currently available supply'' and that the ''evidence clearly indicates the emergence of a shortage of pharmacists over the past two years''.

[(6) The same study also found that ''The factors causing the current shortage are of a nature not likely to abate in the near future without fundamental changes in pharmacy practice and education.'' The study projects that the number of prescriptions filled by community pharmacists will increase by 20 percent by 2004. In contrast, the number of community pharmacists is expected to increase by only 6 percent by 2005.

[(7) The demand for pharmacists will increase as prescription drug use continues to grow.

[SEC. 3. INCLUSION OF PRACTICE OF PHARMACY IN PROGRAM FOR NATIONAL HEALTH SERVICE CORPS.

[(a) INCLUSION IN CORPS MISSION.—Section 331(a)(3) of the Public Health Service Act (42 U.S.C. 254d(a)(3)) is amended—

[(1) in subparagraph (D), by adding at the end the following: ''Such term includes pharmacist services.''; and

[(2) by adding at the end the following:

[''(E)(i) The term 'pharmacist services' includes drug therapy management services furnished by a pharmacist, individually or on behalf of a pharmacy provider, and such services and supplies furnished incident to the pharmacist's drug therapy management services, that the pharmacist is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided for by State law).''.

[(b) SCHOLARSHIP PROGRAM.—Section 338A of the Public Health Service Act (42 U.S.C. 254*l*) is amended—

[(1) in subsection (a)(1), by inserting ''pharmacists,'' after ''physicians,''; and

[(2) in subsection (b)(1), by inserting ''pharmacy'' after ''dentistry,''.

[(c) LOAN REPAYMENT PROGRAM.—Section 338B of the Public Health Service Act (42 U.S.C. 254*l*–1) is amended—

[(1) in subsection (a)(1), by inserting ''pharmacists,'' after ''physicians,''; and

[(2) in subsection (b)(1), by inserting ''pharmacy,'' after ''dentistry,''.

[(d) FUNDING.—Section 338H(b)(2) of the Public Health Service Act (42 U.S.C. 254q(b)(2)) is amended in subparagraph (A), by inserting before the period the following: '', which may include such contracts for individuals who are in a course of study or program leading to a pharmacy degree''.

[SEC. 4. CERTAIN HEALTH PROFESSIONS PROGRAMS REGARDING PRACTICE OF PHARMACY.

[(a) IN GENERAL.—Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended—

[(1) by redesignating section 770 as section 771; and

[(2) by adding at the end the following subpart:

[''Subpart 3—Certain Workforce Programs

[''SEC. 771. PRACTICING PHARMACIST WORKFORCE.

[''(a) RECRUITING AND RETAINING STUDENTS AND FACULTY.—

[''(1) IN GENERAL.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy (as defined in subsection (f)) for the purpose of carrying out programs for recruiting and retaining students and faculty for such schools, including programs to provide scholarships for attendance at such schools to full-time students who have financial need for the scholarships and who demonstrate a commitment to becoming practicing pharmacists or faculty.

[''(2) PREFERENCE IN PROVIDING SCHOLARSHIPS.—An award may not be made under paragraph (1) unless the qualifying school of pharmacy involved agrees that, in providing scholarships pursuant to the award, the school will give preference to students for whom the costs of attending the school would constitute a severe financial hardship.

[''(b) LOAN REPAYMENT PROGRAM REGARDING FACULTY POSITIONS.—

[''(1) IN GENERAL.—The Secretary may establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve as members of the faculties of qualifying schools of pharmacy in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

[''(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who—

[''(A) have a doctoral degree in pharmacy or the pharmaceutical sciences; or

[''(B) are enrolled in a school of pharmacy and are in the final academic year of such school in a program leading to such a doctoral degree.

[''(3) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

[''(A) the individual involved has entered into a contract with a qualifying school of pharmacy to serve as a member of the faculty of the school for not less than 2 years;

[''(B) the contract referred to in subparagraph (A) provides that, in serving as a member of the faculty pursuant to such subparagraph, the individual will—

[''(i) serve full time; or

[''(ii) serve as a member of the adjunct clinical faculty and in so serving will actively supervise pharmacy students for 25 academic weeks per year (or such greater number of academic weeks as may be specified in the contract); and

[''(C) such contract provides that—

[''(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year;

[''(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty; and

[''(iii) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).

[''(4) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338C, 338G, and 338I shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and provisions regarding bankruptcy.

[''(5) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (3)(C) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved.

[''(c) INFORMATION TECHNOLOGY.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy for the purpose of assisting such schools in acquiring and installing computer-based systems to provide pharmaceutical education. Education provided through such systems may be graduate education, professional education, or continuing education. The computer-based systems may be designed to provide on-site education, or education at remote sites (commonly referred to as distance learning), or both.

[''(d) FACILITIES.—The Secretary may award grants under section 1610 for construction projects to expand, remodel, renovate, or alter existing facilities for qualifying schools of pharmacy or to provide new facilities for the schools.

[''(e) REQUIREMENT REGARDING EDUCATION IN PRACTICE OF PHARMACY.—With respect to the qualifying school of pharmacy involved, the Secretary shall ensure that programs and activities carried out with Federal funds provided under this section have the goal of educating students to become licensed pharmacists, or the goal of providing for faculty to recruit, retain, and educate students to become licensed pharmacists.

[''(f) QUALIFYING SCHOOL OF PHARMACY.—For purposes of this section, the term 'qualifying school of pharmacy' means a college or school of pharmacy (as defined in section 799B) that, in providing clinical experience for students, requires that the students serve in a clinical rotation in which pharmacist services (as defined in section 331(a)(3)(E)) are provided at or for—

[''(1) a medical facility that serves a substantial number of individuals who reside in or are members of a medically underserved community (as so defined);

[''(2) an entity described in any of subparagraphs (A) through (L) of section 340B(a)(4) (relating to the definition of covered entity);

[''(3) a health care facility of the Department of Veterans Affairs or of any of the Armed Forces of the United States;

[''(4) a health care facility of the Bureau of Prisons;

[''(5) a health care facility operated by, or with funds received from, the Indian Health Service; or

[''(6) a disproportionate share hospital under section 1923 of the Social Security Act.

[''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.''.

[(b) TECHNICAL AND CONFORM AMENDMENTS.—Section 1610(a) of the Public Health Service Act (42 U.S.C. 300r(a)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A)—

[(i) in clause (i), by striking ''or'' at the end thereof;

[(ii) in clause (ii), by striking the period and inserting ''; or''; and

[(iii) by adding at the end the following:

[''(iii) expand, remodel, renovate, or alter existing facilities for qualifying schools of pharmacy or to provide new facilities for the schools in accordance with section 771(d).'';

[(B) in subparagraph (B)—

[(i) in clause (i), by striking ''and'' at the end thereof;

[(ii) in clause (ii)(II), by striking the period and inserting ''; or''; and

[(iii) by adding at the end the following:

[''(iii) a qualifying school of pharmacy (as defined in section 771(f)).'';

[(2) by striking the first sentence of paragraph (3) and inserting the following: ''There are authorized to be appropriated for grants under paragraph (1)(A)(iii), such sums as may be necessary.''; and

[(3) by adding at the end the following:

[''(4) RECAPTURE OF PAYMENTS.—If, during the 20-year period beginning on the date of the completion of construction pursuant to a grant under paragraph (1)(A)(iii)—

[''(A) the school of pharmacy involved, or other owner of the facility, ceases to be a public or nonprofit private entity; or

[''(B) the facility involved ceases to be used for the purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the school or other owner from such obligation);

[the United States is entitled to recover from the school or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pharmacy Education Aid Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Pharmacists are an important link in our Nation's health care system. A critical shortage of pharmacists is threatening the ability of pharmacies to continue to provide important prescription related services.

(2) In the landmark report entitled ''To Err is Human: Building a Safer Health System'', the Institute of Medicine reported that medication errors can be partially attributed to factors that are indicative of a shortage of pharmacists (such as too many customers, numerous distractions, and staff shortages).

(3) Congress acknowledged in the Healthcare Research and Quality Act of 1999 (Public Law 106–129) a growing demand for pharmacists by requiring the Secretary of Health and Human Services to conduct a study to determine whether there is a shortage of pharmacists in the United States and, if so, to what extent.

(4) As a result of Congress' concern about how a shortage of pharmacists would impact the public health, the Secretary of Health and Human Services published a report entitled ''The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists'' in December of 2000.

(5) ''The Pharmacist Workforce: A Study in Supply and Demand for Pharmacists'' found that ''While the overall supply of pharmacists has increased in the past decade, there has been an unprecedented demand for pharmacists and for pharmaceutical care services, which has not been met by the currently available supply'' and that the ''evidence clearly indicates the emergence of a shortage of pharmacists over the past two years''.

(6) The same study also found that ''The factors causing the current shortage are of a nature not likely to abate in the near future without fundamental changes in pharmacy practice and education.'' The study projects that the number of prescriptions filled by community pharmacists will increase by 20 percent by 2004. In contrast, the number of community pharmacists is expected to increase by only 6 percent by 2005.

(7) The demand for pharmacists will increase as prescription drug use continues to grow.

SEC. 3. HEALTH PROFESSIONS PROGRAM RELATED TO THE PRACTICE OF PHARMACY.

(a) IN GENERAL.—Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

''Subpart 3—Pharmacy Workforce Development

''SEC. 781. LOAN REPAYMENT PROGRAM.

''(a) IN GENERAL.—In the case of any individual—

''(1) who has received a baccalaureate degree in pharmacy or a Doctor of Pharmacy degree from an accredited program; and

''(2) who obtained an educational loan for pharmacy education costs;

the Secretary may enter into an agreement with such individual who agrees to serve as a full-time pharmacist for a period of not less than 2 years at a health care facility with a critical shortage of pharmacists, to make payments in accordance with subsection (b), for and on behalf of that individual, on the principal of and interest on any loan of that individual described in paragraph (2) which is outstanding on the date the individual begins such service.

''(b) MANNER OF PAYMENTS.—

''(1) IN GENERAL.—The payments described in subsection (a) may consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

''(C) reasonable living expenses as determined by the Secretary.

''(2) PAYMENTS FOR YEARS SERVED.—

''(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (a)(3) the Secretary may pay up to $35,000 on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(i) affects the ability of the Secretary to maximize the number of agreements that may be provided under this section from the amounts appropriated for such agreements;

''(ii) provides an incentive to serve in areas with the greatest shortages of pharmacists; and

''(iii) provides an incentive with respect to the pharmacist involved remaining in the area and continuing to provide pharmacy services after the completion of the period of obligated service under agreement.

''(B) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

''(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

''(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

''(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

''(4) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under this section to establish a schedule for the making of such payments.

''(c) PREFERENCES.—In entering into agreements under subsection (a), the Secretary shall give preference to qualified applicants with the greatest financial need.

''(d) REPORTS.—

''(1) ANNUAL REPORT.—Not later than 18 months after the date of enactment of the Pharmacy Education Aid Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report describing the program carried out under this section, including statements regarding—

''(A) the number of enrollees, loan repayments, and recipients;

''(B) the number of graduates;

''(C) the amount of loan repayments made;

''(D) which educational institution the recipients attended;

''(E) the number and placement location of the loan repayment recipients at health care facilities with a critical shortage of pharmacists;

''(F) the default rate and actions required;

''(G) the amount of outstanding default funds of the loan repayment program;

''(H) to the extent that it can be determined, the reason for the default;

''(I) the demographics of the individuals participating in the loan repayment program; and

''(J) an evaluation of the overall costs and benefits of the program.

''(2) 5-YEAR REPORT.—Not later than 5 years after the date of enactment of the Pharmacy Education Aid Act, the Secretary shall prepare and submit to Congress a report on how the program carried out under this section interacts with other Federal loan repayment programs for pharmacists and determining the relative effectiveness of such programs in increasing pharmacists practicing in areas with a critical shortage or pharmacists.

''(e) BREACH OF AGREEMENT.—

''(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a pharmacists (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

''(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of pharmacy (in this section referred to as a 'pharmacy program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

''(i) fails to maintain an acceptable level of academic standing in the pharmacy program (as indicated by the program in accordance with requirements established by the Secretary);

''(ii) is dismissed from the pharmacy program for disciplinary reasons; or

''(iii) voluntarily terminates the pharmacy program.

''(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

''(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such subsection if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

''(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

''(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.

''(f) DEFINITION.—In this section, the term 'health care facility' means an Indian Health Service health center, a Native Hawaiian health center, a hospital, a pharmacy, a Federal qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, an ambulatory surgical center, or any other facility determined appropriate by the Secretary.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 through 2007.

''SEC. 782. PHARMACIST FACULTY LOAN PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any school of pharmacy for the establishment and operation of a student loan fund in accordance with this section, to increase the number of qualified pharmacy faculty.

''(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall—

''(1) provide for the establishment of a student loan fund by the school involved;

''(2) provide for deposit in the fund of—

''(A) the Federal capital contributions to the fund;

''(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such school;

''(C) collections of principal and interest on loans made from the fund; and

''(D) any other earnings of the fund;

''(3) provide that the fund will be used only for loans to students of the school in accordance with subsection (c) and for costs of collection of such loans and interest thereon;

''(4) provide that loans may be made from such fund only to students pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study; and

''(5) contain such other provisions as are necessary to protect the financial interests of the United States.

''(c) LOAN PROVISIONS.—Loans from any student loan fund established by a school pursuant to an agreement under subsection (a) shall be made to an individual on such terms and conditions as the school may determine, except that—

''(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;

''(2) in the case of any individual, the total of the loans for any academic year made by schools of pharmacy from loan funds established pursuant to agreements under subsection (a) may not exceed $30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;

''(3) an amount up to 85 percent of any such loan (plus interest thereon) shall be canceled by the school as follows:

''(A) upon completion by the individual of each of the first, second, and third year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of pharmacy, the school shall cancel 20 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment; and

''(B) upon completion by the individual of the fourth year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of pharmacy, the school shall cancel 25 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment;

''(4) such a loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;

''(5) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study at a school of pharmacy; and

''(6) such a loan shall—

''(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study at a school of pharmacy, bear interest on the unpaid balance of the loan at the rate of 3 percent per annum; or

''(B) subject to subsection (e), if the school of pharmacy determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.

''(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

''(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by a school of pharmacy under subsection (c)(6)(B).

''(f) INFORMATION TECHNOLOGY.—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy for the purpose of assisting such schools in acquiring and installing computer-based systems to provide pharmaceutical education. Education provided through such systems may be graduate education, professional education, or continuing education. The computer-based systems may be designed to provide on-site education, or education at remote sites (commonly referred to as distance learning), or both.

''(g) REQUIREMENT REGARDING EDUCATION IN PRACTICE OF PHARMACY.—With respect to the school of pharmacy involved, the Secretary shall ensure that programs and activities carried out with Federal funds provided under this section have the goal of educating students to become licensed pharmacists, or the goal of providing for faculty to recruit, retain, and educate students to become licensed pharmacists.

''(h) DEFINITIONS.—For purposes of this section:

''(1) SCHOOL OF PHARMACY.—the term 'school of pharmacy' means a college or school of pharmacy (as defined in section 799B) that, in providing clinical experience for students, requires that the students serve in a clinical rotation in which pharmacist services (as defined in section 331(a)(3)(E)) are provided at or for—

''(A) a medical facility that serves a substantial number of individuals who reside in or are members of a medically underserved community (as so defined);

''(B) an entity described in any of subparagraphs (A) through (L) of section 340B(a)(4) (relating to the definition of covered entity);

''(C) a health care facility of the Department of Veterans Affairs or of any of the Armed Forces of the United States;

''(D) a health care facility of the Bureau of Prisons;

''(E) a health care facility operated by, or with funds received from, the Indian Health Service; or

''(F) a disproportionate share hospital under section 1923 of the Social Security Act.

''(2) PHARMACIST SERVICES.—The term 'pharmacist services' includes drug therapy management services furnished by a pharmacist, individually or on behalf of a pharmacy provider, and such services and supplies furnished incident to the pharmacist's drug therapy management services, that the pharmacist is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided for by State law).

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.''.

Mr. REID. I ask unanimous consent the committee-reported amendment be agreed to, the bill, as amended, be read three times and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD, with no intervening action or debate.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1806), as amended, was read the third time and passed.

NATIONAL MINORITY HEALTH AND HEALTH DISPARITIES MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 388 and that we now proceed to the consideration of that matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The senior assistant bill clerk read as follows:

A concurrent resolution (H. Con. Res. 388) expressing the sense of the Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 388) was agreed to.

The preamble was agreed to.

NATIONAL MINORITY HEALTH AND HEALTH DISPARITIES MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 139 and that the Senate now proceed to this matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The senior assistant bill clerk read as follows:

A concurrent resolution (S. Con. Res. 139) expressing the sense of Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 139) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 139

Whereas in 2000, the Surgeon General announced a goal of eliminating, by 2010, health disparities experienced by racial and ethnic minorities in health access and outcome in 6 areas: infant mortality, cancer screening, cardiovascular disease, diabetes, acquired immunodeficiency syndrome and human immunodeficiency virus infection, and immunizations;

Whereas despite notable progress in the overall health of the Nation there are continuing health disparities in the burden of illness and death experienced by African-Americans, Hispanics, Native Americans, Alaska Natives, Asians, and Pacific Islanders, compared to the population of the United States as a whole;

Whereas minorities are more likely to die from cancer, cardiovascular disease, stroke, chemical dependency, diabetes, infant mortality, violence, and, in recent years, acquired immunodeficiency syndrome than nonminorities suffering from those same illnesses;

Whereas there is a national need for scientists in the fields of biomedical, clinical, behavioral, and health services research to focus on how best to eliminate health disparities between minorities and the population of the United States as a whole;

Whereas the diverse health needs of minorities are more effectively addressed when there are minorities in the health care workforce; and

Whereas behavioral and social sciences research has increased awareness and understanding of factors associated with health care utilization and access, patient attitudes toward health services, and behaviors that affect health and illness, and these factors have the potential to be modified to help close the health disparities gap that effects minority populations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a National Minority Health and Health Disparities Month should be established to promote educational efforts on the health problems currently facing minorities and other populations experiencing health disparities;

(2) the Secretary of Health and Human Services should, as authorized by the Minority Health and Health Disparities Research and Education Act of 2000, present public service announcements on health promotion and disease prevention that target minorities and other populations experiencing health disparities in the United States and educate the public and health care professionals about health disparities;

(3) the President should issue a proclamation recognizing the immediate need to reduce health disparities in the United States and encouraging all health organizations and Americans to conduct appropriate programs and activities to promote healthfulness in minority and other communities experiencing health disparities;

(4) Federal, State, and local governments should work in concert with the private and nonprofit sector to recruit and retain qualified individuals from racial, ethnic, and gender groups that are currently underrepresented in health care professions;

(5) the Agency for Healthcare Research and Quality should continue to collect and report data on health care access and utilization on patients by race, ethnicity, socioeconomic status, and where possible, primary language, as authorized by the Minority Health and Health Disparities Research and Education Act of 2000, to monitor the Nation's progress toward the elimination of health care disparities; and

(6) the information gained from research about factors associated with health care utilization and access, patient attitudes toward health services, and risk and protective behaviors that affect health and illness, should be disseminated to all health care professionals so that they may better communicate with all patients, regardless of race or ethnicity, without bias or prejudice.

NATIONAL CYSTIC FIBROSIS AWARENESS WEEK

Mr. REID. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 270 and the Senate now proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The senior assistant bill clerk read as follows:

A resolution (S. Res. 270) designating the week of October 13, 2002, through October 19, 2002, as ''National Cystic Fibrosis Awareness Week''.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 270) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 270

Whereas cystic fibrosis is one of the most common fatal genetic diseases in the United States and there is no known cure;

Whereas cystic fibrosis, characterized by digestive disorders and chronic lung infections, is a fatal lung disease;

Whereas a total of more than 10,000,000 Americans are unknowing carriers of cystic fibrosis;

Whereas one out of every 3,900 babies in the United States is born with cystic fibrosis;

Whereas approximately 30,000 people in the United States, many of whom are children, have cystic fibrosis;

Whereas the average life expectancy of an individual with cystic fibrosis is 32 years;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of those who have this disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies; and

Whereas education can help inform the public of the symptoms of cystic fibrosis, which will assist in early diagnoses, and increase knowledge and understanding of this disease: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 13, 2002 through October 19, 2002, as ''National Cystic Fibrosis Awareness Week'';

(2) commits to increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses, more fund raising efforts for research, and increased levels of support for those with cystic fibrosis and their families; and

(3) requests the President to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

ORDERS FOR FRIDAY, OCTOBER 4, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Friday, October 4; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S.J. Res. 45 under the conditions of the previous order, with the time until 11:30 a.m. equally divided and controlled between the two leaders or their designees, with Senators allowed to speak for up to 10 minutes each.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I understand there is no further business to come before the Senate. Therefore, I ask unanimous consent that the Senate stand in adjournment.

There being no objection, the Senate, at 6:25 p.m., adjourned until Friday, October 4, 2002, at 9:30 a.m.