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No. 6

## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 27, 2003, at 2 p.m.

## Senate

TUESDAY, JANUARY 14, 2003

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by the guest Chaplain, Dr. Richard Roth of Falls Church, VA.

### PRAYER

The guest Chaplain offered the following prayer:

Standing in Your presence on this winter morning, Gracious God, we affirm with our forefathers that You have not only created us, but You sustain us each day. So with the psalmist of old, we proclaim, "This is the day that the Lord has made. We will rejoice and be glad in it."

Our Senators will face again today matters of such import that differences and conflict will be natural. In this arena, where vision and reality collide freely, may clear heads prevail. We are grateful for the freedom to challenge ideas and debate issues and for that freedom, we will rejoice and be glad.

This moment in history weighs heavy in this chamber and around Capitol Hill, so we ask for wisdom beyond experience and a fresh touch of Your grace. In a world on edge, as diplomats talk and warriors make ready in the pursuit of needed security, we pray that a peaceful resolution will come. With hope in our hearts, Lord, we submit ourselves to You. You are now and forever our Prince of Peace. For Your presence among us we will rejoice and be glad.

In Your Holy Name, we pray. Amen.

The PRESIDENT pro tempore. This morning I would like to ask the distin-

guished assistant minority leader to lead us in the Pledge of Allegiance.

### PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The 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 12:30 p.m., with the time equally divided and Senators permitted to speak therein for up to 10 minutes.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader.

### SCHEDULE

Mr. FRIST. Mr. President, today there will be a period of morning business until 12:30 p.m., with the time equally divided and Senators permitted to speak for up to 10 minutes.

Last night, I closed saying that I remain hopeful an agreement can be

reached as soon as possible with respect to the committee resolution which, very simply, allows us to proceed with Senate business and with appointment of our committees and the chairmen.

Again, as I mentioned last night, I want to put my colleagues on notice that if we are unable to reach accord in a short period of time, it will be my intent to begin consideration of the resolution. Again, it is very simple. It just names the chairmen and the Republican members of the committees. In addition, the appropriations process for fiscal year 2003 absolutely must be completed.

Members should be aware that the Senate will finish these matters or it will be necessary to return after the holiday on Monday and be in session through next week. I mentioned that last night in closing. But again I want to make sure my colleagues understand that we have two matters that are of critical importance to the fundamental organization of this body, No. 1; and, No. 2, on the appropriations bills that are the unfinished business from last year, we have an obligation to the American people to complete.

As the negotiations progress over the course of the morning—and, again, discussions continued well into the evening last night and began early this morning—as those negotiations progress, I will advise the Senate about the day's schedule.

Rollcall votes are, therefore, possible each day this week, including Friday, and it may be necessary to begin to have late evenings until we complete the appropriations bill.

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



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I think we could make real progress over the next several minutes and the next hour. But if not and if, in my judgment, we are just at a point where our business comes to a halt, it is important that we come forward on the floor of the Senate with the resolution on those committees.

I think we will have a productive day today. I am optimistic that we will. We have negotiated in good faith over the last week and a half. Now is the time to get on with the Nation's business.

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

Mr. FRIST. Absolutely.

Mr. REID. Mr. President, I was listening intently. But when does the leader think he would bring this resolution up, if we can't work something out?

Mr. FRIST. Mr. President, my intention is to review it with everybody who has been involved in the negotiations over the next several minutes or hour. But it is time for us to move ahead. So, very shortly. I hesitate to do so, to be very straightforward, because the overall negotiations have gone very well, and I did not in any way want to interrupt those negotiations. But at this point I am receiving phone calls from our colleagues, including the 11 freshmen, who, even if we met right now with committees, are simply not on those committees and are asking: What do we do? We came here. We were elected with the majority, and we are not on committees. We are not allowed.

It is incumbent upon me to get to it sometime very shortly. It may be this afternoon. It may be this morning. But sometime today we need to bring to a head the very simple Republican resolution to appoint chairmen, which we ratified on this side, and to appoint committees.

Mr. REID. Mr. President, my only suggestion to the leader would be that I think it would be in the best interests of all if we at least waited until the party caucuses so our leader and the majority leader could explain to their folks what the end might be. But we will await the decision of the leader. I will report to Senator DASCHLE momentarily.

Mr. FRIST. Mr. President, again, I am trying to have discussions in good faith. If in the next hour or hour and a half it is clear to me that no progress is being made—because by the time we have the policy luncheons, that will be 2 o'clock, and by the time we get back out here, it will be 3 or 4, and in essence we have lost a day. I do not want to make any commitment. I understand. That is why day after day I have not gone public, and I appreciate the Democratic leadership doing the same. But now all our colleagues are recognizing that our responsibility is to the United States of America and to this body, and we simply cannot leave next week with these things pending.

If I wait until tomorrow or the next day before we bring this to a head, it will be clear that we are going to be

here every single day. Right now, I think we have a chance. If we can do the committee resolution today—this morning—I think we can very quickly go to the appropriations process, the committee will be organized, and we can consider that legislation. Because so much work has already been done, we could, in fact, complete this and be able to have the recess that we initially planned. But if it is not done this morning or early this afternoon, I don't see how we will be able to do it.

Mr. REID. Mr. President, certainly we understand the difficulty in organizing. When the majority changed a year and half or 2 years ago, it took us 6 weeks to work this out. I certainly hope it doesn't take that long this time.

I also say both Senator DASCHLE and I yesterday indicated we agree with you that if we cannot complete our business this week, we should stay in next week. The chairman of the Appropriations Committee and Senator BYRD need to finish these bills, and they cannot do that if we are not in session.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will the Senator yield for a unanimous consent request while the majority leader is on the floor?

Mr. CRAIG. Yes.

Mr. REID. I put us into a quorum call. I ask unanimous consent that during this morning business time that we have, the quorum calls be equally divided between both sides and not be charged against the party who asks for it.

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

The Senator from Idaho.

Mr. CRAIG. Mr. President, we are now in morning business?

The PRESIDENT pro tempore. We are now in morning business.

Mr. CRAIG. Mr. President, I will speak for a period of time in morning business.

#### COMMITTEE ORGANIZATION AND THE SENATE'S BUSINESS

Mr. CRAIG. Mr. President, I was pleased to see the minority whip and our majority leader on the floor a few moments ago, as I was viewing the floor from my office, hoping that an organizational resolution had been completed, that negotiations that had been underway now for nearly 2 weeks as to the organization of the Senate might bring us to a state where the Senate could begin to work.

Obviously, the American people have spoken very loudly in the last several months about the need to get our work done as it relates to both the economy,

the risk of war, and certainly the ongoing business of Government. And they spoke out loudly on November 5 as to who ought to be running the Senate. I think they would expect that transition, in a peaceful democratic system, would go smoothly and that we could be in the business of running the Senate. That simply has not happened to date.

I served, at the privilege of the majority leader, as chairman of the Committee on Committees. My task was to call all the Senators and get them fitted into the new committee structure and to recommend that kind of shaping for the ongoing business of the 108th. That work was completed well over a week ago. The majority leader urged me to get it done as soon as possible after the first of the year. Why? Because of the history of the Senate, that most organizational resolutions that get our Senate working occur usually in the first week of January, so we can be immediately at the people's business, so we can be immediately examining budgets and spending resolutions, and begin the work of shaping a budget for our Government to operate.

That simply has not happened. Why has it not happened?

I think the best evaluation of it appeared in the Wall Street Journal editorial yesterday, called "Daschle's Election Lesson." Mr. President, I ask unanimous consent that editorial be printed in the RECORD.

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

[From the Wall Street Journal, Jan. 13, 2003]

#### DASCHLE'S ELECTION LESSON

So much for the theory that Democrats lost the Senate in November because they had obstructed President Bush's agenda. Judging by Tom Daschle's behavior so far this year, the new Senate minority leader has concluded that the lesson of their drubbing is that Democrats weren't obstructionist enough.

Only a week into the new Congress, the Daschle Democrats are already in full-throated opposition, assailing every White House idea and starting up the 2004 election campaign. Mr. Daschle's response to the President's tax cut hasn't been merely that it's wrong or helps "the rich," but that it's "obscene." (Tom, what are you going to say when you really don't like something?)

Democrats are also already vowing to defeat Mr. Bush's judicial nominees, even if it takes filibusters that let a mere 41 Democrats define Senate "advice and consent." Yesterday Mr. Daschle said the renomination of Charles Pickering Sr. "lays bare the Administration's real position on civil rights" and "exposes the Southern strategy clearly." Ah, racial harmony.

This same goodwill embrace is also being extended to new GOP Majority Leader Bill Frist. Despite a bipartisan deal last week to pass unemployment benefits by unanimous consent, Democrats sandbagged Mr. Frist on the floor by demanding more cash than the deal had called for. Hillary Clinton was seen giving orders on this ambush on the Senate floor. While the original deal ultimately passed, the vote was an omen of the Democratic strategy.

Which seems to be to use every opportunity to bollix up the Senate works. That

includes even delaying the handover of their majority status. Every new Congress requires "organizing resolutions," but Democrats have threatened to filibuster the Senate version unless they get virtually the same committee and staff funding as the majority.

Some of this haggling is understandable, but the demand for 50/50 funding is absurd. The historical split has typically been two thirds/one-third regardless of the Senate breakdown. Last Congress's division of 55/45 was the exception, because it began with the parties split 50/50, and Democrats only got to 51 midterm after Jim Jeffords defected to get a committee chair. Republicans have now won an election, and Democrats know the majority needs more funding because it has the duty of actually running the Senate.

Conveniently, any organizing delay allows Democrats to continue as committee chairmen, slowing the Republican start. Joe Lieberman, who is supposed to be the former chairman of Governmental Affairs, sent out a notice saying that he'd preside over this week's confirmation hearing for Tom Ridge, nominated to run the new Homeland Security Department.

This would mean a nice photo-op for the soon-to-be Presidential candidate, but it's an insult to Maine Republican Susan Collins, who should be running the committee. The White House pulled Mr. Ridge at the last minute to deny Mr. Lieberman his chance to knock the Administration around, but this only delays Mr. Ridge's ability to get on with the job.

No doubt the Senate will organize, but the shenanigans portend a nasty two years. Democrats are understandably sore about losing their majority, but rather than undertake some introspection they're jumping right back to the barricades. They apparently figure they can obstruct Mr. Bush's agenda and voters will blame Republicans who are supposed to be in control.

Maybe, but we seem to recall that's similar to the argument they made last year. Max Cleland and Jean Carnahan can testify from private life to how well it worked.

Mr. CRAIG. What the editorial in the Wall Street Journal said was apparently the former majority leader had not learned a lesson, that in the obstructionist character by which he operated the Senate for the last 18 to 20 months—that lost him the majority in the Senate, that denied us a budget and 11 appropriations bills, that denied us Medicare and prescription drugs, that denied the American people a great many things that not only was the President promising but the Senate and the House were working under—he should have learned a lesson; that he should be here helping facilitate the process of helping this Senate to move forward.

That has not happened. Why? I guess they don't realize they lost the majority; that somehow they are now in the minority, and it is the responsibility of them, in this Democratic process, to work with us to make our Government function appropriately. It has always happened that way in the past, but it isn't happening that way today.

Over the last week, the negotiations, which I have not been a part of but certainly which have been reported to me, largely say: We want everything we had last year. But they were in the majority last year. Are they entitled to

everything they had last year? No. There is a clear historic precedent that said the majority always got two-thirds of the funding to operate the committees and to cause this system of the Senate to function, and the minority got one-third.

It changed during the 107th because of the 50-50 relationship. And certainly, when I was asked, I would say that in a relationship like we have today, 51-49, with 1 independent, we could be more flexible than just 66 or one-third, two-thirds. But to suggest that they have everything they had last year, in helping set the agenda of the Senate, if that is what their position is, then the tactics they used in the last Senate, that gave them the minority in the new Senate, are being employed once again.

I know why they are doing it and why they think they can get away with it in this business, because it is inside ball, it is inside politics. The American public does not register with them. When we start talking about committee funding and staffing, that is of little interest to an American who is out of work, to a senior who is paying \$400 or \$500 a month for his or her prescription drugs. They want those problems solved and they want them solved now. And while, in many instances, we cannot move that quickly, it certainly is our responsibility to move.

The Presiding Officer at this moment is the new chairman of the Appropriations Committee. He and his staff have been working for weeks to move the 11 appropriations bills that fund Government through this system, and it has not happened. Why? Because he has not been given the authority, even though he is in the majority, to do it. Why? Because the former majority leader, now the minority leader, has simply blocked it.

The editorial I put in the RECORD from the Wall Street Journal, I thought, said it well in the closing paragraph:

No doubt the Senate will organize—and we will. And we may see that debate over a final resolution begin today—

but the shenanigans—some that I have just referred to—portend a nasty two years. Democrats are understandably sore about losing their majority, but rather than undertake some introspection they're jumping right back to the barricades. They apparently figure they can obstruct Mr. Bush's agenda and voters will blame Republicans who are supposed to be in control.

Maybe, but we seem to recall that's similar to the argument they made last year.

And then they go on to talk about certain Senators who lost their election. Maybe that message was not as obstructed from the American people as some of us might have believed it was.

The Senate is not working today. And the reason the Senate isn't working is because the minority leader, the Democrat leader, is doing everything

he can to block it from working. It is simple. It is straightforward. And I believe my comments are very honest.

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

Mr. CRAIG. I am happy to yield.

Mr. GREGG. I think the Senator is making an excellent point, and it goes beyond just the question of the operation of the Senate. It really goes to the constitutional form of government we have.

We have a constitutional democracy in this country. One of the key elements of constitutional democracy is that after there is an election in which one party is succeeded by another party in power, that transfer of power occurs smoothly and seamlessly. That has been the tradition in this country for over 200 years. Yet now we see the other side of the aisle insisting on maintaining their chairmanships after they have lost the majority. That flies in the face of the concept of a constitutional form of government, does it not?

Mr. CRAIG. I think the Senator from New Hampshire is straight on. What we are talking about is that peaceful transition of power, when you are no longer in the majority and it is the responsibility of the new majority to form a Congress, and that is what you do every 2 years with a new Congress.

This is the 108th Congress that we are now forming. I think the point of the Senator is made, which is that the Democratic Party is now in the minority and are still holding chairmanships and therefore refusing to allow committees to function on the whole, and to allow the majority—now Republicans—to shape the committees, bring staff on board, and establish the agendas. And what is most critical at this moment is to finish the work that was left undone in the last Congress.

The Senator from New Hampshire and I know, and certainly the Senator from Alaska who is in the chair at this moment knows, one of the single most important tasks we do every year is pass 13 appropriations bills to fund the Government. That is the budget of the U.S. Government. It is not just dollars and cents. It is policy—where you spend it, how you spend it, how much you spend, what it gets, programs that are discontinued, programs that are expanded. A budget is absolutely critical, and the funding of that budget is, in essence, the operations of the Government.

Yet last year the Congress was not able to perform, not able to pass those 13 appropriations bills. Why? Because of this Senate denying the Congress the time and the opportunity to move forward to get that done. We had hoped we could come back in and, during the month of January, move expeditiously to complete those 11 appropriations bills left undone, get those policy messages and spending messages out to the agencies that are clearly affected so that Government would run as we are expected to ask it to run. Of course, that is really what is being denied at

this moment by our inability to organize, the inability of the chairman of the Appropriations Committee—now presiding—to move forward. Yes, we have been working.

Right now, we should not be debating an organizational resolution on the floor or hoping we can debate it; we ought to have the omnibus appropriations bill on the floor with those 11 bills in it. That is what the debate of the day and the work of this week ought to be.

I hope the minority leader and the Democrats who serve in the Senate recognize that the game they play may be inside politics, but more and more of us are going to be talking outside the inside trying to reflect to the American people that, as the Wall Street Journal said, the shenanigans being played are to man the barricades and use obstructionist tactics to stop the Senate from moving and—I think the Senator from New Hampshire said it so clearly—in essence deny us the democratic process.

Mr. GREGG. If the Senator will yield further.

Mr. CRAIG. Yes.

Mr. GREGG. This is a significant point. We have had a number of extraordinarily enlightening discussions on this floor involving the history of the Senate and the history of the Senate in the context, for example, of the Roman Senate. If you look at the history of this Senate and at the history of legislative bodies similar to the Senate, when there has been a sliding away from the traditional transfer of power as a result of an election; when there has been a sliding away from that, that is when crisis has occurred. I know the Senator who was often giving us extraordinary statements and information on the issue of the Roman Senate, and he would probably have to concede that the Roman Senate—if I may refer to that body as the precursor of ours—really fell into disrepair and became a nonfunctional body when Caesar refused to abide by the Roman Senate and stepped on the authority of the Roman Senate and took away its authority and didn't acknowledge its elective role.

The only time in our history when we have not had a transfer of power that has occurred as a result of an election, when the right of an election has been superseded, was in the Civil War, and there were extenuating circumstances for why that occurred. It occurred in the Maryland Legislature, to be specific. So this decision by the other side of the body to retain their chairmanships in the face of an election which has removed them from them, because the majority has shifted, sets a precedent which has immense impact, potentially, on the way this body functions as a reflection of a democratic government.

So before the Democratic side of the aisle continues down this course, I think they need to think about what they are doing. Are they damaging the

integrity of our process, of the elective process, by continuing to insist that they remain in power when they have lost power through the election? That is what this is about. They want to retain power even though they lost power through the elective process. I think the Senator has touched the issue rather effectively. I suppose it can be understated, but I don't think it is.

Mr. CRAIG. Let me conclude because I see another colleague on the floor who wishes to speak. I am going to serve on the Judiciary Committee this year, along with several colleagues, for a lot of reasons, but primarily to move judges into our Federal court system that now lacks 150 seats. That third branch of Government isn't functioning largely because of the denial to move the President's nominees through in this past 18 to 20 months. We have seen that going on. Yet we are now being told that 41 Senators will filibuster, and that that simply won't happen if they don't get what they want.

The role of the Senate and the Judiciary Committee in this instance fits well into that advise and consent role that we play with the executive. My colleague from New Hampshire was talking about constitutional authority and constitutional responsibility and the transition, if you will, in a democratic process. Our job is to advise and consent. Our job is to review the President's nominees, and I hope we can bring every one of them to the floor for an open-ended debate—not to filibuster; that would be precedent-setting, but to have a debate and have an up-or-down vote. That is what the American people expect of us and they should demand it, and I hope the hue and cry from the hinterland becomes very loud in the next few months if the processes are denied simply by an obstructionist tactic of refusing to give up power when the electorate has spoken.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Alabama is recognized.

#### WHAT THE AMERICAN PEOPLE WANT

Mr. SESSIONS. Mr. President, I had the great honor of being elected by the people of Alabama to a second term this year. I traveled hard all over the State. I travel to every county every year in my State. I was out this past year talking with the American people and listening to what they had to say. I have a sense of what they are concerned about, what they want to see done, what they thought their vote meant.

They were, I believe, tired of politics as usual, political logjams, obstructionism. They wanted us to move forward, work together, and put the interest of the United States and the people first. They think we focus too much on parties and political interests. Certainly, sometimes what may appear to

individuals as a petty political party dispute really has significant policy impact for the country and the world, but the truth is that many times that is not so. Many times, the American people are correct that politics interferes and overcomes our responsibility to serve the people of the United States. Sometimes the debates we have here are indeed "insider baseball," as some would say. It reveals personal pique, pride, and sometimes plain obstructionism.

After the election, when the majority changed in the Senate, just ordinary people would grab my arm as I went about and they would say to me—and I have told others this, and they have said it in almost these same words—JEFF, maybe you can get something done now.

I think the message of this election was the American people wanted us to get the work done. I believe that strongly.

I was a Federal prosecutor for a number of years. I know the Presiding Officer has been a lawyer for a number of years. I remember the story—it has different versions—about a jury that had been out a couple of days. The judge was getting a little worried about them. He asked them how they were doing, and they reported: Fine, Your Honor, we just elected a foreman.

How much time do we have to piddle around with organizing resolutions? The situation with which we are struggling today is critical. We must pass an organizing resolution for this Senate. It is important because nothing much is going to happen in this body until we do. New Senators cannot even be assigned to committees until this organizing resolution is adopted. We can do better.

The Senate has been in session over a week. We still have not adopted the organizing resolution. The new majority leader, Senator BILL FRIST from Tennessee, has a reputation of working across the aisle, of being able to bring together people with different views, and he is a good and nice person. He desires a bipartisan resolution that is fair to everyone, but I think it would be a mistake for Members of this body to believe that because he desires to be fair and he desires to reach across the aisle, he is just vulnerable to being pushed around; that they can insist no changes occur in their vision of how this body ought to be organized, and they will just sit back and refuse to let the business of the Senate go forward until that happens. I believe that is wrong.

The majority leader is going to be open, but he will not capitulate and change the historic procedures that have guided the Senate over the years. Frankly, there is a reason on the financial end of this organizing resolution for the majority party to have additional resources. That reason is the majority has to chair the committees, and the chairman has to move the agenda of the committee. Not only

does the chairman have to chair the committee, but each committee has subcommittees. Armed Services, of which I am a member, and Judiciary, of which I am a member, have four, five, six subcommittees, and each one of those subcommittees the last 2 years has been chaired by Democratic chairmen, as well as the chairman of the committee being Democratic. Now those subcommittees will be chaired by Republicans who have the burden of moving the legislation forward and moving an agenda forward.

It is historic that the chairmen and the majority on the committees have had a higher degree of financial support than the minority.

There is a lot of work for us to do. This last Congress, which I suggest raised obstructionism to a high art form, was a failure by any objective analysis. It is little wonder its failure led to a change in the majority in this body.

For example, for the first time in nearly 30 years, we did not pass a budget. This was a signal failure that symbolized the "my way or no way" attitude of the past Congress leadership.

We failed to pass a prescription drug plan. Why? Because the Democratic leadership insisted on a bill that would spend twice what we had budgeted the year before. We had budgeted \$300 billion for a prescription drug plan. But, oh, no, it had to be twice that. Some suggested that had to do with politics. Some suggested there was a concern on behalf of the leadership—and I hope this is not true—that if a bill passed, the President would get credit and the Republicans would get credit, and they did not want them to get credit. I hope that is not true.

I do know I was prepared to vote for a bill that even exceeded that \$300 billion which would have created a prescription drug plan that had tripartisan support, but it never went forward to be passed.

Then there was the homeland security issue, really an amazing issue. The President of the United States, in response to an attack on the homeland of the United States and after careful evaluation, concluded we needed to reorganize our Government to get those departments and agencies that function to protect our homeland security together in one agency so they could work together in an effective way to be more efficient and more productive in protecting our homeland.

It was a big deal. He proposed that resolution, and what happened? Some of our Government union friends—and I used to be a Government employee; I know and respect many of those members—wanted to use the homeland security bill as leverage to maneuver into the law provisions providing benefits to their workers that were not even in current law. When, in fact, we were trying to create an agency that was more like a military agency—with a higher degree of responsiveness required than the normal agencies—no,

they wanted to make sure there were even greater protections than existed at the time for workers.

The President said: What I need is flexibility, please, Senate. His bill passed the House. He said to the Senate: Please give me some flexibility; I have to move people; I have to be able to protect and defend the homeland of America. Don't tie this up by politics of special interest. He urged us not to do so. We debated and debated, and it was obstructed week after week, and then we took his case to the American people on election day, and the American people spoke. They said: We are tired of obstructionism. We want a bill. We want homeland security, and we want it now. A few weeks ago in December when we were in a lame-duck session, the homeland security bill passed quickly, and the leadership on the other side of the aisle capitulated to the changes the President wanted. It was a complete victory for the President because the American people spoke on that issue.

Another one of the more amazing failures of this past Congress was our utter inability to pass the appropriations bills. This Government cannot function; no Government agency can spend a dime that has not been appropriated by the Congress. So each year we have a burden to do our jobs before the beginning of the fiscal year in October and pass appropriations bills. We work on that every year. Sometimes we do pass them on time, and sometimes we are a few weeks late and have to do a continuing resolution, but we normally get the appropriations bills done. Not this year. By October 1, we had not done our job. By the time we recessed and by the time the Senate reconvened in a lame-duck session in December, we still had not passed 11 of the 13 appropriations bills necessary to organize this Government. And they still have not been passed.

We need to be moving on those bills now. In fact, what we really need to be doing right now is preparing for the 2004 fiscal year that will begin in October. That is what we should be doing. But what are we doing? We are still working on those appropriations bills that did not pass last year. It is a historic failure because of the obstructive tactics that occurred in this Chamber. We should have done better. There is no excuse for that failure. But I really overstate the matter. We are not formally working on that now in any significant way because we do not even have committees. We do not have committees because the other side thinks just like they did with homeland security; that going forward and moving the agenda is so important they can demand and extract from Senator FRIST concessions they would not otherwise get under these circumstances. I do not believe that is healthy.

I hope Senator FRIST will reach across the aisle and do what he can to accommodate legitimate concerns, but I do not think he should be pushed be-

yond what he thinks is right. I do not think he should be shoved around where he concedes things that are not part of the historic traditions of this Senate.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. SESSIONS. I ask unanimous consent for an additional 2 minutes.

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

Mr. SESSIONS. Mr. President, I do not know if they have mules in South Carolina. I suspect they still do. I conclude by these remarks: It is said that one way to get the attention of a mule is a 2 by 4 across the head.

We had an election this past year, and I believe a critical part of that election dealt with the question of obstructionism in the Senate. The 2 by 4 has been delivered. I was proud to be sworn in, as I know the present occupant of the Chair was proud to be sworn in as the successor to Senator Strom Thurmond from South Carolina. There were 35 Senators sworn in. Twenty-two of them were Republicans. That is a pretty good 2 by 4 against those who believe obstructionism is the proper tactic.

Some on the other side think their lack of success in this election was not due to obstructionism. They think their lack of success was they were too cooperative, and they are being encouraged to fight even harder this time. If that is so, we are in for a long, difficult year, and that is why I am troubled by this extraordinary delay. It has gone on day after day, everybody thinking day after day it will be settled. It has not been settled yet.

So are we going to now start a year of partisanship and obstructionism on every issue? I hope not. I believe we need to settle this matter now, and I want to be clear and say I think Senator FRIST is doing everything possible to be fair and to work out this difficulty, and that once that is done we will move forward and we will have a successful Senate term.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

#### DO UNTO OTHERS

Mr. DURBIN. Mr. President, I have listened to the remarks of my colleague from the State of Alabama very closely and carefully, and I have a very simple suggestion of three words for the organizing resolution, and the three words are: Do unto others.

What the Democrats are proposing as an organizing resolution, in a 51-49 Senate, is exactly what the Democrats proposed to the Republicans when we had 51 votes and the Republicans had 49. We said, this is such a close division of control in the Senate we are going to offer resources which historically had never been offered to a minority but we felt that it was only fair, and here is what we said: We will give 55 percent of the resources to run the

Senate to the majority party, in that case Democrats who had 51 votes, and 45 percent of the resources to the Republicans. And the Republicans said: thank you. That is fair. That is just. We accept it.

Along comes an election and two Senate seats change, and guess what. Now the Republicans are in control with 51 votes, and this fair and just approach of running the Senate is now being rejected.

I am hearing from the Senator from Alabama that we do not understand the mandate of the American people says we are not going back to this fair allocation of resources—no, no, no. Two-thirds of the resources go to the Republicans and a third to the Democrats. Democrats get fewer offices, fewer staff, fewer people working for them, and the fact the Democrats gave the Republicans 45 percent of the resources when they had 49 votes, forget it, those days are over.

We are trying to, as the Senator from Alabama said, run over Senator FRIST. No, we are offering to Senator FRIST, the new majority leader, exactly as a proposal what we offered to the Republicans when they were in the same situation.

Our organizing resolution is simple: Do unto others. We are asking the Republicans to be as fair to us as we were to them, and they have rejected it.

My colleague has come to the floor today and said we are being unreasonable. I do not think so. When it came to allocating the resources of a closely divided Senate, we gave to the Republican minority of 49 Senators an extraordinary allocation of resources, a fair allocation of resources, and they do not want to see that happen again.

In talking about this last election, it was truly an historic election. The fact that the President's party would increase the number of seats in the House and the Senate is history making, and the Republicans deserve credit for that. Their party was successful in its campaign strategy, but to suggest that two Senate seats represent a revolution in thinking to the point where we can cast aside all of the fair allocations which we decided would be part of the future of the Senate is unreasonable to me. Why can't we play by the same rules?

Mr. SESSIONS. Will the Senator yield?

Mr. DURBIN. I am glad to acknowledge the Senator and allow him to speak on Republican time, but I want to maintain the 10 minutes I was allocated as part of morning business. I do not think that is unfair.

What we are suggesting is exactly what we gave to the Republicans and now they cannot stand it. They cannot stand the thought we would end up with 45 percent of the resources.

On the outside, people say, why are we haggling over 45 percent or 50 percent? Well, it comes down to people and staff who are working on committees, who are trying to process and

evaluate bills so we can have a lively and informed debate, and the Republicans want to deny us those resources, the same resources we offered to them. I do not think that is fair.

As for this organizing resolution, make it simple, three words: Do unto others. Have the Republicans do unto us what we did unto them in exactly the same circumstances. They say they cannot live with that. It really tells the whole story.

Let me talk for a moment about the failure of the last Congress, which the Senator from Alabama has addressed. It was breathtaking to hear his analysis of what happened over the 15 or 16 months when the Democrats were in control, how terrible it was, how things could not get done. He talked about the homeland security bill, and I remember when the Senator from Texas, Phil Gramm, came to this floor and tied up the Senate for 6 weeks and would not pass the homeland security bill because he would not allow an amendment to be called for a vote. For 6 weeks he held up the Senate, which can be done. This is the greatest place in the world to get nothing done, and we do a lot of it. The rules are designed so that nothing is done. Senator Gramm knew the rules and the Republicans knew the rules. Time and again they established the roadblocks and stopped the bills we wanted to pass.

Homeland security was a classic example. It got so bad that my former colleague, Max Cleland of Georgia, a triple amputee Vietnam veteran, a man I was proud to count as a colleague and friend, was attacked during the course of his Senate campaign for not being patriotic. He is a triple amputee Vietnam veteran, and they said in the campaign he was not patriotic because he would not go along with the Republican position on homeland security. To me, that represented the depths of campaigning in America, the absolute worst, and that is what we faced in the last election.

It is a tough business. This is not a bean bag. One has to expect give and take in this business. It is part of it. But that really represented the bottom as far as I was concerned, and that is what we are up against.

On prescription drugs, we came up with a proposal which said make it voluntary, make it universal, make it under Medicare so seniors have a chance to pay for their drugs. Who opposed it? The drug companies. Know why? Because if the Federal Government, under Medicare, offered this program we would bargain with the drug companies to bring down their prices.

They did not want to do that. That would cut into their profits. They supported the Republican version of their bills which basically gave the seniors little or nothing, and then turned around, and if people did not believe who they were supporting, look at the money they spent in the election—tens of millions of dollars in support of Republican Congressional candidates who

supported their point of view, that basically said consumers in America will keep paying the highest prices so the profit margins to these drug companies can be as high as they have always been. That was the whole story in that debate.

Frankly, when I hear the Senator from Alabama blame the Democratic Senate on the failure of the appropriations process, I might remind him the appropriations bills originate in the House and they could not get started. We passed two bills. There were 11 appropriations bills that did not pass, and still have not passed. They could not pass them out of the House because they could not reconcile the Republican caucus in the House. They put that blame on Senator DASCHLE and the Democrats. We could have done a better job. I wish we had. Frankly, some of those criticisms are weak and wrong.

Now a word about the President's stimulus package. Is it not interesting that the former Secretary of the Treasury, Paul O'Neill, said yesterday that had he continued on as Treasury Secretary, he would have not supported President Bush's stimulus plan: I would not have done it, Paul O'Neill said. I can understand why. When you look at this plan, you see there are three fundamental problems. It is not a stimulus plan. To get the economy moving, do something now. Give people spending power.

There are a lot of working families in Illinois and across the Nation. With a few more dollars, they would spend on goods and services, creating demand, creating jobs, creating opportunity. No way. This Bush approach is going to defer most of the money that will be spent for an extremely long period of time. Look at what the President's stimulus package does in the first year: 12 percent of the money he is proposing to be spent in the first year, \$110 billion; over a 10-year period of time, \$933 billion. This is not an economic stimulus. If it were, you would focus on the first year, as the Democrats have, put the money in the first year, get the economy moving again.

I live in a State now No. 3 in the Nation for unemployment. I cannot imagine that this has happened, but it has. In Illinois, there is 6.7 percent unemployment. We have lost over 20,000 manufacturing jobs in the last 12 months. The President says all the stimulus should come in years to come. What about the people losing their jobs today? Don't we want to put them back to work? Not under the President's plan.

The second problem is the nature of the tax breaks. They are fundamentally unfair. I believe this, fundamentally, when it comes to tax law: The majority of the tax benefits should go to a majority of Americans.

I have heard Republican Senators—one from Pennsylvania—say: Don't you understand? A third of the workers in America do not pay taxes.



Hey, wake up. These people are paying payroll taxes every week.

Oh, he just meant income taxes. What difference does it make if they are taking it out of your paycheck? That is what is happening to the workers who are being ignored by the President's proposal, ignored by the Republican majority in this Chamber.

Look at these benefits: Typical middle-income taxpayers, adjusted gross incomes up to \$38,000—that is at the lower end of middle income, I am sure—\$265 a year under President Bush's proposal for tax breaks. Now look at those with incomes over \$1 million a year: Under President Bush's proposal, those making over \$1 million a year will get almost \$89,000 in tax breaks. Think about that. When a citizen has \$80,000 in income a month coming in, how big a difference in your life is \$89,000?

Somebody said the other day in one of the articles, the President is standing up for minorities in America. Sure, the minority being millionaires.

Why in the world are we not standing up for the working people across this country? In my State and across the Nation, they are struggling to make ends meet. They are trying to pay the bills. These are folks who have seen their retirement income shrinking. If they are members of labor unions, they have seen their pension benefits threatened. Struggling working families in America are people who need tax breaks as well.

Take the cost of health insurance. What do you think about that? Have you paid any attention to what is happening, whether you are small business, large business, or labor union? It is breaking the bank. In my State, construction workers with good jobs, with good paychecks, come to me and say: Another year has gone by, we have \$1.50 more an hour under our contract, and I don't see a penny of it in take-home pay; it is being gobbled up by health insurance.

At General Electric, the employees called a strike because of the cost of health insurance.

And the President is saying, let's not worry about those folks, let's worry about the millionaires and give them \$89,000 in additional tax breaks. Why in the world are we not giving tax benefits to help working families and small businesses cope with the real expenses of life?

My colleague, Senator CHUCK SCHUMER of New York, has a proposal, which I cosponsor, which allows the deductibility of college education expenses. That just makes sense to me. A new couple with a new baby, and you go see them and say: Looks like his dad. Looks like his mom. Is he sleeping at night? Are you starting to save money for college for this little baby? The first thing that comes to mind: You know how expensive it is. Why in the world, if we are talking about tax breaks to help people, to spark the economy, aren't we talking about

things like that—breaks for small businesses to offer health insurance, breaks for families so they can pay for their kids' college education expenses, reductions in the payroll tax that would help every single American across the board. No way.

When this President takes a look at it, he cannot even see those people. The only people he sees are those making \$1 million a year; \$89,000 in tax breaks for them. That is not fair.

Let me tell you about something that troubles me greatly. Not only are the President's tax breaks unfair in terms of whom they help—not a stimulus, because they do not take place in the first year—the thing that troubles me greatly is we are returning to that era of deficits in America that we had under Presidents Reagan and Bush and the first few years of President Clinton: Red ink as far as the eye can see.

When you ask the Bush Cabinet, Aren't you worried about the deficits you are going to create with this tax program the President is proposing, they say that deficit is "manageable." Manageable—\$350 billion in deficit?

Let me tell you what we are doing. We are betraying two generations with the President's economic stimulus package. The first generation we are betraying is the baby boomers who within a few years are going to show up for Social Security and Medicare. For their entire lives, as long as they have worked, they have dutifully paid every single hour of every day of work into the Social Security trust fund with the understanding that when they were eligible for Social Security, it would be there and Medicare would be there. But the President's proposal is taking money—in this case, \$933 billion over 10 years—out of the Social Security trust fund, just at the baby boomers are looking for their benefits. At a time when the largest number of retirees come in, President Bush is taking more money out of the Social Security trust fund to make it more difficult to meet our obligation. Will we meet it? We will, but at the expense of everything else in our Government—at the expense of education, at the expense of prescription drugs, at the expense of helping families pay for their basic education needs and basic needs of their family. These are the topics central to this debate.

The second generation we are betraying is our children. President Bush's proposal betrays the generation of our children. Why do I say that? They have to pay off this debt. All this money that we are borrowing at this point in time in our history has to be paid back, or at least interest on it to service it over the years. The Republicans, fiscal conservatives, watchdogs of the Treasury, are digging us into this deep deficit of red ink so we can give tax breaks to the wealthiest people in America. How can that make sense?

Let me add another perspective. This is a time when usually a country cinches its belt, takes a view toward reality,

and is prepared to sacrifice. We are in the midst of a war on terrorism.

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I ask unanimous consent for 7 minutes afterwards.

Mr. DAYTON. Reserving the right to object, is there an order established right now?

The PRESIDING OFFICER. There is an order.

Mr. DAYTON. Is the Senator from Alabama asking consent—is part of the unanimous consent request—I see the Senator from Vermont is here. I ask the Senator from Vermont if he wants to add his time to the unanimous consent request, and I request 15 minutes after the Senator from Vermont.

Mr. JEFFORDS. If you want to proceed, that is fine with me.

Mr. DAYTON. I refer to the Democratic whip.

Mr. REID. It is my understanding the Senator from Alabama wishes to speak. Is that right?

Mr. SESSIONS. Seven minutes.

Mr. REID. Following the Senator from Illinois. And then following that, the Senator from Vermont wishes to speak for how long?

Mr. JEFFORDS. Five minutes.

Mr. REID. And then the Senator from Minnesota wishes to speak for how long?

Mr. DAYTON. Fifteen minutes.

Mr. REID. I ask the Chair, do the Democrats, with our allotment of time, have that much time?

The PRESIDING OFFICER. Yes.

Mr. REID. I ask unanimous consent, then, that the Senator from Alabama be recognized following the statement of the Senator from Illinois; then the Senator from Vermont be recognized for 5 minutes; then the Senator from Minnesota for 15 minutes.

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

Mr. DURBIN. Mr. President, let me conclude by saying the following: On the organizing resolution, the Republicans should offer to the Democrats exactly what we offered to them under the same allocation of seats in the Senate, 51-49, Democrats over Republicans. We offered to the Republicans 45 percent of the funding for the Senate and they took it and said, thank you; that's only fair. That is all we are asking for now. It is not unreasonable.

Second, the President's economic stimulus package is not a stimulus because most of the benefits do not occur in the first year. It is not fair because most of the money is going to people in the highest income categories. And it is reckless in terms of the deficits it is creating for this generation of baby boomers who are going to need Social Security and for our children who will have to ultimately pay for this debt.

The final point I make is this. At a time of national sacrifice, facing a war on terrorism and the potential of at

least one other war in some other part of the world, we are allocating tax cuts and deeper deficits instead of saying to the American people: Stand with us; take care; let us go through this time of crisis together and then as the economy is restored we will stand together and prosper together. Instead, we are saying: Tax cuts for everybody—as long as you are wealthy in America.

That is not the best approach to get America moving again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I strongly disagree with the characterization of the President's stimulus package as stated by the Senator from Illinois. He is a great advocate and eloquent spokesman for his values and views, but I don't agree with that analysis.

The problem we are dealing with today is that it does little good to be talking about stimulus packages, war, or other matters when we can't get the Senate organized. He challenged some of the statements I made and I want to talk about that a little bit.

First, it is indisputable that the last Congress was marked by obstructionism and failure. We produced no budget for the first time in the history of the Budget Act, almost 30 years. No budget was passed. We were not under a budget. It is a historic failure of monumental proportions.

Mr. President, 11 of the 13 appropriations bills that should have been passed by October 1 of last year remain unpassed. This Government cannot operate, cannot spend money not authorized by Congress. So we are at this moment unable to even take serious steps toward passing these appropriations bills from last year when the Senator's leadership was in control because we can't get the Senate organized.

Homeland security was held up interminably, over nothing more than labor issues, driven by the other side. After the election, the President got exactly what he wanted. The other side capitulated on that because they were not sound objections. They never were. And the American people didn't appreciate it, and they knew it, and the bill passed.

There were a lot of bills that failed last year that should have passed had we met each other halfway. Let me tell you how that year started. This is important.

Two years ago the Senate was 50-50. That changed when the distinguished Senator JEFFORDS made a decision to change last year. But when it began, it was 50-50. The Republicans had an effective majority because the President of the Senate was Vice President of the United States, DICK CHENEY, and he would have broken the tie on these matters. In an effort to work in a bipartisan way, TRENT LOTT agreed to something never before agreed to. He agreed to basically a divided Senate financing and an organization that was

historically favorable to the Democrats, because we were at a 50-50 deal, and he wanted to work in a bipartisan way the last 2 years, in the last Congress. That was a big step, to not fight but to reach an accord. Some criticized him for that but he did that.

In the course of that agreement, somebody said: Well, what happens if the majority changes in this year? We don't know that is going to happen, but over every 2-year period often things change that you do not expect. So the agreement was reached that if the majority changed and the Democrats achieved a majority and got 51 Senators, then the funding would remain the same for the Republicans so we would not have disruption in the middle of that Congress. That was the agreement reached. When Senator JEFFORDS made his change—and he remained as an Independent but he organized with the Democrats and they had 50 Democrats and 1 Independent to organize and elect Senator DASCHLE the majority leader—then the funding continued as we had agreed months before when the original resolution was agreed to.

That is what happened. That is how it is that it came out that the funding ended last year the way it did. It was not as if the Democrats made a great concession. In fact, TRENT LOTT made the concession. As part of that agreement that they worked out, they worked out how it would continue throughout that Congress, and that is what happened.

Now we are here in a situation in which every committee is chaired by Republicans, every subcommittee is chaired by Republicans, and we are back into the normal historical deal where you have a majority in the Senate—whether it is 51, 52, 53, or 54—and the majority needs funding. The majority needs other capabilities to operate the Senate so we can pass our appropriations bills; so we can pass a budget; so we can move legislation that needs to be moved.

So it is just not right to say this plan that Senator FRIST is working on to return to the historic way that we have organized this Senate throughout our lifetimes, and perhaps even more, is somehow unfair and not legitimate. It is the way we organized and the way we ought to organize this time.

So I hope we do not start this Congress with this kind of spat. I know Senator FRIST has, for days now, been working to reach an accord with which people can be familiar. I think there are some who think if they keep shoving it, the crisis in our agenda is so important that Senator FRIST will just give in. I think he will be cooperative and reach out, but there is a limit as to how far he can and should go. I know he is not going to capitulate and give in to an unhistorical way to divide the leadership in this Senate and to accept a resolution of organization that is not consistent with our traditions and the needs, frankly, of this body.

I hope this will be worked out. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### EDUCATION

Mr. JEFFORDS. Mr. President, first, briefly, I remind those who don't remember that my decision to change parties came about on the basis of education and education funding, not what we have been discussing recently. At that time, the budget had left the Senate with \$500 million to be made available for education—maybe \$450 million. But when it came back out of conference it was zero, absolutely zero.

It was at that point, in order to impress upon this Nation the importance of education and to show my disagreement with my friends on the other side of the aisle, I decided I would change over such that the Democrats would have control of the budget process and that we would not suffer the horrendous cuts which were proposed in education.

I would say right now we are still on that issue. The most critical problem we have in this Nation right now is education. I will discuss that now and try to put some light on the difficulties we are having.

Usually in times of war the question of national priorities is summed up with a simple phrase: Guns or butter. But today, I fear that the choices aren't that simple. Perhaps it is time that we retool that phrase and ask ourselves, will it be guns or butter, tax breaks or textbooks?

As the threat of war dominates our front page headlines and as we talk about stimulating our economy with billions of dollars in tax breaks, I was astonished when I turned to an inside page of the New York Times last weekend and read the headline, "Schools Ending Year Early Among Efforts to Cut Costs."

If I may quote from that story:

Fourth-grade students in Portland, OR will not read about their State's history in their social studies classes, nor will they study the metric system in math class, nor will they study electricity in their science class.

That is because some schools in Portland will be forced to slash more than a month from their school calendars this year because the money has run dry.

And Oregon is not alone in this crisis.

In California, Oklahoma—all over the country—schools are having to cut millions of dollars and they expect even deeper cuts in the year to come.

Schools are cutting janitors, cafeteria workers and substitute teachers in an effort to keep their classrooms in tact. One teacher described it as "death by a thousand cuts."

In my home state of Vermont, there is talk of whether a 4-day school week would be an option.

This all comes on the heels of last week's celebration of the 1-year anniversary of the No Child Left Behind Act.



Something is dreadfully wrong with this picture, and if we don't address this now, the consequences will be with us for generations to come.

What kind of a nation have we become that we put so little value on a school day? Every school day is sacred. It is an opportunity to expand a child's horizons, an opportunity to help a child build new relationships, an opportunity for a child to learn.

Our Nation's public schools cannot overcome the obstacles they face on the cheap. We might pride ourselves as being a superpower, yet we lag dangerously behind our counterparts in our commitment to fund education.

Of the major industrial nations, the United States ranks among the lowest in funding education at the Federal level, providing only seven percent of the costs. This figure pales by comparison when you look at our overseas competition.

Other nations hold their teachers in the highest regard, and compensate them accordingly. We do not.

I laud the efforts of the administration to boost Title 1 funding for the poorest schools, but the one billion dollar increase this year is still far short of the mark.

And I once again remind everyone in the Chamber of our failed promise to fund 40 percent of our schools' special education costs. We made that promise more than a quarter of a century ago. It is shameful that we have fallen so short.

In other nations, students spend far more time in classrooms than they do in the United States.

In China, the average school year is 250 days. In Europe, students spend an average of 190 days a year in the classroom.

In the United States, we are down to 180 days, and that number is likely to fall as school budgets are slashed, as we see happening today in Oregon.

We cannot, and we should not, stand idly by while our schools struggle with-out enough money to do their jobs. This is a national disgrace.

I understand that there are many priorities facing our Nation, perhaps too many for what our recessionary budget can afford.

But when we consider guns and butter, we must not allow textbooks to slip to the bottom of the list. The security of our great Nation is at risk, and the threat is right here at home.

We must act responsibly.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

#### COMMITTEE ASSIGNMENTS

Mr. DAYTON. Mr. President, I was listening with some amazement to the discussion last night and earlier today about the reorganization, who is to blame, and who has the interests of the American people at heart. I have been kind of astonished at the reworking of the present reality and the past history by my Republican colleagues.

I am reminded that when I arrived at the Senate 2 years ago, I waited for 5 weeks to receive my committee assignments. We had, as others have said, a 50-50 split then, and the Republicans, because of the Vice President, had the majority. But it was unprecedented. So there was some reason for this delay. But then when Senator JEFFORDS moved over to caucus with our party in June of that year, I lost my committee assignments for the next 6 weeks while once again this agreement was negotiated.

Contrary to what I have heard from others across the aisle, it is my understanding that an agreement was reached for when the Senate was 50-50, and we had a provision that the agreement would end if and when the majority in the Senate moved to one side—not that it would remain the same for that entire session of Congress.

I had no committee assignments for 6 weeks while this split of 51 to 49 was being renegotiated, despite years of precedence and how we were told the Senate should be organized and how funds were distributed when the Senate was in clear majority by one side or another.

Those who are today shedding crocodile tears for their colleagues who are denied committee assignments certainly were not at all visible 2 years ago when I was waiting for those 6 weeks for my committee assignments to be reinstated.

I don't propose that our side should act as irresponsibly as others did 2 years ago. In fact, I am told that many of the chairs and ranking members of the various committees, as they will be reestablished under Republican leadership, have already reached their agreement about how they are going to allocate funds—either 50-50 or 60-40—along the lines of what they agreed to 2 years ago. It seems to me that those who are able to behave responsibly have already come to their own agreements regarding their committees and what we are left with are those who are holding out with insistence that they are going to have their two-thirds share.

I am reminded of my mother, when I was a child growing up with my brother and sisters, who said when we were squabbling over who was going to get this or that: Well, until you can work it out among yourselves, none of you will have it. It was amazing how, back then, it was possible for my brother and sisters at very young ages to work these things out, knowing that until we got it resolved, none of us could have what we wanted. So I think that would be a good admonition for my colleagues who are complaining today about the lack of organization.

I am reminded also that when we arrived here a week ago, our new colleagues were sworn in and the next day the Republican caucus wanted to adjourn to have a conference. In fact, we on the Democrat side wanted to stay in session. Senator CLINTON had an amendment to reinstate unemploy-

ment benefits for those who lost them in December. We asked for 30 minutes equally divided to debate that amendment and to have a vote. We were told we couldn't have that; there was not time. The Senate was adjourning to the next day so the Republican caucus could go out and have their conference.

We came back on Thursday. The Republican leader—the majority leader, now acknowledged by everybody and recognized as representing the majority caucus, the Republican caucus—told us on Thursday afternoon that there would be no votes on Friday, no votes until Monday at 5 o'clock. We had a long 4-day weekend and came back. I came back yesterday. I understood that we were going to have a hearing this morning—right at this hour, in fact—to confirm the nomination in the Governmental Affairs Committee of Governor Ridge as the new Secretary of the Department of Homeland Security.

I met last week with Governor Ridge. I told him he had my support. I met with the Secretary of the Navy last week, Mr. England, who will be the Deputy Secretary. I said I hoped we would have a hearing this week on his nomination, as well, so we could pass that—I expect virtually unanimously, or if not unanimously, on a bipartisan basis.

Yesterday afternoon, I was told that the committee meeting for today had been canceled—not by the Democrats, who were fully prepared to convene today, but by our Republican colleagues from each State who in turn would be asking questions of Governor Ridge. I cannot believe that any of us are going to have any objections to this outstanding American and public servant taking over this helm as rapidly as possible. He certainly has my full support.

But the committee hearing was canceled, I suspect more for the fact that the present chairman has expressed over the weekend some ambitions of seeking the Presidency than anything else because, as I say, last week, when Governor Ridge and Secretary England came to my office to meet with me, they understood we were having a hearing this week—the Governor did—and certainly understood that the arrangement was as it was.

Of even greater concern to me is the fact that we had a briefing on national security scheduled for this afternoon, a top secret briefing for Members of the Senate, with the Deputy Secretary of Defense, the Vice Chair of the Joint Chiefs of Staff, and the Deputy Secretary of State, about the international situation in Iraq and North Korea.

We have been back a week. We have not had that briefing. I am a member of the Armed Services Committee. I have not had that briefing. At 2 o'clock this afternoon we were supposed to receive the information, of which we are certainly entitled as Members of this body in which the American people

elected us to represent their interests, and that briefing was canceled. Whether by the administration or the majority leader, I do not know, but it was not canceled by the Democratic caucus, I can assure you.

So when we talk about preventing this body from doing the business of the American people, representing the interests of the American people, I think those of my colleagues on the other side of the aisle should look in the mirror.

Frankly, for someone such as myself, and my position in seniority, this argument over funding for committees—two-thirds/one-third—gets to be a little bit surreal: Who should have a car, who should have a driver. I do not even have a car in Washington. I certainly do not have a driver. I get to work just fine every day.

If the American people knew what one-third of this budget or committee actually was, I think they would be astonished that anybody could not operate effectively on one-third of what we are talking about. In fact, I would propose, if we are really concerned about the taxpayers, as we profess, we should establish a precedent of one-third of the committee budgets for the Republicans and one-third of the committee budgets for the Democrats, and give one-third back to the American taxpayers. Give it to some needy food shelves around the country. Let's establish that for the President to follow.

Precedents get established and reestablished all the time. That would be a good one, to have the same funding for the Democrats and Republicans, regardless of who has the majority, and giving one-third back to the American people. And then let's proceed.

I might also point out that the majority leader has also announced, even if we do have an organizational resolution this week, we are going to be in recess next week. In other words, we were in session last week for a couple days, and will be in session this week for a few days, and then we are going to go off for a week. Lots of us have ideas of what we are going to do back in our States around the country, but the fact is, as others have said, we have the people's business before us.

I was delighted to see the Republican leader say that based on his priorities we would be dealing with prescription drug coverage for seniors in the very near future. I understood that was his first order of business, in fact. I thought that was just exactly the right priority for the American people.

So I suggest to the majority leader that, given these delays, let's get this organizing resolution resolved and then let's stay in Washington next week. Let's do the business of the people. Let's not leave Washington. Let's not go away for a weekend. Let's not go away for a week. Let's stay here in session until we get passed prescription drug coverage for seniors. If he kept all of us to the task, denying us our recess until we completed the business of

American senior citizens, I guarantee you we would have something done sooner rather than much later.

Mr. President, I ask unanimous consent that I have the opportunity to finish my remarks with an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, reserving the right to object, might I inquire as to how many additional minutes we are talking about?

Mr. DAYTON. I have 5 more minutes approximately, I say to my colleague, and I would ask for an additional 5 minutes.

Mr. BENNETT. I have no objection.

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

Mr. DAYTON. I thank my colleague and the Chair.

#### CORPORATE TAX DODGERS

Mr. DAYTON. Mr. President, the President announced a tax proposal last week. I call it "Leave No Millionaire Behind." He expressed his concern about the double taxation of corporate profits in America. I wish he would devote equal concern about the nontaxation of corporate profits in this country. It is estimated that now less than half of corporate profits are taxed at all. Through various tax and accounting gimmicks, some of the very profitable companies in this country not only have no tax liability whatsoever, they receive multimillion-dollar refunds from the American taxpayer.

Take CSX, for example, a company headed by the President's nominee for Secretary of Treasury, Mr. John Snow. For the last 4 years, CSX reported U.S. profits of \$934 billion. It paid, in American taxes, zero. It received rebates, in fact, from the American Treasury of \$164 billion.

Let me repeat that. CSX earned \$934 billion in profits on its American operations, paid zero taxes to the American Treasury, and received a \$164 billion refund from the American taxpayer.

I would say that is "compassionate conservatism," but it is certainly not double taxation. It is no taxation. And it is a big winner, increasingly so, on Wall Street. It is a reason that corporate income tax in this country has been a declining share of the Federal tax revenues over the last decades.

In 1960, corporate taxes amounted to 23 percent of Federal revenues. In 1970, that dropped to 18 percent; in 1980, 14 percent; last year, 10.5 percent. In other words, the corporate income tax share of Federal Government revenue is one-half of what it was 40 years ago.

There used to be an ethic in this country that business, being an integral part of the communities in which they operated, drew their lifeblood from the people of this country and from its democratic and capitalist structures, and that they had an obligation to give something back. But no longer.

The modern version of John Kennedy's inaugural refrain, "Ask not what your country can do for you; ask what you can do for your country," has become, in corporate America, "Ask what your country can do for you and what you can avoid doing for your country."

One of the most obvious and disgraceful tax avoidance schemes is the growing practice of some American companies of setting up sham corporate headquarters offshore in places such as Bermuda or the Cayman Islands. These tax-free havens permit the total avoidance of taxes for foreign operations and, in some cases, from domestic operations as well.

It is bad enough that profitable U.S. corporations can essentially renounce their U.S. corporate citizenship, but some of them continue to secure very large and lucrative contracts with our Federal Government, some even in the areas of national defense and homeland security. Evidently, they see nothing wrong with profiting off the U.S. Government and then avoiding paying taxes, even on those profits to support our very own Government.

One partner in Ernst & Young said recently: "A lot of companies feel that the improvement in earnings is powerful enough so that maybe the patriotism issue should take a back seat."

That is why last summer my colleague, Senator Paul Wellstone, amended the 2002 Defense appropriations bill to bar such corporate tax dodgers from being awarded Government defense contracts. Then he successfully amended the homeland security bill to bar those companies from getting contracts with the new Department of Homeland Security. Both amendments passed on the Senate floor by voice votes, seemingly unanimously.

However, after the November election, after Paul's tragic death, the final version of the homeland security bill gutted the Wellstone amendment. Whereas Paul's amendment permitted only the President to grant a waiver upon certification to the Congress that would be necessary for national security, the corporate callboys snuck in language that allowed the Secretary of Homeland Security to grant waivers for national security or for economic benefits.

Who could argue that tax-free Government contracts are not to someone's economic benefit? It seems if that corporate someone is big enough and rich enough to know who to call in Washington, and to pay \$1,000 an hour for what is euphemistically here called "Government relations," there is no doubt that the waiver would be granted. In other words, Paul Wellstone's legacy is going to be obliterated by waves of waivers, which is why we need more Paul Wellstones in Washington.

So, last week, to honor Paul's memory, to try to reclaim part of his legacy, I introduced the Senator Paul Wellstone Corporate Patriotism Act

that reinstates the Wellstone amendment to the Homeland Security Act. It says that corporations that have renounced their American citizenship and moved offshore to avoid paying taxes to the U.S. Government will not get business contracts with the U.S. Government, at least not with homeland security projects.

It is the least we can do for Paul Wellstone. It is the least we should do for ourselves because most U.S. companies, like most American citizens, are law abiding, patriotic, and responsible. Nobody likes paying taxes. Americans have been anti taxes since the colonial days, since the Boston Tea Party, since the rallying cry of, "Taxation without representation is tyranny."

Taxes are necessary for this country's survival, however. We have increased military spending by 23 percent in the last 2 years on a bipartisan basis, which the President requested. We have evidence that new efforts in homeland security will cost an additional \$37 billion. Operation Enduring Freedom in Afghanistan, the military buildup in the neighborhood of Iraq—all of these depend upon Americans paying taxes and everyone paying their fair share of taxes. When someone avoids paying their fair share, everyone else pays a higher unfair share. We need to reestablish an ethic in this country that tax avoidance is unpatriotic, un-American; tax avoidance is selfish, greedy, and an insult to this Nation.

Tax exemption, especially for the wealthy, whether they be dividends or estates—those tax exemptions not based on the inability to pay for social benefits such as charitable negotiation are betrayals of our democracy. They betray the American promise of better lives for everyone by all of us working together, by joining together, by pledging together, as our forefathers did, our lives, our fortunes, and our sacred honor.

This country won't work if we don't work together. This country won't thrive if the richest citizens avoid paying taxes and profitable companies put profits before patriotism. More is never enough. It is time for the American elite to say they have enough—more than enough. I urge you, don't break America with your selfishness or your greed. Pay your fair share for America. Do so willingly, proudly, and patriotically. I say to the corporate expatriots of America, come home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, are we in a period of morning business?

The PRESIDING OFFICER. Yes.

Mr. BENNETT. What is the time limit?

The PRESIDING OFFICER. Ten minutes.

Mr. BENNETT. I ask unanimous consent that I be allowed to speak for 20 minutes.

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

## ORGANIZING RESOLUTION

Mr. BENNETT. I thank the Chair.

Mr. President, we are having a debate on the organizing resolution. We have heard a great deal. The Senator from Minnesota just spoke somewhat disparagingly of what he calls "crocodile tears" on this side of the aisle and said we were trying to rewrite history.

I would like to set the record straight with a little bit of history—some that I know because I was directly and personally involved.

We all recall that the 107th Congress was unique. It was 50–50 for the first time in history. The two leaders, facing that unusual circumstance, created an unusual solution to it. However, the question of who would chair the committees was never in doubt. Right from the very beginning, it was clearly understood that since the Republicans had the vote of the Vice President for organization purposes, Republicans would chair all of the committees.

The fight over money has been exaggerated by those who have debated here. There was a protracted conversation and negotiation between Senator LOTT and Senator DASCHLE over the issue of money, but there was never any doubt that the Republicans, with the Vice President's vote, would organize the committees, and work began immediately for the organization of the committees, with the Republicans recognized as the chairs.

Now, when Senator JEFFORDS left the Republican Conference—crossed the aisle and decided he would caucus with the Democrats—I was chairman of the Legislative Branch Subcommittee of the Appropriations Committee. I had a hearing scheduled to proceed with the work of the Appropriations Committee. Senator JEFFORDS made his announcement at a 10 o'clock news conference in the morning, as I recall—I may not have the exact time correct. As I left the Senate Chamber following Senator JEFFORDS' announcement, I said to my staff: Put the hearing on hold because Senator DURBIN is now the chairman of that subcommittee.

I ran into Senator DURBIN waiting for the subway in the basement of the Capitol, and I said to him: DICK, since you are now the chairman of that subcommittee, you decide whether or not we hold the hearing. He looked a little nonplussed but said to me: BOB, don't you want to hold the hearing since you have set it up? I said: No, DICK, you hold the hearing because you are now the chairman. He said: Oh, thank you very much for that courtesy.

There were no resolutions that had to be passed, as far as I was concerned, because it was very clear that the power in the Senate had shifted and I—and I know of no other Republican—was not going to act as a dog in the manger and hang on to the technicality that no resolution had been passed in order to hold on to power for a few extra minutes, or a few extra days, in the face of the fact that the decision had been made as to who would control the Senate.

Now we come to the present circumstance: An organizing resolution determining who will be chairmen of the committees has been introduced by the majority leader, and it is being contested by the minority leader and the members of the Democratic Party. We understand now that this is a deliberate strategy that was laid down by the Democrats prior to the time this Congress was organized. Prior to the time when new Senators were sworn in, prior to the time when we gathered to meet, the Democrats had met and made the decision that they would hang on to the committee power for as long as they possibly could. We have written evidence of this in the form of an e-mail sent by Ben McMakin, who is the legislative director to Senator PATTY MURRAY, the previous chairman of the Senatorial Campaign Committee.

Senator MURRAY's legislative director, in an e-mail dated January 2, prior to the time when we met, prior to the time anybody was sworn in, prior to the time when anybody was addressing these questions formally, made these points. He begins this by saying to his staff:

Here is an update from Daschle staff on where we find ourselves at the beginning of the 108th Congress. Democrats continue to serve as chairs of all committees and subcommittees until the Senate reorganizes.

Technically, that is true. Historically, that has never been true. No party, when there has been a change in control from one party to the other as a result of the actions of the American people—those things called elections, which we usually pay attention to around here—but no party has ever tried to hang on to its control of committees when there was a transition of power from one party to the other. Technically, it is true, Democrats continue to serve as chairs of all committees and subcommittees until the Senate reorganizes, but that reorganization resolution always passes virtually immediately, and there is never an attempt on the part of the outgoing party to hang on to the power that the people have given to the incoming party.

However, Mr. McMakin makes this point:

Senate Democrats have leverage when the organizing resolution hits the floor, as it is debatable and will ultimately require 60 votes to pass.

Understand, this is not Mr. McMakin's idea. This is Mr. McMakin's report to his staff of the position of the Daschle staff. He simply was taking notes of what the minority leader staff was telling him and the other legislative directors. I will read that sentence again:

Senate Democrats have leverage when the organizing resolution hits the floor, as it is debatable and will ultimately require 60 votes to pass.

If ever there was a clear statement that prior to the time the Congress even met, Senator DASCHLE and his

staff were planning to filibuster the organizing resolution, there it is.

Again, the attitude that was on the Republican side when Senator JEFFORDS walked across the aisle, I handed the gavel to Senator DURBIN that afternoon. I handed it to him without any resolution. I handed it to him without any action, without any thought that there would be a filibuster or clinging to power because I recognized the power had changed in the Senate, and that meant if we were going to have orderly activity on the people's business, the power had to change in committees.

Here is the reality of where we are today. The Democrats are saying: We cannot allow the organizing resolution to pass until the funding issues are resolved. The funding issues are not up for resolution until the end of February because of the disarray with which we ended the last Congress, with funding resolutions and appropriations bills not passed. The funding of committees was passed in the last Congress that carries over to the end of February. We have no dispute on funding at the moment. We will have at the end of February.

We can organize the Senate and allow the committees to go forward this afternoon without disrupting the present funding circumstance. We do not need to tie the two together. The majority leader has offered the resolution just to allow the Republicans to take the gavels, nothing else. The negotiations over funding can still continue. The arguments over percentages can still go forward. And the Democratic leader is saying: No, we are going to hang on to the gavels; we are going to hang on to our technical power that is a residue of the last Congress; we are going to continue to say the election did not make any difference week after week for as long as we can.

We come to another very interesting statement by Mr. McMakin in this e-mail on January 2. He says:

January 20th recess. Daschle staff says highly unlikely that we will recess that week due to standoff over organizing resolution and delay in addressing outstanding appropriations measures.

Before the Congress even met, Senator DASCHLE knew there would be a filibuster on the organizing resolution and knew that would carry over 3 weeks, 4 weeks, on in to cancelling the January 20 recess which had been previously scheduled with, I understand, the approval of the Democratic schedulers. No, no, Daschle's staff is alerting other Senators' staffs that the recess will not take place because we will still be haggling over the organizing resolution.

I do not know how you can be more specific about a determined plan laid out in the beginning to slow down the work of the Senate, to obstruct the people's business, to make sure the effect of the election is delayed as long as possible than you have in this e-mail from Mr. McMakin.

There is one item on here I find of interest. While most of the e-mail does deal with the fact that the Democrats intend to filibuster the organizing resolution and slow down, delay as long as possible the Republicans' ability to take over the Senate and manage it, under the heading "Other Legislative Issues," Mr. McMakin has this very interesting sentence:

UI fight to resume again on first day.

Those of us who were here on the first day understand "UI" stands for unemployment insurance. That the first item out of the box when the new majority leader offered a bill, which he thought had been agreed upon by both sides and, therefore, was a simple matter of asking unanimous consent, in fact, the Democrats were lying in wait to begin the fight over again; that the unanimous-consent request would be objected to, as it was—objected to by one of the Senators who had entered into the agreement forming it in the first place. Ultimately, that got taken care of, but the strong message laid in advance by the Daschle staff, as they talked to other legislative directors, was: We are going to begin fighting the Republicans at every step on every item the first day—the first day.

As we think back over the election, with all of the punditry that goes into analyzing it, we find that different pundits come to different conclusions. Some have said the Democrats lost because they did not have a clear message. Others have said the Democrats lost because they obstructed everything the President tried to do and the voters punished them for that obstruction. And then others said the Democrats lost because they did not obstruct enough; they were not tough enough; they did not show themselves with enough backbone.

From this memo and from the actions since this memo, it becomes clear to me the Democratic leadership in the Senate has decided the third set of pundits is correct: That they lost the election because they did not obstruct the President enough, and so this time, they are not only going to try to trip him up on unanimous-consent agreements that Republicans think have been cleared in advance, they are not only going to lay traps for the majority leader when he thinks the path is clear, they are even going to go to the point of trying to hang on to the gavels as long as they can to prevent the Republicans from organizing the committees and moving forward with the committee work as long as they can so that perhaps at the end of the Congress, they can say: You see the disarray the Republicans were in, you see how difficult it was for us to have Republicans in charge; they could not get anything done.

Filibustering the organizing resolution, demanding 60 votes before the Republican chairmen can even pick up the gavels, and then complaining, as the Senator from Minnesota did, that the Republicans are shedding crocodile

tears because things are not being done the way the Democrats want—Mr. President, this is unprecedented, and I hope it is unique. I hope in every successive session in the history of this Republic, when the Senate gathers, the party which won the control of the Senate through the election is allowed to take control of the gavels in the committee as soon as the Senate gathers.

That is what I thought democracy was all about. That is how I behaved when Senator JEFFORDS changed the power in the Senate and, as far as I know, that is how every other Republican chairman behaved. We handed over the gavels without protest.

We handed over the gavels with an attempt to make sure the work of the Senate went forward smoothly. We did not haggle and complain. We just said, the Democrats are now in charge. Good luck. We will do the best we can to help.

When Senator JEFFORDS crossed the aisle, funding issues took weeks to resolve. That is a different question. Funding issues can go until February and they will not affect anybody. To tie the two of them together and to slow down, indeed prevent, the majority party from exercising majority control over funding issues that can and should be resolved at some point in the future is, in my view, irresponsible and ultimately, in the eyes of the American people, unforgivable.

I am sure there will be those in the media who will say the Democrats are just asking that the Republicans be fair. They got 49 votes, they should have 49 percent of the money.

Let me take a few moments and explain that one. If we do not deal in percentages but we deal in dollars, what is it the Republicans are offering the Democrats in funding? Forget the percentages; talk about the dollars. We are offering, as I understand it, the same dollars they had in the last Congress. What we are asking for is a few more dollars on the Republican side. That brings the Republican percentage of the total dollars up to 60, which is down from the target Senator DASCHLE set prior to the election when he was asked what the funding levels would be. He said the funding levels would be two-thirds to one-third, 67 percent for the Democrats, 33 percent for the Republicans, if the Democrats took clear control in the election. That was his plan if he had control as majority leader.

Now when he is not majority leader, he is saying they have to have 49 percent of the total funding. Using their power in the filibuster, they will give the Republicans a little bit of an administrative kicker but will not allow the Republicans to get enough additional administrative money so the total pot is divided 60/40. They have to have the Republicans under 60. That is the demand, as I understand it.

If we had a fixed amount of dollars we were debating and we were saying

we give the Democrats X percent of that fixed amount, maybe their argument for fairness might have some validity. But the fixed amount is the same amount they had been getting under the 107th Congress when they were in the majority, and we are saying we are going to add on the Republican side enough administrative dollars so the total percentages go up to 60, and the Democrats are objecting to that.

I ask unanimous consent for an additional 3 minutes.

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

Mr. BENNETT. So this is where we are. This is not a fight over money. This is not a fight over fairness in funding. This is a deliberate, predetermined, precongressional attempt to prevent the Republicans from being successful. This is deliberate obstruction, planned and announced, at least among their own troops, prepared for and carefully scripted. For the Democratic leader, through his staff, to be able to predict in advance of the Congress meeting that a recess scheduled 3 weeks later would not occur is a clear demonstration he is prepared to obstruct every step of the way, even if it means denying the party that was chosen by the people as the majority party its proper majority status.

So let us not get carried away in percentages. Let us not get carried away in false arguments about fairness. What is on the table is an organizing resolution that deals nothing with money. What is on the table for discussion is a funding resolution that gives the Democrats every bit as much money as they had in the 107th Congress.

Simple fairness to the American people who made their choice in November demands we get on with this; that the Republicans be given the gavels; that the Congress be organized, the Senate be organized; and that we move ahead to the people's business instead of to partisan monkey business.

I yield the floor, and 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. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ALLARD. We are in morning business?

The PRESIDING OFFICER. The Senator is correct.

#### CONTINUING OBSTRUCTIONISM

Mr. ALLARD. Mr. President, ordinarily I do not come to the Senate floor and involve myself in a lot of the issues that are going on at the leadership level, but I have to say I really am disappointed the leaders of the Demo-

cratic Party are continuing to obstruct the Republicans' effort to organize and to move forward with this Nation's agenda.

In the last session, we could not even pass a budget. We have appropriations bills that are waiting to be acted on as we move into this new year. My hope is we could put aside our partisan differences and move quickly forward with these pressing issues, deal with the people's business. After we finish the unfinished business of the last Congress, and after the State of the Union address, then we could go ahead and begin to move forward with the business of this new year.

Historically in the Senate, the majority party has moved ahead very quickly on the organizing resolution. It has been a standard process where two-thirds of the funding goes to the majority party and a third to the minority party.

I was interested in the reference by my colleague from Utah who mentioned there was an e-mail floating around, which he quoted, that this was actually a planned effort by the Democratic party to obstruct the agenda. I have been informed there have been previous e-mails that if the Democrat party had been in control in the Senate, they were planning to push the two-thirds/one-third breakout on funding because that has been the tradition of the Senate year after year; that is what has happened, the majority party has had the two-thirds and the minority party has been one-third.

Now we find the majority party has tried to use last year's abnormal type of session—there was nothing normal about last year's session we can use as a standard for moving forward from this point on, but the fact is historically this has been a rather standard process. I hope we can put aside this type of partisan bickering that does not have anything to do with the people's business and move forward with what historically we have done in the Senate.

Last year, Congress started with Republican control, then went back to the Democrat Party because a Republican changed parties—went from a Republican to an Independent. And then after this election, technically, we could have been back in the majority again—after the vote in Missouri. It was decided we would hold that aside and just move forward with this year's agenda.

As we enter the second week of a new year, the second week of the 108th Congress, the business of the Senate is once again seeing obstructionist politics blocking the Nation's business and our work from moving forward, getting something accomplished. I don't see any legitimate reason for this delay.

The Senate, over its many years, has abided by the clear precedent I referred to earlier, with an organizing resolution quickly agreed upon, and then we move forward with our routine business each year. Now we have the Demo-

crats wanting to change the world since they did not get their way in November.

I had one of the more contested races in the Nation, in Colorado. It is clear to me the people of Colorado are disappointed that we did not pass a budget last year; that we did not get our work done in the last Congress.

I don't think anyone wins with obstructionist politics. The big losers are the citizens of this country. We are not able to address their problems and move forward with real solutions. The people of the United States made clear whom they chose to lead the Senate. It was the same argument all over the country as in my race. Yet the minority party refuses to step aside and let the duly elected party move forward. We have a clear majority in this Congress to deal with the business of the people and the business of the country. They refuse to relinquish the power the people of the United States said they no longer wished them to hold.

We face challenging times in our Nation. Grave threats against our national security continue to damage economic confidence. Spending bills that should have been approved last year are still pending. That is right, 11 spending bills that provide funding for parks and research failed, under the leadership of the Democrats, to proceed. And they are not passing now because of the Democrats' persistence in obstructionist politics. Last year, for the first time in decades, we did not even pass a budget. Yet the Democrats still want to control.

I stand by our newly elected Majority Leader FRIST and the people of the United States. Let our work proceed. Let the will of the people stand victorious and let the continuing resolution move forward according to the clear precedent that we have in the Senate.

Newspapers across the Nation continue to report that the obstructionist politics of the Democrats have delayed the confirmation hearing of Tom Ridge, the President's choice to run the new Department of Homeland Security. My question is, Do my colleagues on the other side of the aisle truly believe the people of the United States would rather see obstruction than move forward with the Department of Homeland Security, with the effort to try to restore economic growth in this country, to finish the unfinished business we had left over from the last Congress because of obstruction politics?

The New York Times reported that until Senators adopt a so-called organizing resolution, committee chairmanships will rest with the Democrats despite the November elections that gave Republicans a 1-vote majority. The impasse creates delays in the Senate business, not only of Mr. Ridge's confirmation but also the confirmation of John Snow as Treasury Secretary, as well as consideration of the appropriations bills left over from last year.

In addition, the 11 freshman Senators cannot receive their committee assignments until the dispute is settled. Obstructionist politics of the 107th Congress continue: No committee assignments, no chairmen; newly elected Members of the Senate remain without the right to participate in discussions because of heavy obstructionism.

In my view, we must end the stalemate and get back to work. I come to the floor to reemphasize how important it is that we move forward and get the Senate's business accomplished.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry: Are we in morning business?

The PRESIDING OFFICER. We are in morning business.

Mr. DOMENICI. Are we allowed 10 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I come to the floor today to talk about a situation that is evolving with reference to who is going to run the Senate and who are going to be chairmen of committees and how are we going to pay our staffs. I don't think the American people understand this debate, so we ought to explain it quite a few times.

The election occurred. There has been a lot of talk in the country about what happened. The conclusion was: Republicans won the Senate.

Now I will go back in time to the day that the distinguished Senator from Vermont formally decided to leave this side of the aisle and become independent and was ready to vote with that side of the aisle, giving them a 1-vote majority. Before that day was up, the gavels were handed to the Democrats to run the committees. So as I had been chairman of the Budget Committee, I was no more. And KENT CONRAD, who had not been chairman, was chairman. So if any meetings were called or hearings held, the agenda was prepared by him, not me.

Now we win an election, we come into session, we convene the Senate, and guess what: Democrats maintain they are still entitled to run the committees. I believe this borders on nonsense, but to the Democrats it must mean something. Perhaps they think they win elections by delaying what we do, by not letting us do work. Last time, they did that, we got nothing done, and they lost. Maybe we should do nothing and stay in this stalemate. Maybe we will win and they will lose again. But we don't think that way. We think we ought to get on with the business that is not yet done from last year.

Remember, we were not running things last year. I am not casting aspersions, but they ran the Senate and we got nothing done. As a matter of fact, we had 11 appropriations bills that we will be debating perhaps for weeks that were last year's appropri-

tions bills. They are not finished. The year started out when that gavel was switched from DOMENICI to CONRAD and he became chairman. The Democrats never produced a budget resolution last year either.

Again, some people do not want Senators from this side of the aisle to lay blame on anyone, but a budget resolution was not passed and it is supposed to be. The answer that was given was: We do not have the votes; or: It is too hard. I passed a lot of them. We did not have the votes, and they were too hard, and yet I got them done because that was my job.

I am not saying every Senator who is chairman of the Budget Committee should produce a budget. I am saying it should have been done last year. And then we probably would have completed our appropriations bills. We probably would have gotten the appropriations bills done. Now we do not have them, 11 of them, and the other side of the aisle is waiting for something to happen other than the election, which we won, to give us the gavel so we can start to work at the Senate. Frankly, I know people are probably saying: You can't be telling us the truth. This can't be the case.

It is the case. It is the case. I am chairman of the Energy Committee now. I have been told if I want to call a meeting, I am not chairman. But I am chairman. Certainly the Democrat is not chairman. They say they are, I guess, because we have not passed a resolution saying how we are going to pay the committees. Frankly, that is another issue, how much do we allot to the Democrats and how much to the Republicans to run these committees. Frankly, I didn't think, having a brand new majority leader, the first thing that would be given to him to solve is this issue. I thought we would see him down here helping us get the appropriations bills finished and get on with what we think we were asked to do by the American people in the last election.

I think they were unhappy, at least enough to swing the election, because the other side of the aisle delayed incessantly the passage of the homeland security bill—incessantly. In fact, I should have asked how many days that bill was delayed on the floor and in committee because certain Senators on that side of the aisle did not like it the way it was. That is their prerogative. They wanted to delay it. That is their prerogative. They succeeded in delaying it. But we succeeded, with the help of a Democrat Senator who suggested to his own people: Is there a higher calling than the security of our country, even if it is a special interest bill? Ask the Senator from that side of the aisle. That spread like wildfire. That is why a couple of Senators on that side of the aisle lost: Delay, delay, special interests on the homeland bill. We barely got it finished. But we didn't get appropriations finished.

Do you know what that means? If the American people understood what that

means, more telegrams and whatever they send to us would be here on the laps of the Senators than you could ever imagine. It means literally we have not funded education, roads, all of the bills on HUD, on defense, on nuclear bombs, nuclear programs—defense we have done; all the others we have not. We have not passed the annual appropriations bills. They are operating at last year's funding levels. What they got was for 1 year. We said we didn't get our work done so just operate the same way you did last year. That is why some money is not being spent on education, because it has not been appropriated. They have not been allocated the new moneys. Up and down the appropriations bills, that is the mess we are in. And we sit here and argue about how many dollars are we going to give to the staff on the Democrat side of the Energy Committee and how much to the staff of the Republicans on the Energy Committee? I cite that because I happen to chair that committee.

All I know, fellow Senators, is that in all of modern history, whichever party was ahead—by one vote or 10 votes or 12 votes or two votes—that is, however many more Senators elected on their side, they got two-thirds of the money for staff. And the side that had a minority—whether it was a three-vote minority, a six-vote minority, a 10-vote minority, which we were in sometimes—we were in an 18-vote minority sometimes—the minority got one-third, the majority got two-thirds.

This year we are one vote ahead. It seems to me the rule has been that the party that is in the majority gets two-thirds, the other one-third. I don't think the rule said: but only if you are ahead by five votes, if you have five more Senators. What if it were two? Would that be enough to apply the rule? It has been six, it has been eight. But now it is one, but one doesn't work? It's not a majority?

Because when we were even—remember, we were even at one time. We thought we should be running the Senate because the Vice President gave us an extra vote. It didn't work out that way. We had to concede. And we split the money 50-50, or at least we said we will not force a reduction.

To me, the dollars involved in that are important, but clearly not as important as doing the public's business. They are not as important as recognizing they lost and we won, and we ought to be in control. We ought to be chairmen. Clearly, our leader is the majority leader. He is not the "maybe majority leader". If you call a meeting to have a serious hearing tomorrow or the next day, whoever the Republican on that committee who has been designated by the Republicans as chairman, is chairman.

Why we sit here and let the appropriations for all of our Government languish while we argue this issue is beyond this Senator. I truly believe the Democrats are not going to win by this



tactic. I urge them to get this resolved. The American people do not want them delaying this. They want us getting on with work together. They don't want us bickering. But how can you not have an argument when the facts are what I have just said? Apparently, unless they get the same amount of money as we had agreed upon when we were not in the majority, they believe they are not going to let us run the business of the Senate.

I think it can be worked out. It should be two-thirds/one-third, just as it was through all of history, but at least we ought to work it out some way—60–40? Some way, so we can get on with our work. One hundred Senators, many new ones, are here ready to get on with their work. How surprised they must be, the new ones, ready to go to work and here we are, arguing about who is entitled to the gavel. I don't know if all those new Senators thought that was what their work was about, but here we are.

Mr. WARNER. Mr. President, before the Senator departs, we have had the privilege of sitting next to each other for some period of time right there in the Senate. I, of course, admire him as one of the elder statesmen and pillars of this institution. I think, if people were asked what are the hallmarks because of which we have such strong admiration for the Senator from New Mexico, it would be because of his ability to reach across the aisle and work as he has always done these many years in the Senate.

So I listened carefully to what my colleague had to say. It was not easy for you to say some of the remarks you did. You feel strongly about it, as do I. Here we are with a new Republican leader and we just want the work of the institution to go on, on behalf of the people of this Nation who entrusted to us the awesome power that resides in this Senate—the institution regarded as perhaps the most powerful legislative body, not only just here in the United States in comparison to the legislatures of our States, but, indeed, the world.

I thank my friend.

The PRESIDING OFFICER. The time controlled by the majority has expired.

Mr. DOMENICI. I ask for 1 additional minute.

Mr. WARNER. Would the Chair advise the Senate with regard to the parliamentary situation?

The PRESIDING OFFICER. The time for morning business was to be equally divided. The minority party has 41 minutes left. The majority party's time has expired.

Mr. WARNER. I see. I do not at this time know—I'm not entirely sure how we say majority or minority here in this situation.

Mr. DOMENICI. That's right.

Mr. WARNER. I do not see where there is someone from the other side of the aisle seeking recognition, so the Senator from Virginia would ask for 7 minutes to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, what is the time allocation? The Democrats were allotted equal time with the Republicans. What is the time remaining?

The PRESIDING OFFICER. The minority has 40 minutes remaining. The time for the majority party has expired.

Mr. DOMENICI. We were asking for a few minutes because the Senator was not here. He was going to use some time.

Mr. WARNER. Then, Mr. President, I will put again before the Chair the request on behalf of the Senator from Virginia to proceed as in morning business for, say, 6 minutes?

Mr. REID. I am happy to agree to that. Forty minutes takes us until 12:30, when the time is up.

What I ask is that the time be extended past 12:30 for the Democrats by the 5 or 6 minutes, if that is what the Senator wants.

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

Mr. WARNER. I am sorry, I simply did not hear.

Mr. REID. I have no objection to that. I only ask the time from 12:30 to whatever time the Senator takes, 7 minutes or whatever it is, be given to the Democrats so that would be until approximately 12:40.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia.

Mr. WARNER. I thank the Chair. I thank the distinguished Senator from Nevada.

I thought I would bring to this series of comments some experience I have been privileged to have in this institution. I mark a quarter of a century of service beginning this week in which I have been privileged to serve the people of Virginia and the people of the United States in this venerable institution. I just draw on some of my own experience, particularly as it relates to the Committee on Armed Services.

Currently, the distinguished Senator from Michigan, my very good friend, Mr. LEVIN, remains as chairman of the committee. We are actively carrying forward the work of the committee irrespective of some of the difficulties we are facing on the floor as it relates to other matters. But that is the way Chairman LEVIN and I have operated through our years since we came together. Both of us mark a quarter of a century of service beginning this week in the Senate.

I am very respectful of the distinguished majority leader, Senator FRIST, Senator DASCHLE, and the respective whips in their efforts to try to negotiate a resolution to this unique situation—unique in some respects but in other respects I feel that elections are held in America and the results are announced to the people of our Nation. I know of no contest going on with regard to any of the 100 Senate seats, and

most particularly those of the class who were just elected, or reelected in my case to a fifth term in the Senate. I don't know of any contest anywhere in the States in this Nation but such contest as this which most unfortunately remains here in this Chamber.

But this is the way that I have conducted myself and as others have conducted themselves in these 25 years that I have been here as it relates to the Committee on Armed Services.

I suppose if I were to say what some of the great lessons are that I have had as a Senator it would have been my service with men—and in some instances several women but most particularly the men—on the Armed Services Committee. I say women because when I was Secretary of the Navy I appeared before Margaret Chase Smith of Maine, an absolutely brilliant Senator and stalwart member of the Armed Services Committee. But Senator Stennis was chairman of the Senate Armed Services Committee, who followed in the tradition of Richard Russell. I really stood in awe to testify before Russell when I was Secretary of the Navy at the time I knew him in that period of time. When I joined the committee, Senator Stennis really took me under his wing and just sort of treated me almost like an adopted younger brother. It was a marvelous experience. He gave me a variety of special assignments when I first came to the Senate to serve him and the other members of the committee.

Another Senator on the committee at that time was Scoop Jackson of the State of Washington. For those few of us here in the Chamber who had the opportunity to serve with him, he touched our lives very deeply.

These men not only carefully operated under the rules of the Senate, but there was so much tradition and unwritten sort of rules of the Senate that they conveyed to us.

Following Stennis, Senators Gore and John Tower; and then my longtime valued friend, Senator Nunn—I served as ranking on the committee under Senator Nunn as I do now under Carl Levin.

But I thought I would go back and just describe how we handled the transition when Senator JEFFORDS made his decision, which decision was an incalculable blow to the Republicans who served with him in this institution because there had never really been a precedent at any time when the change of power in the Senate shifted other than by elections. It was unprecedented.

But on May 24, the declaration of independence statement was made by Senator JEFFORDS. And from May 26 to June 3, the Senate was in recess. On June 5, 2001, Senator JOHN WARNER, acting as chairman, presided over an Armed Services Committee nominating hearing. At the close of the business on June 5, the Democrats became the majority party in the Senate when Senator JEFFORDS switched formally his

party affiliation from Republican to Independent. On June 6, Senator CARL LEVIN was designated chairman of the Committee of Armed Services. On June 7, Senator LEVIN, as chairman, presided over the Armed Services Committee nominating hearing and other business of the committee.

There it is. I had waited some 20 years through this procession of seniority. Then we have an election process in our conference. I became chairman and served in that 2-year period—some 18 months, whatever it worked out to be—after 20-some-odd years of training and preparation to take on that awesome responsibility. In less than 24 hours, I stood up as I was trained as a military man and handed the gavel to Senator LEVIN, and the business of the committee went on.

That is sort of the transition, and that is the sort of spirit we have in that great committee on which I serve. We try to keep to a very minimum questions of partisanship because we have the responsibility for the men and women of the Armed Forces and, indeed, the security policies in terms of oversight of this Nation. We take that responsibility very seriously. As such, I am proud to say that I think Senator LEVIN and I have continued the traditions of those men who we deem great, great chairmen of this committee.

I hope this casts some light on the negotiations that are being undertaken on our behalf by the leadership because I certainly value it. We took our blow when Senator JEFFORDS made his switch. But I think to the man and to the woman on this side of the aisle we did it, and we did it swiftly and in recognizing that the leadership in this Nation should never be in doubt.

If I could just reminisce on one story that I remember so well. I was working on the staff of the Vice President of the United States, Richard Nixon. I was traveling with him in 1960—as we call it, an “advance man.” I had the last assignment of taking him to California that night when the nationwide election was held. The following morning I made the arrangements to convey the Vice President back to Washington. The election was still not fully decided in the minds of a number of people, primarily because of the celebrated block of votes in Chicago allegedly under the control of the then-mayor, the father of the current mayor, Richard Daley. But, in any event, we proceeded to the airport. I put the Vice President's plane on the end of the runway because we wanted to try to remove ourselves as much as possible from the clamor of the press watching the final results of that election unfold.

There was a mechanic who had come out to make certain the plane was operative before we departed. We loaded all the staff. I then escorted the Vice President and Mrs. Nixon out, and one or two of his senior associates. The mechanic had a small radio that was blaring about these 10,000 votes. I watched the Vice President at that

time instruct one of his aides to call in and say that he would not contest those votes because at no time did he feel there should ever be a doubt in the minds of the American people or in the minds of the world of the ability of the elections of this country to decide the change of power.

Right there at the end of that airstrip when that decision was made, it was conveyed back to President Eisenhower, and that was it. That night, we came back to Washington and he formally conceded that election. I think that is an interesting precedent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the minority has until 12:40; is that correct?

The PRESIDING OFFICER. That is correct.

### CRY UNCLE

Mr. REID. First of all, I am not going to spend a lot of time talking about the organizing resolution. I think we should follow the Durbin plan of government, which he enunciated here today—the golden rule: Do unto others. We are willing to take what we were given last time by the Republicans. And the Senate has changed; last year at this time, there were 51 Democrats; now there are 49. Today, there are 51 Republicans and 49 Democrats. We can take the same thing that we were given. That is what this debate is all about.

There were four boys in our family, and my wife and I had four children. We have kind of followed a tradition that I am sure is in a lot of families with boys. When you wrestle and do other things, one of the rules I had with my brothers and my children is, if there is a little too much wrestling, or maybe you are putting on a little too much pressure, let him cry uncle on it; then you stop.

I think the time has come with this, as reported in a number of accounts yesterday, bizarre, foolish, crazy tax plan the President has given us. I think it is time that he cry uncle because it simply won't work. Even people from his own party—U.S. Senators—are saying enough. I think what they are saying in so many words is: Please cry uncle, Mr. President.

You can look at what some journalists have had to say. David Broder said, among other things:

The dividend tax would likely deepen the growing budget deficits. The first round of Bush tax cuts will cost more than \$1.3 trillion in revenue over the next 10 years.

Kevin Phillips said, among other things:

The congressional leadership and the White House are so wedded to an economic policy keyed to helping those at the top that they lined up behind what is really a program to make stock dividends into a 10-year, \$300 billion individual income tax shelter. This isn't just trickle down economics. The benefits to the rest of the economy, even to

the stock market, are so conjectural that trickle down looks to become misting down.

That is by Kevin Phillips, a Republican.

All we need to do is look in the Washington Post, which has run a story by a man by the name of Allan Sloan, a Newsweek Wall Street reporter. He writes for Newsweek. The Washington Post ran this story. Among other things, he says there are too many leaps of faith in the Bush tax cut plan. He says that the debate is focused largely on the question of fairness and affordability.

I ask unanimous consent that the full column of Allan Sloan be printed in the RECORD.

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

#### TOO MANY LEAPS OF FAITH IN BUSH TAX-CUT PLAN

(By Allan Sloan)

Do you remember those happy bygone boom days when the stock market was going to save us from a variety of ills? Rising stock prices would solve the problem of Social Security shortfalls; boost federal, state and local income tax revenue; and let us all retire young, rich and happy. It never happened, of course. And now that stocks have been in a three-year funk, we the taxpayers are being asked to bet around \$500 billion on the dubious proposition that we can jack up stock prices by changing the way we tax dividends. And that higher stock prices will bring back the good times so many of us got used to in the late '90s.

What I'm talking about, of course, is the dividend tax cut that's the heart of the proposed economic stimulus package from President Bush, our MBA-in-chief.

The debate has focused largely on questions of fairness and affordability, which are certainly important. But lost amid the din are some important unanswered questions, such as whether a \$33 billion-a-year dividend tax cut can really provide serious help for an ailing \$10 trillion economy. And whether a dividend cut whose benefit is concentrated among a small number of high-income households is a better way to jump-start the economy than House Democrats' proposals to send out millions of one-time checks in the \$300-to-\$600 range. And, finally, whether we should even be trying to stimulate the economy with tax cuts, rather than letting it seek its own path.

Bush's proposal is designed to eliminate double taxation of dividends. That's when a corporation pays taxes on its profits, then pays out after tax money as dividends to investors who pay tax on them.

Bush's plan, simple in sound-bite form but horribly complex in the real world, would make some cash dividends that companies pay tax-free. But a company's status depends on how much income tax it paid the IRS. So you wouldn't know what to count on from year to year.

The Treasury estimates that the dividend package will reduce tax revenue by \$364 billion over 11 years—my \$33 billion-a-year number. But we'd have to pay years of interest on a larger national debt, hence my \$500 billion cost estimate.

You've got to take several leaps of faith to believe a \$33 billion cut can bring back the good times. The leaps look like this: Cutting dividend taxes jacks up stock prices. Higher stock prices make capital cheaper, encouraging companies to expand, adding jobs. Combine these jobs with the good feelings

that higher stock prices would generate among the populace and people run out and spend, stimulating the economy big time. That's enough leaps to give you shin splints.

This is actually a simplified version of the thesis floated by economists including R. Glenn Hubbard, head of Bush's Council of Economic Advisers. At various times, Hubbard has said that eliminating dividend taxes would raise stock prices by 20 percent or 10 percent or 7.5 percent. He's co-written papers asserting that dividend taxes depress stock prices. But academic opinion is divided on the subject. Besides, who'd risk \$500 billion on an academic theory? Not me.

When you enter the real world, you run into more problems with the dividend-cut-to-the-rescue plan. To wit: About half the dividends eligible for this break go to non-taxpayers, such as pension funds and retirement accounts, for whom tax cuts are irrelevant. Besides, the big players who drive stock prices—professional traders, hedge funds, mutual funds—are generally rated on their results without taking taxes into account.

Finally, the double-taxation problem is smaller than it used to be. That's because corporations pay less income tax (as a percent of profits) than they did before the advent of aggressive corporate tax shelters, and dividends are far lower, relative to stock prices, than in the pre-'90s days.

If we're going for quick stimulus through tax cuts—which I'm not sure would work—I'd take the Democrats' version. If we want to fix a long-term problem, I'd reform the hideous alternative minimum tax. The AMT, a complex trap designed three decades ago to keep richies from ducking taxes entirely, has morphed into a monster that threatens millions of middle- and upper-middle-income people.

The Bush tax package would mitigate the problem through 2005; Treasury types told me it would return in 2006. But the Bushies can produce happy tables showing middle-income people benefiting today. *Apres moi, l'AMT.*

Even though I think the idea of reducing dividend taxes to stimulate the economy is not likely to work and would be a terrible waste of public money, I love the way the Treasury tax types want to implement it. Instead of just making all dividend payments tax-free, which is what I thought would happen when I wrote about this last month, Treasury has come up with an elaborate plan to make sure that only stockholders of tax-paying corporations benefit from this break.

One of the side effects of this proposal—which I doubt that many people in the White House realized—is that each corporation would have to announce every year how much in federal income taxes, if any, it had paid.

Can you imagine the uproar when someone made a list like that public?

Alas, even if this plan gets passed, I doubt we'll see this type of disclosure. For what I'm sure are perfectly good reasons, Treasury would allow companies to count foreign income tax credits as taxes paid to the United States. So you can see corporate America lining up to seek more loopholes—add back the deductions for pollution bonds, employees cashing in stock options, state, local and social Security taxes, all sorts of other high-minded stuff—until the disclosures would become meaningless. But you've got to commend the Treasury people for being intellectually honest.

Letting corporations deduct interest payments but not dividend payments has skewed balance sheets toward debt. That's bad. But the way to fix it is to let corporations deduct dividends the way they deduct interest. That idea "had a short shelf life," a Treasury tax techie said last week, because it's much more costly than Bush's plan.

The idea that cutting dividend taxes will save us should have a short shelf life, too. This is beyond voodoo economics. It's just a mistake. Call it booboo economics.

Mr. REID. He says, among other things:

Letting corporations deduct interest payments but not dividend payments has skewed balance sheets toward debt. That's bad. But the way to fix it is to let corporations deduct dividends the way they deduct interest. That idea "had a short shelf life," a Treasury tax techie said last week, because it's much more costly than Bush's plan.

Last paragraph:

The idea that cutting dividend taxes will save us should have a short shelf life, too. This is beyond voodoo economics [which was a term President Bush number 1 used in the campaign against President Reagan]. This is beyond voodoo economics. It's just a mistake. Call it booboo economics.

Mr. President, the economic tax plan the President has given us is bad. It is something that is doomed to failure. If it passes, it will wreak havoc in this country. I hope that people of good will, Democrats and Republicans, will prevail upon the President to have him cry uncle and come forward with a reasonable proposal.

Mrs. BOXER. Mr. President, if my friend will yield for a question.

Mr. REID. Yes.

Mrs. BOXER. I know my colleagues are here. I have one point I want to make, and then I am leaving the floor. I think it is an important point. I wonder if my friend can let me know if he agrees. I think America is now learning who benefits from this Bush plan. It is very clear. It is not rhetoric; it is fact. It is a boon to the millionaires and the billionaires, plain and simple. I know people in this very Chamber who have come up and said: This is absurd. We would much rather see a country that invests in its children, invests in its homeland security, and that gives tax breaks to those in the middle. They are fighting to stop this ill-advised plan. You have made the case that it makes no sense. We are talking about deficits as high as the eye can see and people being rewarded who don't need to be helped. It is not going to stimulate this economy. In the long term, it will lead to outrageous deficits.

I ask my friend this question: Isn't it bad enough that this is a plan that won't do what we need; namely, have stimulus and long-term prosperity? Isn't it worse that at the same time the President is saying let's cut all these taxes for the millionaires, he is shorting homeland security and education? Our colleague, PAUL SARBANES, said it best when he said we ought to call this plan "leave no millionaire behind."

We have President Bush sign a bill called Leave No Child Behind. We are going to get a bill pretty soon here that breaks the promise he made to the children of this country. He stood with Senator KENNEDY, he stood with Congressman MILLER, the champions of education and children, and now he will not fund it because he wants to

give the money back. He is not funding homeland security, and our States are suffering as a result.

So the juxtaposition of these two things—a plan that does not do the job, plus shorting our people in terms of education and homeland defense—isn't this a time that we have not seen ever before, a dangerous time for our people?

Mr. REID. I say to my friend from California that there are some at 16th and Pennsylvania Avenue who have tried to place upon the Democratic Senate that we are creating class warfare. My response to that is, we have not created class warfare; they have.

I know the Senator from the State of California represents approximately 35 million people—35 million people. The Senator from California has had wide-ranging support over the years from poor, middle class, and the Senator from California received lots of support from very wealthy people. We are not opposed to rich people. They are good for the country. But Senator HARKIN and I were here on the floor yesterday, and both of us, from the State of Iowa and Nevada—and I would like to hear from the three Senators on the floor—with New York not being here and Texas not being here, the most populous States in the Nation—Florida, Illinois, and California. I would like to know if you have had a ground swell of calls, people calling you who are rich saying please do this; it is good for the country.

I say to my friend from California, for Michael Eisner—and I know him—this tax boondoggle would give him an extra \$2.6 million every year. Michael Eisner does not need that tax break. Michael Eisner does not want that. I say to my friend, is there anyone who has received phone calls from rich people saying: Please take away this dividend? No, they would rather, as the Senator from California said, that the money be spent on making us more secure in the form of better educated children, better protected citizens in our hometowns. The Senator from California is right on target.

Mr. DURBIN. Will the Senator yield?

Mr. REID. I will be happy to yield.

Mr. DURBIN. I accept the Senator's invitation for comment. I can remember a comment made to me, even as I stand here. The CEO of a Fortune 500 corporation in Chicago, when I visited him and said: Do you believe the President's approach, tax breaks for the highest income categories, is the right way to stimulate this economy? He said: Of course not; we have to create demand for goods and services.

He told me: I am not very popular in my country club.

Here is what I told him. Throughout history, millions of Americans have sacrificed; they have given their lives to make this a great Nation. Is it too much to ask the wealthiest people in this country to pay their fair share of taxes? I do not think it is too much. These are people who have been blessed

with creativity, skill, energy, and success, and to say they are the ones we are going to continue to reward defies any logic. Why are we not trying to reward and help the struggling families who are trying to pay their basic bills?

Take a look at this chart. In terms of the Bush tax cut, the benefit for those making about \$40,000 a year is \$265, but if you happen to be a millionaire—\$1 million of annual income—the Bush tax cut is worth almost \$89,000.

PAUL SARBANES was right—and I am going to credit him for this only one time and never again—the Bush tax cut is clearly a policy of leave no millionaire behind.

Mrs. BOXER. Every year?

Mr. DURBIN. Every year this is what it comes down to. Frankly, this is the average annual tax cut for millionaires, an annual tax cut of \$89,000.

What does the President cut to provide these tax cuts? Money for schools. Under his program, the education legislation, No Child Left Behind, the schools have all the mandates for testing, for evaluation, and for improvement, but the President will not put the money on the table. This is a President who posed for those holy pictures with the leaders in education in Congress, saying he was the education President, and yet when Mitch Daniels and OMB had a chance to write a budget, they did not put the money there. It is an unfunded mandate to the States when the States are desperately in trouble. The President cannot find the money to fund education, to fund his bill, but he can find money for a tax cut for the wealthiest people in America. He has abandoned No Child Left Behind so he can embrace a tax policy of no millionaire left behind, and that to me is unforgivable.

That is the difference in the approach between the two parties, and that is the difference we need to dramatize as we talk about tax policy and spending policy in this Congress.

Mr. NELSON of Florida. Will the Senator yield?

Mr. REID. If I can respond to the Senator from Illinois. Senator HARKIN has done a wonderful job working with Senator SPECTER on the appropriations subcommittee dealing with Health and Human Services, Labor-HHS, and he has done a lot for making sure we have money for school construction. We do not have nearly what we need. A little bit helps.

The unfunded school construction in this country today, as we speak, is \$189 billion. The average school in America is 45 years old. A lot of places, Florida and Nevada especially, have rapid growth and need to build new schools, and school districts are at the limit of what they can do with floating bonds.

The Senator from Illinois is absolutely right. I was in the Chamber when the Senator from Illinois said schools are cutting back to 4-day weeks. When we are fighting to keep up with the demand of modern education, we are cutting back a day of these

young kids' lives. I think it is just awful.

I so much appreciate the Senator from Illinois bringing to our attention that we have to take care of priorities. Where are these tax cuts coming from? It is not as if there is a big building someplace down at 16th and Pennsylvania Avenue where they can go in and start hauling out wheelbarrows of money.

Mr. DURBIN. Will the Senator yield? They are coming from the Social Security trust funds.

Mr. REID. Absolutely.

Mr. DURBIN. When baby boomers are about to retire and counting on Social Security, we are going to have the trust funds even deeper in debt, and the debt we are leaving behind is for our children and grandchildren. This approach betrays two generations: the baby-boomer generation and our children, who are going to have to pay off the debts incurred to give tax breaks to the wealthiest people in America at this moment in history.

Mr. REID. To Michael Eisner, who does not want a tax cut—he has not told me that, but he does not need it. That money is going to Michael Eisner, and children in America are going to school 4 days a week. Not fair.

Mr. NELSON of Florida. Will the Senator yield?

Mr. REID. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

#### STIMULATING THE ECONOMY

Mr. NELSON of Florida. Mr. President, I wish to discuss this same issue and do it with a different approach. We have been talking about the unconscionable cuts in education. We are about to see some huge cuts in homeland defense. A lot of this burden is being shifted to the States.

On the question of local law enforcement and the question of port security, my State of Florida has 14 deep-water ports. The ports are an obvious target for those who are trying to do bad things to us. Right now only 3 percent of all the containers coming into this country are, in fact, inspected. A lot of this financial burden is being shifted to the States with the cuts that are being proposed in this coming appropriations bill to homeland defense.

Wait until there is another attack, and then what is going to be the answer when this administration did not insist on an appropriations bill that would fully fund the adequate protection for this country's homeland?

To come back to the issue of a tax cut, coming from Florida, I have a lot of folks who are retirees with a percentage of the population that is well above the national average—that is 65 and above—and, therefore, a lot of our population looks to income from dividends. In an ideal world, it would certainly be good if we could cut the tax on dividends and eliminate it, but we are not in an ideal world. We are in a

war. We have increased expenses for war and, at the same time, we are in a sick economy.

We need to get this economy moving again. We need to stimulate this economy. How can we do that? We can do it by putting dollars in the pockets of everyone across the board so they will spend and let those dollars circulate through the economy and, thus, rev up the economic engine.

There is something else we can do with regard to business. We can give business the incentive to invest in more plant and equipment in the short term to create more jobs and to get the engine of the economy stoked up again. How can we do that? We can accelerate depreciation—not 5 years from now, not 3 years from now, but accelerate depreciation in the next year.

If we are looking at what works with regard to stimulating the economy, it would be my suggestion—and I think this is common sense—we pick tax policies and tax cuts that will directly do that now, not some hoped-for stimulation several years down the road.

When we balance that against all the needs in a huge deficit situation that is being projected as \$250 billion in this present fiscal year—in other words, we are spending \$250 billion more than we have coming in in tax revenue. When we realize that the sick economy is, in part, a reflection of lack of confidence of the American people in the future of the economy because of the deficit spending, while at the same time we are going into a war where we are going to have more expenditures, then the tax cuts that should be used should be surgically and strategically determined in order to stimulate the economy.

It would be this Senator's opinion that even though I would like very much to eliminate the tax on dividends and that would help a lot of my people, the first requirement of our people in Florida and this country is to get this economy moving again and to stimulate the economy. We could be much wiser in how we approach our ultimate decision on this stimulus of the economy through a tax cut.

I have been quite disturbed by what I see emerging as a means of cramming an appropriations bill down the throat of Congress by bringing about a number of major cuts in homeland security and education. The mechanism that is being employed is under the gun of shutting down the Government at the end of this month. A continuing resolution is being proposed, which is a resolution that continues the funding of Government under last year's appropriations levels, up through the end of this month, but there is a threat of shutting down the Government on January 31 unless there is a new continuing resolution or continuing funding of the Government. There are huge cuts being proposed in homeland security and education but some of us are going to fight that as not in the best interest of this country.

Ultimately, we are being maneuvered into a position, are you going to shut down the Government by refusing to enact a continuing resolution or are you going to accept that and accept it at last year's levels, which would totally not have our country prepared for the defense of this homeland? That does not make sense to this Senator, and that is not in the interest of my State particularly since it seems as if whatever happens often happens first in Florida.

Anthrax happened. We even had a kid flying a plane into a tall building. We have the threats in the 14 deepwater ports in Florida of what kind of cargo could come in that would never be inspected. It could not even come in on a commercial cargo ship. It could come in on a pleasure craft. So many of the ports of this Nation have deepwater access all the way up to a highly urbanized downtown area. There is the opportunity for mischief by those who want to do damage to the United States.

I urge upon my colleagues that we be very careful as we approach these decisions on the appropriations bills, and on the concurrent decisions on tax policy, that we do what is in the interest of the defense of this country and also in the interest of the stimulus of getting this sick economy moving again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to speak about the need to truly stimulate our economy and create jobs and how we can do that in a way that is fair for everyone, that puts dollars back in the pockets of middle-class Americans who we know literally drive the economic engine by buying cars, homes, clothes for their children, groceries, and all of the other purchases that keep our economy going.

I have grave concerns about the so-called economic proposal that has come from the President. In fact, it does not meet the definition of that term, and I have great concern because it does not put the majority of money back in the pockets of people who drive the economic engine.

We can come together on issues such as eliminating the marriage tax penalty, increasing the child credit, and helping small businesses, which by the way are the majority of new jobs being created today. The majority of new jobs is coming from small businesses. We need to be focusing on ways to help small businesses pay for their health care and to have the kinds of incentives they need to invest back in their companies so they will grow.

When we look at the proposal the President has brought forward, if we were to come together, we could easily pass relief as it relates to the marriage tax penalty, with bipartisan support. We could easily pass increases in the child tax credit on a bipartisan basis. We could easily support small business in ways that we can provide tax relief and other kinds of support.

The problem is two-thirds of the President's plan, the vast majority, does not do any of that. Two-thirds of the plan is focused on the very top income earners in the United States who already have one, two, or three homes, multiple cars, and who are not necessarily going to be spending these dollars back into the economy, at the expense of everyone else.

When we look at what this proposal from the White House means to Americans, taxpayers with incomes of over \$1 million would get back an average of \$88,873, almost \$89,000 coming back to them. The majority of taxpayers, the typical middle-class taxpayer in the United States of America, would get \$265. That is a huge disparity.

Some say, well, if we talk about the differences, if we talk about the fact that the majority goes to those at the very top, we are engaged in class warfare. With all due respect, that is a bunch of baloney. We are talking about how we can fairly put money into people's pockets. We want to make sure the majority of the middle-income taxpayers, the ones who are keeping the engine going, have tax relief and get dollars back in their pockets. Of course, that happens in a variety of ways. Tax relief is one. This kind of a difference is not fair. It is simply not fair.

There is another way to make sure we have money in people's pockets. That is to make sure we are not exploding the national debt and causing interest rates to rise. There is another kind of tax on people we went through in the 1980s and the 1990s. That is high interest rates. When citizens buy an automobile—coming from Michigan, I am very interested in people buying a lot of automobiles, a lot of domestically made, American-made automobiles; we want people to be able to afford that—high interest rates affect your ability to buy that new car. High interest rates affect your ability to buy your new home, or to be able to afford to send your children to college. Interest rates which directly relate to the national debt affect how much money goes in people's pockets.

This proposal of the President is not fair on its face. We are looking at the top .2 percent, 226,000 millionaires, receive more than half, almost two-thirds of all of the tax cuts being imposed; 68 percent of the people receive \$15 billion; and .2 percent of the taxpayers get \$20 billion. It is not fair on its face. If you add in the fact this is a proposal that will greatly increase the national debt on the back end, what we are doing is saddling these middle-class taxpayers and our baby boomers—of which I am one—and our children and grandchildren with more debt. We will increase interest rates and take more money out of people's pockets.

Mr. REID. If I could ask my friend from Michigan to withhold. The majority leader is on the floor with important business.

The PRESIDING OFFICER. The majority leader.

## COMMITTEE RESOLUTION

Mr. FRIST. Mr. President, I will take this opportunity to update Members as to where we are in the process. We have been working in very good faith—I might add, frustrating in many ways, but very good faith—making progress over the last 8 or 9 days. That is the committee resolution. As I pointed out earlier this morning and last night, in order to get on with the Nation's business, it is important to organize our committees so Members can be on committees. On the Republican side, we began this process, assigning Republican Members to their various committee assignments. I assume, that being very basic, the other side has done that as well.

The American people do want Congress to continue to tackle the challenges we face today as a country, homeland security, the issues surrounding the spending bills and appropriations bills from the last Congress.

## CONCLUSION OF MORNING BUSINESS

Mr. FRIST. I ask that morning business be closed, and I now send a resolution to the desk which would make majority party committee appointments.

Mr. REID. I have no objection to morning business being closed.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is now closed.

## MAKING MAJORITY PARTY APPOINTMENTS

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 18) making majority party appointments to certain Senate committees for the 108th Congress.

Mr. FRIST. Mr. President, I hope we can agree to this resolution in short order. Following its approval, we will proceed to the minority committee appointments, which will allow the Senate to begin the real work.

Mr. REID. On behalf of the minority leader, and I spoke to him just before coming out here, the Democratic leader and I have spoken. He feels, as does the majority leader, that we need to try to move this organizing resolution along, and both leaders have worked and assigned staff to work on it. It is moving along. We hope it can be accomplished very quickly. We are both going to go now to our weekly party conferences and this will be discussed at length with other important matters before the Senate.

I, on behalf of the Democratic Senate, understand the frustration of the majority leader. We had the same problem a year and a half or so ago. It took a while to resolve that almost 6 weeks. I certainly hope this does not take that long. I appreciate the manner and tone

that the resolution is offered. Of course, it is fully debatable. We hope it does not have to be fully debated.

It is my understanding now that morning business is closed and the Senate will recess, is that right?

The PRESIDING OFFICER. The Senate will proceed with consideration of the resolution.

#### RECESS

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

There being no objection, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

#### MAKING MAJORITY COMMITTEE APPOINTMENTS—Continued

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to share some memories with my colleagues. As I watched what is going on in this body, I was trying to think of something. I have seen this before. It is sort of a *deja vu* all over again. I was thinking back to maybe 14 or 15 years ago when my son was playing T-ball. You remember T-ball? That is the kids' game.

The kindergarteners played T-ball. They had a lot of fun. But in one game we had a problem because after the other side was out, they had their outs and they were finished, they wouldn't put down their bats and go out in the field. They didn't want to play the game. They thought that once they had been at bat they were going to stay at bat, even though their side was out and it was time for them to leave.

The more I thought about it, the more I thought maybe that is what is happening in the Senate today. We had an election and the people of America sent some new Republicans, a new Democrat or two, to Washington, and they established a 51-to-48-plus-1 majority. I mean, 51 is more than 48. It is more than 48 plus 1. It seems to me it would be common math, it would be reasonable politics, it would be just common civility, to say once you have a majority and the people of America have voted for members of the Republican Party to be the leadership, to be the majority party in the Senate, it ought to move forward.

All the time I have been here, once we have had an election we have shifted power, if there has been a shift in power. A year and a half ago when one of our Members switched and we lost the majority, I handed over the gavel immediately to my ranking member and she became the Chair. That is because this is a democracy. That is how this is supposed to work. We are supposed to have reasonable rules.

But today I am reminded of that T-ball game when the side that was out, they had lost but wouldn't put down

their bats and go out in the field. Guess what. The game can't go on. Everybody is a loser.

This is not a T-ball game. This is time to handle the business of this Nation. The people of America voted for us. They voted for Republicans and Democrats. They voted for House Members and Senate Members because they expected us to come to Washington and be serious about doing the people's business.

One of the defining marks of democracies in the modern day is that there is a peaceful transition of power. The winners take over and lead. The losers relinquish their leadership and join in the governmental efforts. That is the rule in democracies throughout the world.

Here is the U.S. Senate sticking out like a sore thumb, an exception to the principle that when there is an election and there is a change of power, the winning side takes over. This is truly regrettable when we have so much business to be done. We have all the business that did not get done last year. Unfortunately, I believe the leadership last year would not let us go to a budget.

They wouldn't let us pass appropriations bills. As a result, we are now funding 11 of the 13 appropriations bills for the jurisdictional functions of the Federal Government based on a continuing resolution. Things have changed. We need more money for these functions. We need to pass appropriations bills. We are ready to move on appropriations bills, but we can't set up a committee. We can't get the committee set up until we pass a resolution and find out who is on the committee.

This is a serious failure to live up to our responsibility, to do the work the people of America have a right to expect us to do. The longer we wait, the more difficult the appropriations process is going to be, and the more difficult it will be for us to do this year's work, which is to do the 2004 appropriations bills.

There are a lot of things we really shouldn't even have to bother with on the floor. The T-ball team is not just keeping the bats. They are saying some of our people who have assumed new leadership positions can't even get into leadership offices.

This is a new day. This is 2003. There was an election in November of 2002. The people in the United States by their votes said you as Republicans should move forward. We can't do that. We can't do that until we get cooperation.

This is a body that operates on common decency, respect, and civility. It works on unanimous consent. Obviously, we can't get unanimous consent. We haven't so far. There are a lot of arguments in the negotiations. But the fact is we need to get on to the people's business. I can tell you, I know our majority leader, BILL FRIST. He is a man who is more than willing to make de-

cent provisions for the minority, and he will do that. But nothing we say is good enough. We can't move forward in this circumstance.

I think that is a real tragedy. We have a lot of work to do this year. We need to confirm judges to make sure our judiciary works. We need to pass an energy bill. We are looking at possible hostilities in the Middle East where we face potentially a cutoff of some of our supply of petroleum. What are we going to do about it? We haven't had an energy policy for 9 or 10 years. Our energy policy bill last year was blocked. This year wouldn't it be nice if we allowed the Energy Committee to work on a bipartisan basis and report a bill out to the floor, then vote on it, send it over to the House, work in conference, and bring it back to vote it up or down? We ought to be doing that. But we haven't done that.

There are some who suggest maybe the Democratic Party lost the election because they were obstructionist. I happen to think that is true. I happen to think that was one of the most telling arguments in campaigns in which I participated. People of America don't want to see obstruction, roadblocks, and red tape. There are others who say, Well, maybe the Democrats lost because they weren't confrontational enough and they weren't obstructionist. It looks like those people have won the day, or at least they are calling the shots. I believe many of my Democratic colleagues would feel the way I do. They know the election is over. They know we have some very important work to do this year. We have to do the basic appropriations to get the Government operating and to fund programs. We need to do an energy bill. We have to do a highway bill this year.

If you are worried about where we are going to get stimulus, as some of my colleagues on the other side of the aisle said, we need stimulus to make sure we have a highway bill that continues funding of the vitally important construction on our Nation's highways. That is one of the most important bills we are going to have to pass this year. But we can't do it when we can't even get the Senate organized.

I am very discouraged. I am very discouraged that we have run into this problem. I hope the people who are listening or watching back home will call, write, or e-mail. I guess you can't write anymore. You can't write us here. You can write to our offices in our States, call, and send faxes and messages, and tell those of us who are in the Senate it is time for us to get to work.

All of last year I waited to bring an appropriations bill to the floor under the good leadership of my colleague and friend who was chairman at the time. I am still waiting to bring an appropriations bill to the floor. It is a bipartisan bill. It is one we have worked on. We will work on it together, and it will be a bill which we hope reflects the



interests of people on both sides of this aisle. But we can't do it until the other side lets us move forward.

A lot of people do not understand the Senate is a deliberative body. It requires unanimous consent. Most of the time I have been here, we have been a deliberative and decent body. We are a decent body, and we will move forward. But now we have become the world's greatest dilatory body. We can't get anything moving until the other side lets us.

We need a stimulus bill. I will address that later.

I think the President has put forth a good plan to help families. A typical family of four with two wage earners with a combined income of \$39,000 would receive a total of \$1,100 in tax relief. The Council of Economic Advisers said the plan would create 2.1 million jobs over the next 3 years.

As one who has spent a lot of time since I have been here working for small business, I can tell you this is a bill small business needs. We in the Small Business Committee have long urged an increase in the amount of expenses a small business can do from \$25,000 to \$75,000. So the smallest of the small businesses under \$300,000-plus revenue can write off immediately and they don't have to go through depreciation and write off against immediate income capital expenditures up to \$75,000.

Second, by bringing the reduction in individual rates forward, you are benefiting small business. Twenty-three million small businesses are taxed as individuals. They are set up either as proprietorships, partnerships, or subchapter S corporations. So those 23 million small businesses are taxed at the individual rate. Putting this money back into their pockets will give them the money to hire workers, to invest and to expand and grow their business.

That is an argument for the day when we actually can get to work in the Senate and we can have committees. God bless the committee system. Have them work and have them put out bills. They have to put them out on a bipartisan basis. We will bring them to the floor, and we will debate them and discuss them and work on them on a bipartisan basis. Unfortunately and regrettably, that can't happen until this gridlock is broken.

I call upon my colleagues on the other side of the aisle to recognize the tremendous needs. These are more compelling needs than in previous years because we didn't get our work done last year. Let us get over this gridlock—this deadlock. Let us get going with the business of the Senate.

I urge all our colleagues to come together and work on this. I hope we can do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague from Missouri for his statement. I wish

to make a few additional comments as well.

This is my 23rd year in the Senate. Every 2 years we have passed an organizing resolution within a couple of days of the House and the Senate reconvening—almost always on the first or second day; always within a week. Every 2 years for the last 20-some years we have done that within a couple of days. This year we haven't because our friends and colleagues on the Democrat side have objected. I am embarrassed by their objection. The resolution the majority leader introduced is basically pro forma. It should have been done on the first day. It recognizes the newly elected Senators and the committees on which they have chosen to serve. It also recognizes the new chairmanships as a result of the elections.

That is only appropriate. It is only proper. It is only fitting. It is normal course. It is standard practice. And it should have been done by unanimous consent, without any objection.

It has happened every year I have been in the Senate—or every other year. We do it at the beginning of every new Congress. But this year, for whatever reason, our colleagues on the Democrat side decided to object. They indicated they would filibuster. I urge them not to. I urge them to keep in mind we do serve and are privileged to serve in probably the greatest deliberative, elected body in the history of the world. Senator BYRD may come over and talk about the Roman Senate, but certainly this rivals the Roman Senate. But this is not our finest hour.

If the Democrats are saying, wait a minute, we are going to insist on maintaining chairmanship of the committees, they are really refuting the elected will of the people which they made clear last November.

In my term in the Senate, there has been a change in leadership and a change in committees done automatically, within a couple of days. It happened in 1981, as a result of the 1980 elections. It happened in 1987, as a result of the 1986 elections. It happened in 1995, as a result of the 1994 elections. It happened in the year 2000, as a result of the Senator JEFFORDS switch. And it happened immediately. There was no prolonged debate on this side, saying: Wait a minute. This is not fair. As a matter of fact, gavels were handed over.

So it is almost as if the minority party or the Democrat Party said: Wait a minute. We don't want to be in the minority so we are going to delay process indefinitely. I just read an e-mail that basically said that. It said: We will continue to chair.

I am or will be the new chairman of the Budget Committee. I scheduled a hearing with Alan Greenspan, Chairman of the Federal Reserve, to testify today. I had to postpone that because of this embarrassment. I am embarrassed for the Senate. I love this institution. And to see our colleagues on the other side denigrate the reputation

of the Senate, by falsely trying to assume that they maintain chairmanships of these committees, is ridiculous.

So I urge my colleagues—I see the assistant Democrat leader and whip. I urge my colleagues: Enough. Let's think of the institution. Let's think of the Senate. Let's think of the traditions of the Senate. Let's think of regular order in the Senate. Let's think of the reputation of the Senate and not fall down into this kind of partisan ploy to obstruct.

And now I have read a letter that said: Well, we don't want to get this solved until we get a certain ratio of money. You are going to get plenty of money for committees. I think everybody knows that. Or maybe: We don't want to do this until we have an agreement on square footage in each office space. That is ridiculous. Those negotiations usually take months.

Or now I see a letter that says: Well, we don't want to have an organizational resolution until we have an agreement on the confirmation of judges and how many will be taken up at what time. That is, again, totally ridiculous, totally out of line, totally contrary to the great traditions of the Senate.

We are all, I think, proud to serve in the Senate, but this is denigrating to the Senate. We need to think of the reputation of the Senate. We need to show other countries, which have struggling democracies, that you can have a transition of power, and it can move very seamlessly and very smoothly and very appropriately, and not have something such as this lingering. What kind of example is this to set for other countries that have aspirations for democracy to see this kind of episode?

This is not our finest hour. This is an embarrassment. So I implore our colleagues, for the sake of the Senate, for the institution in which we have the pleasure and privilege to serve, for the Constitution, that we should work together, that we should have a smooth, seamless transition of power within our body, within our committees, and let's work together.

This is not a good start. The tradition of the Senate is, when we come back from election time, and we come back from Christmas break, and holidays, that we are in a good spirit, and that we shake hands, and that we put elections behind us and say we are going to work together for the good of the country. And, oh, yes, maybe in the second year, at some point—late in the second year—we will start worrying about elections.

Now it seems as if people are more worried about the elections. We have everybody announcing they are running for President, and Presidential elections are starting 2 years in advance. And the Senate is already somewhat in a quagmire, not even operating because some people think: Well, maybe we will be better off if we just

obstruct. We will not even let the committees organize. And I read that in an e-mail.

That is not the way to run the Senate. That is not the way to serve in the Senate. So again, I implore upon my friends—and I have many friends on the Democrat side—let's think of what is right for the institution, for this body, for democracy as a whole, and let's work together.

We have a lot of unfinished business to do. Maybe people do not want to do it, but we have 11 out of 13 appropriations bills that have not been passed from last year. We are already in fiscal year 2003. We have already finished 3 months of fiscal year 2003. We need to finish those appropriations bills. We need to have those amounts fixed so we can base that for the 2004 budget.

We have a lot of work to do. We have international threats, certainly in Iraq, possibly in Korea. We have a war on terrorism. We have a lot of work to do that is far more important than partisan gamesmanship. We need to think of what is important for our country. We ought to at least have a grace period where we put partisanship aside and where we work together for the good of the country.

I urge my colleagues, let's do what the tradition of the Senate has always done; let's reorganize now. Let's do it without objection. Let's work together. Let's finish some of our unfinished business. And let's work together to tackle some of the real critical problems we have confronting our country today.

Mr. REID. Mr. President, I want to, before the Senator leaves, quote the Senator, make a couple comments, and maybe have the Senator respond to a question. Would that be permissible to the Senator from Oklahoma?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield the floor?

Mr. NICKLES. I have not yielded the floor. I would be happy to yield the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Oklahoma and I have had the good fortune, at least from my perspective, of working together on a number of items while we have served together in the Senate. We had served together on the Legislative Branch Appropriations Subcommittee for a number of years. I think we did some good things for the institutions, both the Senate and the House. I enjoyed and have appreciated working with him. We also worked on the Interior Appropriations Subcommittee and, I think, did some good things for the country.

So the only reason I say this is that I have great respect and admiration for the distinguished senior Senator from Oklahoma. I have very rarely known him to speak anything that was not factual, but I would like to just bring one thing to the Senator's attention today that really was not factual.

This is not a direct quote but pretty close: Within a couple of days after an election there's always been a reorganization to take place—words to that effect. My friend said he was embarrassed because there has not been one that has followed this tradition during the 108th Congress.

I say to my friend, I know you have a good memory, so this must be something that you forgot, because during the 107th Congress, when we became the majority party, it took us 6 weeks to organize.

Now, I do not think that Senator FRIST—

Mr. NICKLES. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. NICKLES. That would be what year?

Mr. REID. The year 2001.

Mr. NICKLES. Correct me if I am wrong, but at what date did we pass a resolution announcing the chairmanships of the committees?

Mr. REID. Six weeks after Senator JEFFORDS changed parties.

Mr. NICKLES. No. Correct me if I am wrong, but in January of 2001, we passed a resolution quickly, announcing who would be committee chairs.

Mr. REID. I don't really know that. We had a lot of negotiations because it was a very unique situation. We had 50–50, of which the only time that happened previously, that I am aware of, was in 1880.

Mr. NICKLES. I did not serve in 1880. But I still believe that early in January we passed a resolution announcing who the committee chairs were. And I also believe—correct me if I am wrong; and I am happy to be corrected—after Senator JEFFORDS switched, we had an automatic transition of who was to be committee chairmen, and I believe that happened in June of 2001.

Mr. REID. From the time he switched to the time we, in effect, were able to go forward on the basis of the new majority, it took 6 weeks.

Mr. NICKLES. If the Senator will yield, again, I think he announced he was switching, but I think he delayed it until we passed the tax bill. As a matter of fact, if memory serves me correctly—and I am stretching it—I believe Senator JEFFORDS announced his intentions to switch, and some of us tried hard to dissuade him from that. I believe he also said his switch would not be effective until after we passed President Bush's tax bill, which took a few weeks, which we did pass; and I believe shortly after the conclusion of passing that bill, he did announce his affiliation as an Independent but his alignment with Democrats; and I believe—I may well be corrected—shortly after that, not when he announced his intention, but after he announced he would do that, after we passed the tax bill, there was a transition of power almost immediately in all the committees.

In the Jeffords case, it was a little different because that wasn't an elec-

tion, that was a switch, and that was not as a result of elections, that was a unique scenario. This is not a unique scenario. We have had 108 Congresses, and every Congress, until now, to my knowledge, after convening at the beginning of the Congress, has elected its chairmanships and assigned committee members. We have 10 new Senators—11, if you count Senator LAUTENBERG who haven't even been formally assigned to committees. I was scheduled to have a hearing with Chairman Greenspan. I will have seven new members on the committee, and we could not have them sit in on that hearing. How absurd is that?

I urge my colleague—I will refresh my memory on the Jeffords case, but let us work together. This is so unlike the tradition of the Senate. I see my colleague from Maryland here who I know has a love for this institution. This is denigrating to this institution and sending a terrible signal to those other countries that have fledgling democracies, to say, wait a minute, there was an election and a change in power but the Democrats are not relinquishing that power.

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

Mr. REID. I am happy to.

Mr. SARBANES. Since my colleague from Oklahoma is drawing me into this matter.

Mr. REID. If the Senator will withhold for a moment, I would like to respond to the statements made by the Senator from Oklahoma.

First of all, I agree; I think it would be tremendous if we could have this reorganization resolution passed 20 minutes from now. But it is more than chairmen appointing members to committees. I think turnabout is fair play. As Senator DURBIN said, the golden rule should apply here, and that is that we have the same status as when the Senate was 51–49 Democrats. It is now 51–49 Republicans. We will take the deal that we gave them, the same deal. We want the same makeup as when we were 51.

I agree that we should do something about appropriations bills. I agree that we should not have Presidential campaigns as long as they are. But the issue before the Senate is not that. The issue is, why can't we have the same rules that were in effect 3 months ago in effect today? Simply because the roles are reversed and we have a new majority, that doesn't mean the new minority has to take a lot less.

I yield to my friend from Maryland.

Mr. SARBANES. It is my understanding that what is holding up the organizing resolution is a difference in the course of organizing, how we allocate resources, and that all this side of the aisle is seeking, now that it is in the minority, is that we be treated the same way the other side of the aisle was treated in the last Congress when they went into the minority; is that not correct?

Mr. REID. The Senator from Maryland is absolutely correct. This matter

could be resolved, as I indicated a few minutes ago, in 10 minutes. The only thing we want is the same rule that applied when the Senate was 51–49 Democrats.

Mr. SARBANES. In other words, all we are seeking is that the majority now accord us as a minority the same treatment that we accorded to them when they were in the minority and we were the majority. That seems to me an eminently reasonable and fair thing to be seeking. I cannot, for the life of me, understand why we cannot quickly reach an understanding on that basis and move the organizing resolution.

Mr. REID. Mr. President, I respond to my friend because here is what they have done. They have a resolution before the Senate now that says what we want to do is appoint chairmen and members of the committees and we will leave the rest to further negotiations.

The Senator from Maryland is much more experienced than I. But the Senator from Maryland and I both know that if the chairmen and members are placed on the committees, this is all over with and the committees will wind up with far less resources and the ranking members will not be treated as we treated theirs. It will be a totally different ball game. We want to have the same ball game and the same rules as were applied when we were in the majority. That seems fair.

Mr. SARBANES. I say to the Senator, my understanding is that we have treated the organizing resolution as encompassing the allocation of resources in the past.

Mr. NICKLES. No, we have not.

Mr. SARBANES. We certainly did so in the 107th Congress. In the 107th Congress, when it came to that question and we became the majority, we accorded, I think, a very fair and eminently reasonable treatment to the minority, and that is all we are seeking in the current circumstance. I don't understand what the problem is or the difficulty in accepting that arrangement. That is what I don't understand.

Mr. REID. I will also interrupt and say this to my friend: One of the reasons this is going on—and we kind of beat around the bush and dance around it—the majority had a really serious problem after the election; that is, they were having trouble finding out who was going to be the Republican leader. Prior to Senator LOTT stepping down, Senator DASCHLE and Senator LOTT had a number of communications and conversations and meetings as to how they would proceed. That took weeks and weeks after Senator LOTT gave the speech we all know about now, and just recently they chose a new leader. It has put us behind. It is not our fault.

All we want is to be treated exactly the same—not one iota differently—as we treated them; that is, let's use the last 18 months during the 107th Congress as the model for how we should be treated today.

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

Mr. REID. I am happy to yield to the Senator without losing my right to the floor.

Mr. SARBANES. It is my understanding that there was, in a sense, a delay on the Republican side in terms of choosing their leader and then being in a position to discuss these issues with our leader, Senator DASCHLE. I have not raised the issue about that being a factor in the delay, but obviously it is part of the matter. But now that that has been resolved, it seems to me we ought to be able to reach a fairly quick agreement here if we simply abide by the concept of reciprocal treatment.

It seems to me that we tried very hard in the last Congress to be fair about this. I think we were fair and eminently reasonable. It seems to me a fair and eminently reasonable request now that the same treatment be accorded to us in the minority that we accorded to the minority in the last Congress. If we could accept what I think is an almost elementary principle, this matter could be settled, and could it not be settled in very short order?

Mr. REID. In a matter of minutes. The resolution before the body today makes the appointments for Republican members of the committees. That is all it does. It doesn't take into consideration all the other things that make this complicated body function, which is through the committee system. As anybody reading the basic text of how the Senate works knows, we operate through the committee system. We are not a committee of the whole. We work through committees.

We have tried to establish fairness in the distribution of resources and certainly membership on the committees. When there is such a close division between the majority and minority, one of which was caused by the death of Senator Paul Wellstone—he was killed, unfortunately—as a result of the very closeness of the Senate, 51 to 49, which it was just last year, why shouldn't we have the same rules dealing with committees now as we did then? That is the whole point.

I am happy to yield to my friend. I have the floor.

Mr. NICKLES. I yielded to my colleague.

Mr. REID. Mr. President, I will be happy to give him the floor.

Mr. NICKLES. If the Senator would.

Mr. REID. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have a couple comments. One, I am going to be very strict when people start engaging in dialog and not going through the Chair. The Senate is a great institution. It is not a little chat club. I am warning my colleagues, they should go through the Chair.

To say that when we do a Senate reorganizing resolution, we are supposed

to solve staffing allocations, room allocations, and now blue-slip policies on appellate court judges, that is absurd. It has never been done.

In the last Congress, after the Jeffords switch, there was a reorganizing resolution. It did mention staff, and it should not have.

Mr. REID. Should or should not?

Mr. NICKLES. Should not have. That was the breaking of a precedent in every Congress of never mentioning the funding resolution.

Mr. President, 1977 was the first time funding was ever raised, and I do not believe it was part of the reorganizing resolution. It did say the minority should get one-third.

Mr. SARBANES. Will the Senator yield?

Mr. NICKLES. I will not yield.

Mr. SARBANES. Just for a question.

Mr. NICKLES. I will not yield. My point being, the tradition of the Senate has always been to adopt a resolution announcing the individuals serving on committees and that this person or that person will be chairman of a committee. That has always been the tradition of the Senate.

We broke tradition last year, and it was a terrible precedent to set because now if we are going to do a reorganization now, we have to negotiate wages, staff allotment, space allotment, and now people are trying to bring in blue slips. They are trying to drag in all kinds of issues so basically they can obstruct the Senate. That is absurd.

Let's pass the resolution as we have done for the last 200-some years in the Senate, and say: Here is the organizing resolution; here are the committees on which you will serve.

I have been in the Senate for 22 years, and that is what we have done in at least 21 out of the 22 years, and I would venture to say we did it 22 out of 22 years. The aberration being in the middle of last year after the Jeffords switch in 2001. I believe that was a mistake. Obviously, it was a mistake because we can have the Senate tied up in knots for weeks discussing all kinds of trivial issues that, frankly, should be decided by the Rules Committee, not by the Senate, not by reorganization.

Reorganization is assigning individuals as chairmen and new members of a committee so they can serve on their committees; so we can staff the committees; so we can have hearings; so we can have Chairman Greenspan today; so we can have hearings on nominees; so we can get our work done; so the chairman of the Appropriations Committee can bring forward the unfinished business; so we can move on and discuss space allotment.

We can discuss staff allotment, and we can discuss blue-slip policy in committees which have their work cut out to work on those issues. It should not be in a reorganization resolution. That was a mistake last year, in my opinion. It was the first time we did it, I believe—this is now my 23rd year—for 22

years we always adopted a resolution that said: Here are the committees.

Now people are trying to put on more bells and whistles: Before we do committees, we have to get this. That is absurd. That is designed to fail. That is designed to obstruct. That is designed to say: We are not going to let you chair this committee unless you give us our way on blue-slip policy. Now we are going to give Senators vetoes on circuit court appellate judges which we have never had? It is a case of maybe the minority not wanting to relinquish their majority or wanting to pretend they are the majority just to obstruct the majority that is trying to get some work done. It is really indefensible.

Again, I implore my colleagues who love this institution, let's work together. Let's adopt this reorganizing resolution. It does exactly what my colleague from Nevada said. It says: Here are the committee chairs; here are the members of the committees. The minority needs to adopt the same resolution: Here are the members of the committees. Then let's go to work.

The funding issue is not that big an issue. It is very close to being solved. The space allotment is not that big of an issue. It is close to being resolved. But it should not be resolved as part of this resolution.

This resolution says who will be committee chairs, and we should adopt it today. There is a lot of serious work that needs to be done. Let the Rules Committee do its work. That is what the Rules Committee is for, to divvy up space and work on allotments.

I worked with my colleague from Nevada, and I am very interested in being fair on space and being fair on committee allotments, but that should not be done now. What should be done now is to adopt this resolution so we can have a confirmation hearing on the nominee for Treasury Secretary and so we can have a hearing on the nominee for the Department of Homeland Security, so we can have Chairman Greenspan testify before the Committee on the Budget about the economy so we can move our Nation's business forward, so we can take up the appropriations bills and try to get caught up on some of the work on which we are behind.

It is absurd to tie it to getting this and that; we did it last year. Last year was unique, and maybe we did not solve it right. Let's look back at the tradition of the Senate and at all those struggling democracies around the world. They look to us with great pride. When they visit the United States, they love to come to the Senate. They want to see a functioning democracy.

In my years in the Senate, we changed power, we changed chairmen several times and always did it smoothly and seamlessly, but this year we are not, and that is not a very good example for us to set.

I urge my colleagues, let's step back a little bit. Let's move off this partisan

excitement in which people are engaged, and together solve some of these other problems behind closed doors, as we usually do, in a way that is satisfactory to all. We can do that. To say we are going to filibuster this resolution and you can never be chair until we do such and such—frankly, I find it demeaning to the Senate. I do not want to say that. I do not want it to happen. I love this institution, and this situation is denigrating to this great institution. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I listened with great care to my colleague from Oklahoma, and I certainly agree with his point about seeking to sustain, maintain, and enhance the institution of the Senate. But I say to my colleague from Oklahoma, I am going to be the ranking member now of the Banking, Housing, and Urban Affairs Committee. That is a consequence of the elections that took place in November, and I recognize that. But our ability to do our job in the committee is closely related to receiving adequate resources and staff resources with which to carry out our responsibilities.

Unfortunately, that issue has been put in some question. I do not quite know why this has happened, although I understand there are some on the other side who want to really do a very radical shift from the allocations in the previous Congress when the margins were so close. Of course, that has created a lot of concern and apprehension about the ability then of the minority to meet and carry out its responsibilities.

I cannot, for the life of me, understand why we cannot in short order reach an agreement that would be encompassed in this organizing resolution that the allocation of resources to what is now the minority would parallel the allocation that was made by this side of the aisle when it was a majority to the Republican minority in the last Congress.

I do not understand what the difficulty is with that position. Of course, the fact that there seems to be some difficulty only increases the degree of concern in terms of what lies in wait.

Mr. NICKLES. Will the Senator yield?

Mr. SARBANES. And only reaffirms what is perceived as a need to work this matter out in the course of organizing for the 108th Congress.

Mr. NICKLES. Will the Senator yield for a comment?

Mr. SARBANES. I yield for a question without losing my right to the floor.

Mr. NICKLES. I do not want to get into the funding because I do not believe it belongs in this resolution, but my understanding is that the offer the majority leader has made is that the committee is going to be held whole, that the amount of staff money for the Banking Committee would still be there for the next Congress, so there

would not be a radical shift; there would be ample funds. I wanted to make sure the Senator was aware of that.

I ask the Senator if he is aware of the fact, not counting the last Congress, that in every Congress going all the way back to 1993, Banking traditionally had a two-thirds/one-third, but the majority leader is not talking about going back to two-thirds/one-third; he is basically talking about giving the same amount of money that was allocated last year.

Mr. SARBANES. Let me say to my colleague, as a consequence of what occurred in the 107th Congress and the very close divisions that took place, and indeed the assertion by what was then the Republican minority of the necessity of protecting their staff positions, we developed a new understanding with respect to the allocation of resources, something that many Members have been arguing for over a number of years. So the position that is being advocated by this side is simply reciprocity on the basis of what was done in the 107th Congress.

In fact, I ask my distinguished assistant leader, am I correct that what is now being sought by the minority is reciprocity in terms of being treated in the 108th Congress as we treated the minority in the 107th Congress? Is that correct?

Mr. REID. The Senator is absolutely factually correct.

I further say to my friend from Maryland that my friend from Oklahoma talks about blue slips. We just attended almost a 2-hour conference and there was no decision made that this would be part of the organizing resolution. There is an issue going on about leadership space, but that has nothing to do with this organizational resolution.

So in answer to my friend, all this stuff about blue slips and space has nothing to do with the organizational resolution. All we want is to be treated the same way we treated the minority when we were in the majority—simple, direct, factual.

Mr. GREGG. Will the Senator yield on that point?

Mr. SARBANES. I yield for a question.

Mr. GREGG. Is it not true that the resolution before the Senate has nothing to do with money either; that it simply deals with the appointment of Members to the committees and the chairmanships of those committees?

Mr. SARBANES. That is what the resolution is, and that is the basis of the complaint. It is our assertion that the organizing resolution ought to at least encompass the allocation of staff resources and that the minority now should receive a treatment on that issue comparable to and paralleling what the other side of the aisle received when they were in the minority in the 107th Congress.

Mr. GREGG. Will the Senator yield for a further question?

Mr. SARBANES. Certainly.

Mr. GREGG. Is it not true that the resolution, as brought forth by the majority leader, is consistent with all the resolutions that have been brought forward in the last 10 Congresses relative to the language in that resolution specifically applying only to the membership of the committee?

Mr. SARBANES. It is not consistent with the resolutions brought forward in the 107th Congress when we first encountered this very close division between the two sides of the aisle.

Second of all, even if it is inconsistent, it seems to me, given what we are hearing in terms of what at least some Members on the other side—not all of its Members, as I understand it, but what some of its Members intend to do in terms of staff allocation, it seems to me perfectly reasonable, since our ability to carry out our responsibilities as a minority is closely related to that question, for us to seek an understanding and an agreement right at the outset on that very important issue.

Mr. GREGG. Mr. President, will the Senator yield for a further question?

Mr. SARBANES. Certainly.

Mr. GREGG. Is it not only the tradition but the legally appropriate action that in a constitutional democracy, where there are two major parties, when a majority takes control of a body within that constitutional democracy, the committees be chaired by the majority party?

Mr. SARBANES. Under our constitutional system, we recognize the rule of the majority but we protect the rights of the minority. That is a fundamental principle of the U.S. Constitution, and indeed it has been a fundamental principle in the operations of our various institutions under the Constitution.

No one is arguing the proposition of who will become chairman of the committees, I recognize that, but we are asserting that in the course of making that decision, we need to make also the decision with respect to the allocation of resources for staff, which is an important dimension of both the majority and the minority being able to discharge their responsibilities in the operations of this institution.

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

Mr. SARBANES. I yield for a question.

Mr. REID. The Senator from Maryland raises a most important issue. When I speak to townhall meetings and especially when I speak to government classes—high school, even elementary school, and college classes—whenever I am asked about the Constitution, I always say what my friend from Maryland said—that the Constitution was not written to protect the majority; the Constitution of the United States was written to protect the minority. The majority can always protect itself. Rules, regulations, and laws that flow from this little document are so devised to protect the minority, and that is what this is all about.

That is why I felt so at ease during the last Congress—because we protected the minority; we did not run over the minority. In fact, their resources were allocated almost identically to what ours were because the Senate was divided 51 to 49. As the Senator from Maryland has said several times today, that is all we want. We want to make sure that the resources are allocated just like they were in the last Congress.

Mr. SARBANES. In fact, when the Senator from Oklahoma was speaking, he was making the point how people would come from other countries, particularly fledgling democracies, to see the Congress of the United States, particularly the Senate, and how we wanted them to draw the right lessons from seeing the Senate. One of the most important lessons they need to draw in the fledgling democracies is the necessity of respecting the rights of the minority. In instance after instance, they have been prepared to exercise the majority rule but they are unwilling in these emerging democracies to accord proper respect to the minorities within them which, of course, are also an essential part of making a democracy work. That essentially is all we are seeking to do in this instance.

I repeat what I said before. For the life of me, I cannot understand why we cannot reach agreement in short order since what this side of the aisle is seeking is simply reciprocity, seeking to be treated now as the minority the way we were willing to treat the other side when they were in the minority in the last Congress.

Mr. GREGG. Will the Senator yield for a further question?

Mr. SARBANES. I will yield for a further question.

Mr. GREGG. It will be the last one. I agree with the purposes of protecting the minority. That obviously is one of the core elements of our structure of government. My question is this: Under a constitutional government that has a two-party system, when there is an election, is it not appropriate and, in fact, an obligation of a majority which loses its majority to turn over the chairmanships of the committees which operate that government and operate that house to the party which has taken the majority? And is it not the sole purpose of this resolution to accomplish that goal, to establish the committees, and thereby establish the majority party as having the chairmen of those committees? And why is the minority not respecting this understanding of our form of government? Why deny the ability of people who assume the chairmanships of the committees as majority Members of the party?

Mr. SARBANES. It is very simple. We think the compass within the organizing resolution would be an assurance of what is now the minority in terms of the allocation of resources so we will be able to meet our responsibilities. We are not asserting the majority

will not assume the chairmanships of the committees. Obviously they will do so. In fact, I stood out here a little while ago and said I recognize now I was on my way to being the ranking member instead of the chairman of the Banking, Housing and Urban Affairs Committee.

We are simply saying, and it goes right to the point the Senator raised about the workings of the institution, part and parcel workings of the institution is to include within the organizing resolution an understanding with respect to the allocations, particularly since Members of the majority—not all Members, but some Members of the majority—have been very outspoken in asserting a position that would significantly deny to the minority adequate resources to meet its responsibility and which is directly counter and in marked conflict with the way the majority was treated in the last Congress when they were a minority.

Mr. GREGG. Would the Senator state to me, at this time is the Senator the ranking member of the Banking Committee or is the Senator the Chairman of the Banking Committee?

Mr. SARBANES. At the moment I am still the chairman because we have not passed the organizing resolution. I am quite happy to pass an organizing resolution which will make me the ranking member, but I want that organizing resolution to contain in it an understanding with respect to the allocation of resources so I can be certain we will be able to meet our responsibilities; furthermore, an allocation of resources comparable to what is now the majority received in the previous Congress when they were a minority.

I don't understand why the other side of the aisle will not accord to us now the same treatment, the same fairness, and the same equity which they received in the previous Congress. Why won't you do that? I ask that question. Why won't they do that? If they were to do that, we could conclude an organizing resolution in very short order.

In fact, I ask our assistant leader, is it not the case if we were able to receive the same treatment on this allocation of resources issue we extended in the last Congress when we were the majority, that we would be able to wrap up the organizing resolution in short order?

Mr. REID. Ten or 15 minutes.

Mr. GREGG. If the Senator will yield for one last question, the Senator from Maryland has now declared himself the chairman of the committee.

Mr. SARBANES. If the Senator will yield, I didn't declare myself; it is still the operating premise since we have not passed a new organizing resolution.

Mr. GREGG. Is the Senator from Maryland in the majority party in this body?

Mr. SARBANES. I am no longer in the majority party, but the organizing resolution to reflect that fact has not yet been passed.

Mr. GREGG. You made my point.

Mr. SARBANES. I have been careful in the committee not to exercise authorities as chairman.

But I repeat my question that goes to fairness and equity. I cannot for the life of me understand why what is now the majority in this body will not extend to the minority the same treatment we were prepared to extend when we were the majority and the other side was in the minority in the 107th Congress. That is all we are seeking—reciprocity. If we could obtain that, we could conclude this organizing resolution in short order.

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

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

Mr. ALLEN. Mr. President, I wish to make a few observations after listening to this debate.

When I came to the Senate and watched procedures and arguments, I came fairly quickly to the conclusion I never wanted to become accustomed to the way people think in Washington. In listening to this debate and wondering why we cannot vote on Senate Resolution 18, which very simply states who the chairmen are of the various committees and also determines who the Members are from each party on those committees, not an unfair but a very fair allocation of committees and spaces and seats on the committee based upon proportional representation. It is 51–48 plus 1, so, one extra seat, for the majority, the Republicans.

What is getting missed is representative democracy. Being from the Commonwealth of Virginia, the home of James Madison, who wrote and authored the Constitution of the United States, to listen to the assertions of some on the floor from the other side of the aisle about the Constitution and all of their arguments in thwarting the vote on chairmanships and committee assignments so we can go forward on issues that matter to the real people in the real world in America, they say it is the Constitution that protects minority parties over majority parties.

George Washington's farewell address warned against political parties. The Constitution was not created to protect political parties. James Madison, and our Founding Fathers, put forward the Constitution to protect the rights of the people, to protect their God-given rights. To talk about the Constitution as a defense for this obstructionism and this delay and dilatory practice would have James Madison stating this is a shameless, dilatory dilemma. It is holding up the business of the people of America. People recognize there are issues and ideas and measures that should have been acted upon last year—whether they were

funding bills, or whether they were a variety of other issues. You can talk about improving Medicare with the prescription drug plan. It may be we need greater—and I agree we need greater—energy independence. I believe we need to make sure we have a more prosperous economy with tax policies and regulatory policies that allow more people to get work and get jobs for themselves and their families.

I very much support the President's ideas as far as the job creation and economic growth packages. There are other ideas on education, on a variety of issues, including partial-birth abortion. It is all being stopped because of this delay.

We talk about elementary civics with the school groups that come up and watch, people from around the world. They see the peaceful transition of power in this country. They see the people in the several States of the Union elect Senators and, as a result, there are a majority of Republicans. Now the people of this country expect a new leadership to go forward on a variety of issues, as I talked about, whether it is jobs, or health care matters, budgetary matters, or funding.

We are a representative democracy and people have seen the transition of power from the local level of mayors and boards of supervisors on up to State legislators to Governors, to Presidents. This is a very unfortunate situation, that we sit here idly, worrying about some of these very pica-yune procedures.

I ask my colleagues on the other side of the aisle, let's have a vote on S. Res. 18. I would like to see a vote because then those who vote will take whatever stand they want to take on it. They can say: I didn't want to be in favor of it because, whether it is office space or funding for staff, that can get worked out in the future; let's get moving with the business of the American people. What they want us to do is move forward on a variety of pressing issues, from national security to economic security, that affect the lives of real people in the real world. Bickering over such petty things as office space and staff allocations is beneath the dignity and the importance and the authority that is granted to us by the people of this country.

Mr. President, let's act. Let's move forward. Stop the dilatory practices and let's act in a responsible manner.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. No, the Senate has under consideration S. Res. 18.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

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

Mr. DORGAN. Mr. President, perhaps before I do, I should indicate I am a little bit perplexed about the debate going on here on the floor of the Senate on the funding or the reorganization resolution dealing with the 108th Congress, and especially the Senate. It seems to me the question of how much money shall be allocated to committees to run the operations of the Senate around here ought not be difficult to resolve.

In the last Congress we had 51 Democrats, 49 Republicans, and we had an even split with a slight differential for administration.

Now we have 51 Republicans and 49 Democrats. It seems to me we ought to have exactly the same split as we did in the last Congress, just in reverse. I don't understand why the majority now will not do for the minority as we did last year when we were in the majority for the Republican side. It doesn't make any sense to me. This ought not be rocket science trying to put this together. It is about fairness. We ought to have exactly the same circumstance we gave to the Republicans in the last Congress.

It is unseemly to me we are having this lengthy debate about it. We have foreign policy questions and challenges in Iraq and Korea and elsewhere. We have very significant challenges with respect to the economy in this country. Now we are being told by the majority: Unless you agree to conditions we would have considered unfair—speaking now for them—in the last Congress, we will not move forward on a resolution that funds the committees of this Congress.

Our side simply says: Why don't you do for us what we did for you? Is that unfair? I wouldn't think so. Do unto others? Do we understand about this? All we are asking is we have the same kind of agreement we had in the last Congress. For whom is that unfair? Who decides that is unfair?

It was fair in the last Congress for the Republicans who were in the minority. It was fair to them because we made sure it was. Now they are saying they need more than that now they are in the majority. They will not give us the same deal we gave them.

We have a lot of problems and a lot of challenges. It seems to me the new majority leader would be well advised to come to the floor and provide the same kind of agreement we had in the last Congress. That is all we are asking. If it was fair for them when we did it to them—and it was—then it ought to be fair for us, and we ought to suggest that is the resolution to bring to the floor of the Senate.

I know there is a lot of genuflecting around here about this. There is a lot of background noise about it. The fact is, we ought to get this done, get it



done fairly as we did a year and a half ago, and then move on to the other business of the Senate.

### THE ECONOMY

Mr. DORGAN. Mr. President, one of the challenges we face in this Congress is trying to find a way to stimulate the economy. Frankly, if we do not move at some point, and move rather rapidly, we are not going to do what I think the American people deserve to have us do and that is to try to put this economy back on solid footing—one towards economic growth and opportunity.

Back at the start of this century there was a fellow, I believe he was from Iowa. His name was Joe Connely.

He actually decided to make a living by something he saw when he was a kid. His dad took to him an event in Texas when he was a little boy. It was an event in which a promoter took two railroad locomotives and ran them together and created a train crash. People actually paid to come to see it. Joe Connely thought this was a great deal: If you can get people to pay to see a train wreck, I am going to get in the business of creating train wrecks. So he did. He went and found old locomotives, and he had people lay a track at a town fair. He would run these locomotives together and create train wrecks. They called him "Head-On Joe Connely." His business in life was to create train wrecks. Joe died, I believe, in 1936. But his spirit still lives—at least here in some nooks and crannies of the Senate—with people who design and want to create a train wreck, whether it is on funding, or economic packages, or other things.

But much more important than creating a train wreck is to lay some track and do it someplace where we want this country to be able to see.

Let me describe what I think we ought to do. The President says that we have trouble in our economy. Indeed, we do. When you take a look at what the American people face in this economy, it is pretty obvious.

In 2002, 82,000 more Americans were unemployed in December than in November. In December, 82,000 people came home and said to their families: By the way, dear, I lost my job. The men and women who lost their jobs had to come home and tell their families that they were no longer employed. It wasn't a fault of theirs, it was that their companies were contracting and eliminating jobs. The economy is soft and over 80,000 people had to tell their families that they lost their jobs. Some 8.6 million Americans were unemployed in December. 2.6 million more Americans are unemployed now than when this administration took office.

What do we do about that? It seems to me we need to try to put the economy back on track and to stimulate the economy some. The President says let us have a tax cut of \$670 billion over the next 10 years. I think that is manu-

facturing a train wreck. We have a huge budget deficit staring us right smack in the face. If we are to do a tax cut, I think we probably should try to stimulate the economy in the short run. It ought to be a 1-year tax cut which would really stimulate the economy. A tax cut of \$670 billion over 10 years, the centerpiece of which is to exempt all dividends from taxation, is not going to stimulate the economy. It doesn't have anything to do with stimulating the economy.

So what should we do?

I put together some thoughts which I think represent the kind of plan we ought to consider. I think we ought to have a tax cut for 1 year, a plan that does in fact stimulate economic growth and encourage people to create new jobs. I think one of the best ways to do that is to provide a one-time tax rebate. I would propose it be in the neighborhood of \$500 per individual and \$1,000 per couple. It is a tax rebate that we know works, by the way, because that rebate goes into the pockets of the working Americans and then it is spent. That spending represents an absorption of capacity in the economy and the creation of economic growth.

In addition to the one-time tax rebate, I would propose a 10-percent investment tax credit on new equipment purchased by December 31 of this year for manufacturing and production. That, I think, is also stimulative and would encourage the kind of activity that can lift and provide economic growth.

In addition, I would—as President Bush has suggested—increase small business expensing to \$75,000. But again, I would limit it to 1 year.

I would allow individuals to exclude up to \$250 of dividends and interest income. I would up that amount to \$500 for married couple. Finally, I would include in a stimulus package the agricultural disaster bill for family farmers that we have already passed here by a wide bipartisan margin in the Senate.

This is a 1-year plan that is affordable. A 1-year plan to try to stimulate the economy makes sense. There is not much stimulus in the Administration's 10-year plan of \$675 billion that puts less than 10 cents on the dollar back into the economy in 2003. There is not very much there to stimulate the economy. The number of dollars of that plan for 10 years will be borrowed. We would be borrowing from our kids in order to create a plan that would transfer wealth to the upper income folks in this country. That doesn't make much sense to me.

Here are the numbers with respect to the President's plan. Those who have \$1 million in income and more, on average, will receive an \$88,000 per year tax cut under his plan. I don't know; it seems to me that at a time when we have very large Federal budget deficits staring us in the face, that is not the kind of thing we want to do.

Just about a year and three-quarters ago, we had this debate on the floor of

the Senate about what kind of a tax cut we should have. At that time, the administration said: We have an economy that is flowing along. We have a country that is blessed with economic health. We have an estimated budget surplus as far as the eye can see. We propose a \$1.7 trillion tax cut over the next 10 years.

Some of us said: Look. We think we ought to have a tax rebate. I proposed a rebate then and some other tax cuts. But we think it is unwise to believe that we can see 5 months or 5 years or 10 years down the road. What if something happens? What if these budget surpluses don't materialize? We were washed away. We were just swept away. Nobody cared much about that argument. Do not be conservative about this—just understand that we are going to have surpluses that last forever.

The Congress passed a very sizable tax cut. I did not vote for that tax cut, although I supported a tax rebate.

Mr. President, I ask unanimous consent for 5 additional minutes.

Mr. KYL. Mr. President, I wonder. Some of us have been waiting. Would the Senator make it a little bit shorter?

The PRESIDING OFFICER. I take that as an objection.

Mr. KYL. I don't want to object to the Senator's request.

Mr. DORGAN. Mr. President, I asked consent to speak in morning business. Perhaps I should not have done that. I simply should have spoken about the underlying resolution. I hope I can perhaps use 5 minutes in morning business. If the Senator has a time deadline, I will be glad to truncate mine and then he can be recognized following this Senator's presentation. How long does the Senator intend?

Mr. KYL. Mr. President, I have no objection to the Senator's request for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has 5 additional minutes.

Mr. DORGAN. Mr. President, the point I was making was that roughly a year and three-quarters ago when the very large tax cut was proposed by the administration and embraced by Congress, it was anticipated that we would have surpluses forever. It was anticipated that these wonderful surpluses were really good economic news and they would last not only for a decade but much more.

Then, in a very short period of time, we had the following. We had an understanding that the country went into a recession. In March of 2001, we were told that the country went into a recession. Then, on September 11, we had a devastating terrorist attack in this country that blew a hole in the belly of this economy, along with the recession. Then we had the war on terrorism that ensued. Then we had corporate scandals. I think they were the most significant and perhaps the worst corporate scandals in this country's history.

All of these things converged at the same intersection, undermining the confidence the American people had in this country's economy. The warning, some of us suggested, should have been heeded because there are economic expansion periods and contraction periods. The fact is that we went into an economic contraction, and those anticipated surpluses are now gone, replaced by very large projected budget deficits.

I know there are some who come to the floor and say the deficit last year was \$159 billion. It is not. The deficit last year was really \$318 billion. The only way someone can say \$159 billion is if they take the money out of the Social Security trust fund and use it for operating the budget and then show a lower budget deficit. That is what they do when they come to the floor of the Senate.

Fast forward to January 2003. The President says: Yes, now our economy is in some trouble. I have a proposal. The proposal is a \$670 billion tax cut over the next 10 years.

I don't know where he gets the money for that. You borrow it from the kids, I guess. But the fact is we are fighting a war against terrorism which required us to increase defense spending by \$45 billion last year alone and increases in homeland security to the tune of \$25 billion to \$30 billion. Is there anyone suggesting that anybody is paying for any of this? No. The President is suggesting, as the tonic for America, large tax cuts. These tax cuts would go on for 10 years and will be paid for by our children in the form of additional borrowing that they will be responsible for in order to give the highest income earners in the country—particularly those who have very large dividends—big tax cuts.

I come from a small town. I went to a small school and had a high school class of nine. They only teach arithmetic one way in this country. None of this adds up. It just does not add up. So I think we ought to start over.

Do we need to do something to stimulate this economy? The answer is yes. Should we put this country deeper in debt? Should we drink more of the tonic that helped us get into this trouble? The answer is no. What we ought to do is be thoughtful. What we ought to do is join in bipartisan agreements to say: Let's stimulate the economy, in this year, to give it some lift, put it back on track, to produce more jobs and more opportunity.

We will not do that by borrowing \$675 billion in the coming 10 years, adding it to the Federal debt, saddling our children with that additional responsibility. We will do that if we are thoughtful, by providing, for example, a rebate to the American taxpayers on a one-time basis, perhaps an investment tax credit, on a short-term basis, for business investments in capital equipment and capital goods. We will do that if we make the right choices.

But I tell you, the wrong choice is to go back to the old formula that was

foisted on this country over a year and a half ago by those who said: Don't worry. Don't worry. Times are good, and they will last forever. They did not. And now our responsibility, in my judgment, is to put this back on track with a plan that will work, one that is thoughtful, and one that respects the need to come up with the money to pay for these initiatives of ours, and, as Franklin Delano Roosevelt said, to give us the privilege, as Americans, to meet our responsibilities, yes, during times of national crisis.

So I say to President Bush, and to my colleagues on both sides of the aisle, I really believe we need to do something, but we need to do the right thing, most importantly. I hope, as we begin to debate this issue of an economic stimulus, of putting the economy back on track, we can find a thoughtful, aggressive way to do that without breaking the bank and without saddling our children with more debt.

Mr. President, I yield the floor.

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

#### MAKING MAJORITY PARTY APPOINTMENTS—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the American people must be wondering what is going on in the Senate today. They frequently see us just talking. We do a lot of that. But sometimes they see a little action on the Senate floor. And, of course, other than extending the unemployment benefits, we have done nothing in the Senate since we reconvened at the beginning of this year.

Why is that so? Why is it that we have been having this squabble on the floor of the Senate for the last 24 hours or so, accusing each other of not wanting to get on with doing the Nation's business and the constructing, getting on with that business?

People have asked me: Why can't you all get along? Why can't you resolve what appears to be petty disputes and get on with the Nation's business?

One person said: Didn't we elect you to the majority? He was talking about me as a Republican Senator. So I had to explain what the situation was. I said: Yes, as a matter of fact, last November the news was full of the fact that, for the first time in a long time, Republicans were supposedly in control. The Presidency was occupied by George Bush, and the Republicans were to control both the House of Representatives and the Senate.

But he said: Well, then, why aren't you getting going? Why aren't you doing things? I said: Well, there's a little problem; that is, as you know, in Congress most of the work is done in committees, and the Democrats, who had controlled the Congress for the last year and a half, have been unwilling to turn over the gavels to the new Republican chairmen.

My friend said: That's not possible. This is the United States of America.

You Republicans won the election. Just take them.

I said: Well, it's not quite that simple. It is kind of like the old phrase: Possession is 99 percent of the law. The Democrats are in possession of the gavels. They are currently considered to be the chairmen until we do a very simple thing in the Senate. Usually it takes about 10 seconds. The majority leader asks unanimous consent that the list of Republican Senators assigned to these committees be accepted, with the committee chairmen as indicated. The Democratic leader does the same thing for the Democrats. And then the Senate is considered organized. The new Senators have their committee assignments, the chairmen are noted, and we get to work. But that has been objected to on the Democratic side. They want to hold on to the gavel a little while longer, even though in the election last November they lost—supposedly lost the majority control of the Senate.

My friend said: Well, how can they prevent change? I thought you were in control.

I said: Remember that in the Senate we have a procedure called the filibuster, and in order to stop debate and force a vote on our organizing resolution—or committee resolution, it is called—it takes 60 Senators to agree to force the vote. It only takes 51 to adopt the resolution, but 60 Senators are required to actually force the vote; otherwise, you have to just keep talking. And that is what we are doing right now.

Obviously, with the Senate organized at 51 Republicans and 49 Democrats—unless some of our Democratic friends would be willing to concede that the election was won by Republicans, and be willing to turn the gavels over to the Republican chairmen—if they want to stick in their partisan mode here, at 49, they can continue to keep us from voting on this resolution and, thus, continue to have control of the committees.

Well, why is this important? Things my colleague was just talking about a moment ago: The budget and getting on with the President's economic growth package are a good illustration.

For the first time in the history of the Senate, since the Budget Act of 1974, last year, when the Democrats were in control of the Senate, they failed to pass a budget. And the appropriations bills, except for the Defense bills, were not passed. That is unfinished business from last year we have to hurry up and do. The President would like to see that done before his State of the Union speech. We have to get on with that. We cannot do it if the Appropriations Committee cannot meet, pass out a resolution, and get it to the floor so we can debate it.

We have judges who have been waiting for almost 2 years now to be confirmed by the Senate because they have been held up by the Democratic Senate. We need to get on with that. And there is other important business.

The point is, we ought to get on with it and stop this squabbling. What is it that is really at the bottom here? What is the complaint? What is the Democratic objective? It is a little hard to tell.

Part of it, I suppose, is just delay for delay's sake. But part of it also has been indicated by those who say: We want our fair share of money and office space. This may seem pretty petty to people watching, but it is true that both sides need to have money for their staffs and operations. The majority leader has been negotiating in good faith on that, and he says they are very close to getting that issue resolved. But that does not have to be resolved today. The funding resolution goes on until the end of February. So we could easily get the committee process started, exchange positions so that Republican chairmen would have a gavel, get on with the Nation's business in the committees, and continue to work to resolve the issue of funding, such as that issue may continue to exist.

Democrats have talked about the comparison to the middle of the year switch in parties when JIM JEFFORDS, a Senator from Vermont, left the Republican side, became an Independent, and joined the Democrats. The day that happened, Republicans turned their gavels over to their Democratic counterparts to let them run the committees, recognizing the power had now shifted in the Senate and they were now in the majority.

It took another several weeks to get all the funding issues resolved, but they were resolved. We have that same amount of time here, so we can go ahead and give the gavels over to the Republicans to chair the committees and continue to negotiate the funding issues. We have several weeks yet to get that done. There is no reason to continue to delay this process.

So I urge my Democratic colleagues to stop the squabbling and act like the world's greatest deliberative body that the Senate is often called. Instead, we look more like some Third World country where the losing party did not want to turn over control to the party that won the election. And that is just not acceptable in the Senate of the United States of America.

So I urge my colleagues to agree to turn the power over to the party that won. Then we can continue to try to satisfy their requirements with funding. We want to do the Nation's business.

Mr. MCCONNELL. Will the Senator from Arizona yield for a question?

Mr. KYL. I am happy to yield.

Mr. MCCONNELL. Will the Senator from Arizona agree with me that, unquestionably, the beginning of the previous Congress was the most complicated situation we have had in Senate organization, having ended up with a 50-50 tie for the first time since the 1880s?

Mr. KYL. Yes. The first time, I guess, since the 1880s; that is right.

Mr. MCCONNELL. I would point out to my friend from Arizona, the Congress was sworn in on January 3 of 2001, the beginning of that dead-even Senate, and 2 days later this complicated organizational resolution, which our friends and colleagues on the other side, in effect, want to continue into this Congress, was passed—2 days.

The reason for that, obviously, is that we had known since the election what was going to happen and we were working long on it. We have known since November 5, 2002, what was going to happen. I have heard on the other side it was 6 weeks, but in fact there were 24 days after Senator JEFFORDS switched to get the resolution passed. But the chairmen switched almost immediately. I handed my gavel over to Senator DODD, Senator BENNETT handed his over, Senator BOND did; I believe everybody did, including Senator KYL.

We have known now for 70 days who was going to be in the majority—70 days. It seems to this Senator that we have had adequate notice for quite some time who was going to be in the majority and yet we have killed a week in failing to address the people's business from last year because of an apparent unwillingness to recognize who is in the majority around here.

Mr. KYL. I respond to my colleague from Kentucky that in the last five Congresses we have organized the Senate on January 3, January 5, and January 7. The very latest date was January 9. We are already a week beyond that, and the week has, in fact, been wasted except for a very quick passage of the unemployment compensation benefit, which shows what we can do when we get down to work here.

The history is that we do this very quickly, even in the most complicated circumstances, as the Senator noted, when we were 50-50 and had a lot of issues to try to resolve. That gets back to my point that there is no reason to hold up the exchanges of the gavels, a routine matter that recognizes who won the election, simply because there is still some disagreement about whether the money is going to be split—I don't even know—57/43, or whatever the numbers are.

Mr. MCCONNELL. Particularly since the funding resolution goes until the first of March.

Mr. KYL. Precisely the point. So unless there is some other ulterior motives—and I never ascribe motives to my colleagues and they can explain their own actions—the result of this is delay, though, and given the fact that we have unfinished business from last year because of the Democrat leader's inability to pass a budget and get appropriations bills passed, we are already behind schedule.

We are in a war with terrorists. There could be a military conflict with Iraq. The President has an economic agenda that the American people are very interested in because it affects both their families and the economy as a whole. My constituents want Medi-

care reform and a prescription drug benefit to go along with that so we can strengthen and preserve Medicare. We have a lot on our agenda, and this delay is not helping the American people and there is no reason for it. That is why I, again, urge my Democratic colleagues. We are not saying this in anger or in a partisan tone, I hope, but it does not serve the interests of the American people, and it certainly blemishes the Senate to be unable to organize, to simply recognize which side won the election. Let this side chair the committees so we can get on with the other business of the day. That is the inevitable result of what is happening here.

I urge my colleagues on the other side of the aisle to recognize that fact. It doesn't make them look good, it doesn't make the Senate look good, and it is bad for the American people. I hope we can get the resolution adopted quickly and get on with the business of the American people.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from Arizona for his comments. Before he leaves the floor, I will make the observation that in addition to not being able to address the unfinished business from last year, because we don't have committees approved, we have Senators from 11 States who have no committees at all. They were duly chosen in an election last November. A week ago today, they took the oath of office here at the front of the Chamber and became Senators. A week later, they are still not on committees.

Now, it is almost impossible for a Senator to represent his constituents if he or she is not on a committee. So we have, in effect, disenfranchised those 11 States for a week. There is no crisis to address if the committee funding resolution doesn't expire for some 7 weeks from now. There is no reason to be doing this, other than an apparent attempt to fail to recognize the results of last year's election.

So we have, I say to my friend from Arizona, Senators from Alaska, Arkansas, Georgia, Minnesota, Missouri, New Hampshire, New Jersey, North Carolina, South Carolina, Tennessee, and Texas who have all been sworn in and have no committee assignments whatsoever.

This is the United States of America. We had an election. All of these new Senators have been certified and they are entitled to be effective Members of this body representing their constituents. Our failure to act makes that impossible.

There has been a lot of discussion about committee funding. Really, that is not the issue before us in this resolution before the Senate today. This is simply a resolution ratifying committee membership of Republican Members of the Senate. Traditionally, Democrats offer a similar resolution putting their members on committees.

What has gotten all mixed up in this, apparently, is the whole question of what kind of committee funding ratios there are going to be. There was a very revealing article in Roll Call before the November election in which—it was on October 31—a senior Democratic aide said it was “an extraordinary circumstance that forced them to continue the equal funding.”

I agree with that, both in the beginning of the 107th Congress and after the defection of Senator JEFFORDS. Both were extraordinary circumstances. Here you have a Democratic aide stating the obvious, with which I agree. It was an extraordinary circumstance that forced continuing funding at that level in the middle of a Congress when they suddenly became a majority. But the same aide stated that “if we pick up a seat or two, I think it is without a doubt we would go back to two-thirds/one-third,” which is right before the election of last fall. “If we pick up a seat or two . . . we would go back to two-thirds/one-third.” It is quite stunning how accurate Roll Call's predictions were. They predicted that if the Democrats were to lose a seat, which is indeed what happened, they would fight for equal funding, which is where we find ourselves today.

The funding issue is not before us in the Senate today. This is about ratifying the results of last November's election. The majority leader has laid down a committee resolution that would give the Republican Members of the Senate an opportunity to serve on committees, so that they can represent the people they were sent here to represent.

I hope we will be able to resolve all of this amicably. It has gone on entirely too long. We have been doing this for over a week. Of course, it has been tougher on the majority leader than anybody else because he spends an endless amount of time each day discussing it. I hope we are beginning to see the light at the end of the tunnel and may be able to resolve this matter in some kind of amicable fashion, hopefully before the day is out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I can remember when I was in the House of Representatives, the legendary Mo Udall came to a meeting. He was chairman of the Franking Commission. There was a big dispute as to a franking issue. Members of the House paraded in and it went on for a long period of time. Mo Udall, in only the way he could do it, kind of—how would you describe how he walked? It was kind of a saunter—sauntered in and took his place as chairman of this committee. He said:

Everything has been said, but not everybody has said it.

So he proceeded to say the same thing that everybody else had said. I have been here for 2 days and the same thing has been said over and over again by the majority, the Republicans, and

the same thing has been said over and over again by the minority, the Democrats. But as Mo Udall would say, it hasn't been said today as many times as perhaps it should.

I repeat, what the minority wants is to be treated exactly as we treated the minority during the last Congress.

My friend, the distinguished senior Senator from Kentucky, has brought to our attention again what one Democratic aide said. I talked about this previously, but I will say it again because not everyone has heard it, I guess, and if they have, they can listen again. One Democratic aide said:

If we pick up a seat or two, I think we'd go back to one-third/two-thirds.

First, this is a Democratic aide, whoever that is. But if we are going to take Roll Call for gospel, then what I suggest is the whole article be looked at. In this article in Roll Call, a GOP leadership aide said:

It will be a serious fight. It will be a series of knock-down drag-out talks that last a long, long time.

Remember, he is commenting on changing the committee ratio. A senior GOP leadership aide said:

It will be a serious fight. It will be a series of knock-down drag-out talks that last a long, long time.

Finally, this same—or it could be a different GOP leadership aide, I do not know; it might be the same one—said:

There is no way we will countenance that or stand for that.

He said of the Democratic aide's comment about shifting parties.

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

Mr. REID. I will be happy to yield for a question without losing my right to the floor.

Mr. DORGAN. I think people watch these proceedings and think it is all very silly that the Senate cannot agree on an organizing resolution.

I am trying to understand, if I can, some of the statements that have been made. My colleague from Kentucky said that last summer, for example, when the Senate went from Republican to Democratic control as a result of one Senator shifting from the Republican caucus to an Independent caucus and caucusing with the Democrats, he said the gavels were turned over immediately.

As I heard that, it occurred to me that that was not the case at all. History is history, and revisionist history is fun, but it is not accurate.

Isn't it the case that last summer, for example, when the Republicans were in control and then one Senator moved to caucus with Democrats and the Democrats actually took control of the Senate, for 3 weeks the gavels were not turned over to the chairmen? I am not suggesting there is any justification for anything by making that point. My point is, when people come to the Chamber to talk about this, let's talk about what really happened, and if we can, let's talk about what is happening now for the moment.

Isn't it the case that the reason the Senate is hung up is because the majority leader is saying: We have 51 percent of the votes in the Senate, and we want two-thirds of the money to run the place? Isn't that exactly what is hanging this up?

Mr. REID. Yes, I say to my friend. Revisionist history is a very good way of projecting what has been said on the other side—revisionist history. The fact is, I say to my friend from North Dakota, who, I am sure, realizes this, when Senator JEFFORDS announced he was going to move from the Republican Party, it was about 6 weeks from the time he announced that to the time the actual change took place; that is, the reorganizing resolution.

Technically, the Senator from North Dakota is right. Senator DASCHLE became majority leader on June 6, 2001. The organizing resolution was adopted on June 29, 2001. So that is a period of over 3 weeks. But the actual time period is 6 weeks. Let's take those 3-plus weeks we waited around.

Responding to my friend from Arizona, for whom I have the greatest respect—and he is a fine lawyer, but sometimes lawyers make tones and arguments that are not as factual as they appear—he said 70 days they have been waiting; something should have been done during that period of time.

I said it earlier and I will say it again. It is not Senator DASCHLE's fault that he was not negotiating earlier. It was the fault of the Republicans because they could not determine who was going to be their leader. Senator DASCHLE had some early meetings with Senator LOTT right after the election, but those meetings were for naught because they got a new leader a few days ago, and Senator DASCHLE has been doing his very best to project a very simple message. That is, if the Senate was divided 51–49 with the Democrats controlling and the Republicans in the minority and there is a shift in power where the Republicans control and the Democrats are in the minority, let's have the same rules. It is simple: Let's have the same rules.

There have been people who have come to the Chamber and said: Why would they argue over space? As we know, there are a number of issues the two leaders have to work out. They have to work out the funding, and they have to work out making sure that is fair, as it was last time, and the space is basically the same as it was last time. It has nothing to do with blue slips or yellow slips or green slips. There is another issue around here dealing with leadership space. It has nothing to do with that.

It has everything to do with we, the minority, want to be treated just as the Republicans when they were in the minority. I am from Nevada. I think we have a lot of common sense in Nevada. Some people may not agree with some of the things we do or do not do. My friend from North Dakota and I have had a number of good laughs about the

differences between Nevada and North Dakota, but the fact is common sense prevails in Nevada, and common sense dictates to me that if you have the exact same makeup of the Senate—100 Senators—but the majority has changed, two Senate seats have changed and now instead of 51–49 Democrats, it is 51–49 Republicans, why shouldn't the same rules apply?

That is my answer to my friend from North Dakota. Simple, factual; it is play by the same rules that we had during the last Congress.

Mr. DORGAN. Will the Senator yield further?

Mr. REID. I will be happy to yield for a question without losing my right to the floor.

Mr. DORGAN. Mr. President, I think people will look at this debate and say: What on Earth is going on here? The Senate at least ought to be able to organize. I listened to some of this debate. For example, my friend from Arizona, Mr. KYL, said part of the reason we have to do this right now is because we have all this unfinished business from last year. In fact, Senator DASCHLE could not pass a budget last year, he said. That is true, we could not pass a budget because my friend from Arizona and his friends would not vote for it. That is why we could not pass a budget.

The fact is, there is a lot of discussion around here surrounding this resolution. I, again, ask the Senator from Nevada, isn't this the simplest possible issue to solve, and doesn't it send a message to every kid in school: If you ever say fractions do not matter, come listen to this debate because we have a circumstance where the majority is now saying: We have slightly over half of the Senate, 51 Members; you have almost half of the Senate, 49, but we want two-thirds of the money. The next time a kid says fractions do not matter, go talk to the folks who say it is true, we have just a little over a half but we want two-thirds of the money with respect to the Senate.

My point is, I assume this could be resolved this afternoon, and, in my judgment, it should be resolved this afternoon by doing exactly what was done in the last Congress. In the last Congress, we had 51 votes on the Democratic side and 49 votes on the Republican side. So there was an apportionment of the money, about half and half, with a slight increase for the administration of those who ran the committees.

Now there are 51 Republicans and 49 Democrats. It seems to me the easiest solution is to use the same rule we had in the last session, just reverse it because that would be the fairest way to deal with the circumstances in which there is a 51–49 split. Just reverse the parties and use exactly the same functioning mechanism that was used in the last Congress.

The reason I say that is this ought to be the easiest possible thing to solve. It ought to be done this afternoon. We

have a lot of work to do. Those colleagues who have been talking about the need for this Congress to get to work are sure right about that. We have an economy that is faltering. I am sure as we speak today there are perhaps thousands of people prepared to go home tonight to tell their spouse they lost their job. There were 88,000 last month.

Mr. REID. One hundred and one thousand.

Mr. DORGAN. So they go home and say, I lost my job. This economy is not working. This economy is contracting, not expanding. Should we do something about that? Sure, we ought to be working on that.

We have homeland security issues. We have appropriations bills. We have a lot of work to do, so let's resolve this.

The simplest possible way to resolve it is for the majority leader to understand he ought to use the same formula for this Congress as the Democrats used when they were in control in the last Congress.

It seems to me that is the fair way to do it, and it seems to me it ought to be done this afternoon. Most people would look at this and say this is silly, just do this and get it done now.

Mr. REID. Let me respond to my friend. When I was a young boy, I could not run very fast. I was never fast afoot. So I participated in games where it did not matter how fast you could run. I loved tug of war because I was as good as anybody. I would dig in my heels and it would take a lot to move me.

I want everyone within the sound of my voice to know my heels are dug in. The Democratic caucus' heels are dug in. We will win this tug of war. They can put us to the test and have a series of votes to see if we can proceed. They can have all the votes they want on the motion to invoke cloture, but we are not going to bend. The Democrats in the Senate are dug in and we are not going to bend.

The resolution of this is going to be the same as it was in the last Congress because that was fair. We were fair to the Republicans and we expect them to be fair to us. If they want to get to the issues my friend from Arizona brought up—Iraq, Medicare reform, prescription drugs—let them do it. They can do it 15 minutes from now. Organize the way we organized; otherwise, they can wait because they are holding it up; we are not.

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

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

Mr. GREGG. Mr. President, I heard an impassioned plea by the Democratic assistant leader on the other side of

the aisle, whom I greatly admire and respect. I am not sure whether he considers himself the assistant majority leader now or the assistant leader, but I would point out some facts that maybe should be filtered out of the smokescreen of dialogue that has taken over.

The facts are these: The resolution before the Senate is a resolution to appoint majority members to committees so our new Members can be confirmed to committees and so the majority can take the chairmanships of the committees of the Senate. That is the resolution before the Senate. That is the resolution which has always come to the Senate.

This resolution does not address the issue of funding. The issue of funding has not actually come up from the standpoint of needing to be done until sometime in February. It does not address the issue of space, because the issue of space has never been addressed in this type of resolution. This resolution is the prototypical resolution that comes before a Senate every time a Senate organizes. Under the constitutional form of government we have in the United States, after elections the party that takes the majority organizes the Senate, appoints the members to the committees and has members of the committees become chairmen as a result of being in the majority party.

The Senator from Nevada, who I respect, has decided to cloud this issue of appointments to the committees with the issue of funding. I guess they see this as a point of leverage which they can use to question the funding through addressing the issue of membership to the committees.

What is the practical effect of the actions of the Democratic membership of the Senate today? The practical effect is they are denying the proper transfer of power that proceeds after an election. They are essentially saying the election last fall does not matter; that they remain chairmen of the committees in the Senate, even though they are in the minority party.

Earlier today, I had a discussion with a Member of the Democratic leadership in the sense that he was chairman of the Banking Committee, and he represented he still considers himself to be chairman. Yet he also acknowledges, as I think anybody does who is fairminded about this, that he presently is in the minority.

How can one be chairman of the committee in our form of government if they are in the minority? They cannot. They are usurping the rights of the people of this country who have elected a majority in the Senate.

The majority has the right to chair the committees of the Senate, and yet the Democratic membership has decided to deny that right to the American people, the right which they put forward when they voted in November.

I suppose if I were a Member of the Democratic side of the aisle, I would have been frustrated by that election.

It was the first time in recent memory—or maybe ever—that a sitting President actually won control of one of the bodies of Congress in an off-year. It was startling. I thank President Bush for his efforts, and I thank those folks who subscribe to his view of the way we should govern. Obviously, I am very appreciative of the fact that as a result of that election we ended up going into the majority on the Republican side. Granted, it was only by one vote, but that is all it takes. All it takes in our constitutional form of government is one vote to be in the majority. We do not function under a super majority for the purposes of organizing the Senate. We do not have to have 60 votes to organize the Senate. We have to have a 1-vote majority. When one gets that 1-vote majority after an election, in a two-party system, involving a constitutional form of government, which is what we function under, then the new minority which used to be the majority is supposed to transfer power over to the majority peacefully and without resistance.

What are we seeing today? Resistance. We have heard the assistant leader—who may consider himself to be assistant majority leader or the assistant minority leader, I am not sure, but the assistant leader say his heels are dug in and we could be here, I suppose, until Lake Powell freezes over before we are going to get a change from their side of the aisle.

That fundamentally undermines the concept of constitutional government after an election in a two-party system.

They may have a legitimate concern over funding. I happen to think they do not. I believe the majority leader has made very reasonable offers in this case and, in fact, when it becomes public I think the public will feel they were extremely reasonable offers, but they have no reasonable argument for holding up the proper transfer of power in a constitutional government. They are doing fundamental damage to the way we govern if they continue down this road.

There are Members on their side—in fact, all of the Members on their side—who I greatly respect, but there are some Members on their side who have an immense history and strength on the issue of the integrity of the process in the Senate. I cannot believe those Members are not cringing at the thought we have not transferred responsibility in an orderly way in the Senate.

The resolution before the Senate does not deal with space. It deals with who is the majority party. It is totally inappropriate for Members from the other side to be chairing committees and claiming chairmanships of committees when they are no longer in the majority position. It frustrates not only our side of the aisle but, more importantly, it frustrates the intent and purpose of our form of government. It is a serious matter. And the Senator

from Nevada has dug his heels in. So be it.

Speaking as one Senator on this side, I find this issue to be of such significance that I don't know how we can back off of our request that the majority be the majority, that the chairmanships go to the majority, that the memberships of the committees be given to the majority. If we did, what would have been the purpose of the last election? We would be fundamentally undermining that election.

What happens in the future? Do we move into a government where elections are reasonably irrelevant if they are close? No. Close elections happen in America. Presidents are elected by the electoral college without winning the popular vote. But the fact is they were elected under the constitutional form of government. Majorities take control of the Senate when more Members of one party arrive in the Senate than from the other party. We have received certification from the Secretaries of State across the country who have established beyond question that the Republican Party presently holds the majority in the Senate. And, as such, the Republican Party has the right to and must claim the chairmanships of the committees of jurisdiction in the Senate. If we fail to do that, we fail our responsibility to the electorate.

It is very hard to understand how the other side of the aisle can attempt to undermine this most fundamental exercise of the transfer of power after an election in a constitutional government.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my friend from New Hampshire said some nice things about me that I am grateful for because the feelings are certainly mutual. I have great admiration and respect for his public service. I don't know what he did before he came to the House of Representatives, but he served there representing his State admirably. He left the House and became Governor of the State and then came to the Senate. That is a great public service career. I am surprised I have heard him talk more the last day or so. He is not one who spends a lot of time on the floor. When he does speak, I always listen because he is very direct and does not beat around the bush. I have not only great respect for what he has accomplished but also his style as a legislator.

Having said that, however, this is not undermining the election. Regarding the chairmanships, we do not dispute who should be chairman. No one disputes that. Senator SARBANES said that today. We recognize we are now in a minority, 51-49, just like the Republicans were in a minority a few months ago. What are we talking about? They say all this resolution does is allow us to be a chairman and appoint members of the committee. That is the problem. That is all it does.

We could settle this matter, as I told Senator SARBANES, in less than 15 min-

utes if, in addition to changing the chairmen and appointing the members of the committee, there would be an agreement the staff would remain as it was last year. That is, whatever the minority had last year, we would still have, and that the same space the minority had, the committee staff we are talking about, would be the same as it was last year—simple as that.

Now, assume that I am wrong: Illogical, unreasonable, not factual. Say that I am wrong. It seems to me what would happen if the majority would go along with the rules we had last time, the chairmanships would take place immediately, the members of the committees would be appointed immediately, and the only thing they would have some concern about—because we agree with that—is they gave us too much space and they gave us too much of the financial resources to the committees.

I heard Senator NICKLES, the senior Senator from Oklahoma, who I also am very fond of, earlier today state this has nothing to do with committee resources. Well, if it doesn't, what are we arguing about? We agree they should be chairmen. We agree they should be able to appoint the committees. Why not go one step further and keep the same resources—because Senator NICKLES said this battle was not about resources—the same resources as we had last year.

I might be having trouble comprehending, but like a lot of people here I think I understand the procedures of the Senate. I understand the resolution directed and dictated what we did last time. Why not do the same thing? What is wrong with that? If the matters before the country are important—and I recognize they are; I realize we have problems, as the Senator from Arizona talked about—we need to have some discussion about Iraq, and we need to have a discussion about health care delivery in this country—the committees should be functioning better than they are.

The committees, instead of having a total of 89 Members, should have 100 Members. Let's go to work and do that. That is all we are asking. We are not asking for any advantage. We are only asking we be treated the way the Republicans were treated when we were the majority.

If the matters to come before the country are that important, the majority party, the party that controls the House, the White House, what in the world do they fear from having the same committee structure as we had last time with the same resources allocated? What is there to fear? If there were ever the ability to exercise authority and power in the United States, it is from the White House, which is Republican, from a Senate that is Republican, and from the House of Representatives that is Republican.

That is why we believe we are not being treated fairly, and the resolution



before this body is inadequate and incomplete. Until it is adequate and complete, we are going to hang in for the same rule that applied during the 107th Congress.

#### THE ECONOMY

Mr. REID. I will change the subject. Mr. President, I just received a news flash from my office—not a pleasant one. K-Mart is going to close three Nevada stores, including one on Rainbow Boulevard in Las Vegas, one in Reno, and one in Carson City.

I agree with my friend from Arizona; we should be talking about the economy. That is one thing he failed to mention, but I think we should be talking about that as an important issue. The economy is in trouble. We talked about that earlier today.

I was struck by the New York Times today which had an article written by Edmond Andrews: "O'Neill Expresses Doubts About the Tax Cut." Who is O'Neill? This is Paul H. O'Neill, who was Secretary of the Treasury in this administration until he decided he did not like what was happening with the tax policies of this country. And for lack of a better word, he was dumped, unceremoniously expelled from the administration.

Now, he is a gentleman, and he is determined not to be too blatant in his criticism of the White House. But in the process of not being too critical, let me emphasize a few things that he said. The President's plan for stock dividends is something I would not have done. O'Neill has also talked about his discomfort with the sweeping tax cuts. He talked about these before his departure. And, of course, reading between the lines, I am sure that is one of the reasons for his departure.

He told a group of executives at a public meeting in the United States Chamber of Commerce he would select, carefully, tax breaks that might help the segments of the industry having the most trouble.

Mr. O'Neill said during his confirmation hearing in 2001 that he was skeptical about the wisdom of big tax cuts.

He said he was bitter about what was going on here in Washington. And I quote:

It's all about sound bites, deluding the people, pandering to the lowest common denominator. Real leadership requires you to stick your neck out and have a point of view.

As has been discussed here on the floor, the proposal to stimulate the economy that has been propounded by this administration is, using the words of some, bizarre, crazy. So I think it is important the President reexamine this proposal that would give huge amounts of money to rich people like him, like the Vice President, like Michael Eisner, the head of Disney. I was told here on the floor yesterday that he will get \$2.6 million extra money each year. That is not going to stimulate the economy. But I guess if I had my druthers, it would be I would not be

spending so much time here on the floor and we would be getting to the business that should be before the Senate; that is, doing the appropriations bills, the 11 that were undone, bringing some of the nominations the President has told us last Wednesday at the White House he would like to have quickly.

I wish I were not here doing the things I have done in the last couple of days and we had gone about the business of the Senate. We cannot do that until this organizing resolution passes. I hope we can do that. Then we can talk about the things the Senate should be doing, rather than doing the work some refer to as kind of inside politics, inside the beltway.

Mr. President, is my friend from Kansas going to speak soon?

Mr. ROBERTS. I am ready to proceed.

#### MAKING MAJORITY PARTY APPOINTMENTS—Continued

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today with some degree of reluctance, I might say, to discuss the apparent disagreement and the difference of opinion within the Select Committee on Intelligence with regard to staffing. This is the kind of disagreement that is obviously taking place in many of the committees in the Senate. We have heard a lot about this. We probably heard too much about it, to the point this whole business is now at the leadership level and is holding up the appointment of committee chairmen, not to mention the business of the Senate. This is not only regrettable but, as this drags on, I think this really represents the kind of sandbox silliness—that is my term—that prompts folks outside the beltway to wonder if this body is the Senate or a partisan romper room.

Given the importance of our Select Committee on Intelligence and our obligations and our responsibilities during this time of vital national security threat—and I am talking about the war on terrorism, I am talking about Iraq, I am talking about North Korea, not to mention any number of other national security threats by state and nonstate terrorists—and given the committee's 26 years of history of bipartisanship—that means no majority, no minority, no Republican, no Democrat approach or viewpoint—we should not be having this dispute. The Select Committee on Intelligence is very different from any other committee in the Senate. In fact, it is a committee that serves the entire Senate; it is your committee, my colleagues, and the leadership, and given its importance at this particular time in our history this committee, above all others, should be spared this kind of public spat.

Senator ROCKEFELLER, our very distinguished vice-chairman-to-be, myself, the incoming chairman—I hope, I hope we can get past this—our leader-

ship and the entire Senate should not be party or bystanders to what has been going on in the Senate for the last week or so. It is untoward. That is the nice way of saying it. In Dodge City, KS, we would say we should not be part of this hell-for-leather ride down a partisan trail of obstructionism like a herd of cattle milling about in confusion and delay in a box canyon. That is about what it looks like in my hometown.

But here we are, and the leadership tells me the Intelligence Committee, the Senate's select committee, the committee that really belongs to us all, is at loggerheads. I don't know that because I have not been part of the negotiations. But the leadership tells me this is now a separate issue.

In saying this, I don't question the intent of the distinguished Senator from West Virginia. I want to point out he is a good man. He is a good Senator. He is a personal friend. I look forward to working with Vice Chairman ROCKEFELLER. We have already discussed mutual goals, possible long-term structural reform within the intelligence community, not to mention the regular business of the committee with regard to our oversight responsibilities—and they are pressing responsibilities. We should be meeting this week.

The truth of it is we simply have a different—an apparent difference of opinion on how the Intelligence Committee should be organized. So here I am on the floor of the Senate, making one of those "I had not intended to make a speech" speeches.

The larger issue is whether or not the duly elected majority will be able to run the Senate. We should not be laying down organizational demands, demands for more space—this space, that space; different rules on how this body will consider the confirmation of judges. The next thing you know, it is going to be majority and minority restrooms. That is about where we have come to.

But I believe the issue involving the organization of the Select Committee on Intelligence is important because of what is at stake, and what is at stake is our national security. The difference, as I understand it—and as I say again, this has been at the leadership level for about a week now, and I think it can be summarized quite easily. We should preserve the committee's 26-year history of bipartisanship. We should preserve our Intelligence Committee staff as a single unified staff that works for the committee as a whole under the supervision of the chairman and the vice chairman. Let me repeat that, the chairman and the vice chairman.

The minority—or I guess we should call them the temporary majority, I hope it is temporary—apparently wishes to divide the committee staff for the first time in history into a majority/minority or partisan camps. To the contrary, we should preserve the committee's 26-year history of nonpartisanship by keeping to a minimum

those staff who are designated as partisan. The minority apparently wishes to increase the ranks of partisan staff.

We should structure the committee staff in accordance with the committee's rules and custom and practice. We should not repeal the committee's rules and ignore our custom and practice of working together with one single staff.

As I said before, the Select Committee on Intelligence has been a unique institution in the Senate and was envisioned from the start to operate under different rules than any other committee. The Intelligence Committee was created by S. Res. 400 over 25 years ago. The resolution actually grew out of the intelligence abuses of the 1970s which were highlighted by the Church Committee.

There were a number of proposals for the creation of the Intelligence Committee—numerous hearings, lengthy debate and multiple amendments. In the end, the Senate agreed to create a bipartisan committee with—I underscore this—a permanent professional nonpartisan staff to serve the committee as a whole.

The intent was to limit sharply the number of designated partisan staff. In fact, our rules really contemplate only two positions to be wholly partisan. This is not well understood apparently by those who have a difference of opinion.

The only positions that are wholly partisan are the minority staff director and the minority counsel. The rest of the staff works for the "committee as a whole."

That is a quote from S. Res. 400—under the direct supervision and control of the staff director on behalf of the chairman and the vice chairman—both of us.

The Senate report accompanying S. Res. 400 emphasizes the bipartisan nature of the committee. I am quoting here:

The unique importance and nature of the matters [of] the committee will make such bipartisanship essential. The existence of trust and confidence between the executive branch and the committee will enable the committee to exercise more effective oversight. This trust and confidence will only be achieved if the committee does act in a fully bipartisan manner.

That comes from the Senate Report 94-675.

In order to ensure the committee would act in this fully bipartisan manner, committee rules provide for a single unified staff that works for the committee as a whole under the supervision of the chairman and the vice chairman. No other committee is advised by a nonpartisan and also integrated staff.

Committee rules also provide the minority extraordinary powers through the vice chairman. Our rules emphasize and confirm the unique authorities of the minority and the bipartisan nature of the Intelligence Committee and its distinction from the other committees of the Senate. Let me give you some examples.

Rule 2 of the committee's Rules of Procedure permits the vice chairman to preside over the committee.

Rule 2 also permits meetings to occur without the presence of a majority member of the committee.

Rule 6 actually permits the vice chairman to authorize a committee investigation.

Rule 7 actually permits the vice chairman to issue a subpoena.

Rule 8 actually permits the vice chairman to authorize witness interrogation by committee staff.

Rule 9 requires that both the chairman and the vice chairman agree to authorize disclosure of or access to committee information. That means both the majority and the minority are made aware of requests by any member of the Senate to review any committee document, and either can prevent it.

Rule 10 requires all staff work for the committee as a whole. Thus the chairman or the vice chairman may direct any professional staff action through the staff director.

Rule 10 requires all staff assist the minority in the writing of any minority or additional views.

I know. I have had them help me when we were in the minority; more especially in a report on the USS *Cole*.

Rule 11 requires staff members brief both majority and minority members, which means there are no secrets from the minority.

These authorities and privileges enjoyed by the vice chairman illustrate clearly the unique nature of this committee and the importance of these authorities in maintaining its nonpartisan nature.

Some have argued this structure has not worked in the past. And I would argue that it has worked—and it has worked well—when the chairman and the vice chairman want it to work. It requires cooperation, and one cannot foster a spirit of cooperation by proposing to fire all of our current professional staff, split the committee's staff in two, and rehire on a partisan basis. The unique bipartisan nature of this committee is its greatest strength and is essential to the ability of the committee to develop a consensus product and to avoid all of the politics of our Nation's intelligence activities. That would not serve our Nation well, and that could occur.

The legislative record reflects that the Senators who really created the Intelligence Committee believed—this is so important—that the less partisan nature of the committee would serve to make the intelligence community more willing to keep the Congress fully and currently informed of highly sensitive intelligence activity. For a quarter of a century, this has permitted the committee to fulfill its primary responsibility: Oversight of the intelligence activities of the United States Government. My 6 years on the committee tell me that is absolutely true.

I remember the years when DICK SHELBY was chairman, Richard Bryan

was vice chairman, and Bob Kerrey was vice chairman. We got along well. It isn't that we didn't have any differences of opinion, but we acted in a nonpartisan, bipartisan way in the interests of the United States.

The incoming vice chairman has argued that under our rules the vice chairman has access to only two staff, and the chairman, which would be myself, would control the rest. That is not true. That is absolutely incorrect. Under our rules, the entire staff works for the chairman and the vice chairman jointly.

I do not know how many times I have to say this. In fact, the vice chairman actually controls the committee's only truly partisan staff because everybody else works for the committee as a whole.

That is the concept that is hard, I guess, for some people to understand. He has two minority staff. Those are the only partisan staff. The rest of the entire committee works for the committee as a whole, including myself and the vice chairman.

It is about the eighth time I have had to repeat that. I hope it finally sinks in.

My advice to my good and excellent friend from West Virginia is you should never take to "sawin'" on the branch that is "supportin'" you unless you are going to be hung from it.

We are not hanging anybody. This is not Judge Bean. We have promised a bipartisan approach to all issues on the Intelligence Committee.

You have my word that will be the case. As chairman, I have no staff which works exclusively for me. I cannot understand how one can argue the minority is unsupported when the entire staff, excluding the designated minority staff, works for the vice chairman as well, and his designated staff works exclusively for him.

The proposal, as I understand it, is to split the staff into a majority-minority camp. That is contrary to the 26-year precedent for the operation of the committee, the bipartisan spirit of the committee's enabling legislation, S. Res. 400, the rules of the Intelligence Committee for the management of the staff, and the intent of the Senate.

Other than that, it is a heck of a good idea.

I believe the committee has worked well and effectively with the professional nonpartisan staff as originally intended and should continue to do so.

I have faith. I am an optimist. I have faith that the incoming vice chairman, Senator ROCKEFELLER, and I can continue a long tradition of cooperation personally and that has been taking place on the committee between the chairman and vice chairman in this unique and valuable institution. Once we get past this tiff, this spat, these differences of opinion—what shouldn't be but is now a big piece in this hole, or whatever we are into here—I would call it obstructionism, and I think any proposal to split the committee or increase the numbers of strictly partisan

staff would represent a break with tradition. I think it would not be in the best interests of the committee, of the Senate, or of our national security.

I want to say one other thing not related to Senator ROCKEFELLER and our difference of opinion but something that is of great concern. It is becoming apparent in statements from some of my colleagues across the aisle over the past several days and weeks that there is a growing campaign of criticism aimed at the President, the war against terrorism, and what may be a necessary military confrontation with Iraq and Saddam Hussein, not to mention now the entire business with North Korea. It would appear to me as an individual Senator on the Armed Services Committee and on the Intelligence Committee that any criticism on foreign policy does not stop at the water's edge. It also appears now that is true of national security as well.

In this regard, I don't question any Member's honest intent or difference of opinion relative to our national security, not to mention their patriotism. That is not what I am talking about. We need healthy debate. We have strong differences of opinion. That is our obligation as Senators.

But when we hear statements that this Nation is no better prepared, intelligence-wise, than we were prior to 9/11, that is not right. Nothing hurts the truth so much as stretching it. And, boy, that is a stretch. That is not only not true but it borders on the politics of opportunism.

Our job on the Intelligence Committee is to conduct serious, tough, proactive, and vigorous oversight, and to hold the intelligence community accountable, as well, I think, as being a champion for their mission and enabling the community to safeguard our Nation. That is why we should not allow the Intelligence Committee to split into partisan camps during these perilous times.

Finally, in regard to this whole business of holding up the chairmanships and transfer of power and the Senate's business, we all ran through partisan gauntlets of sorts to gain the privilege of being here—some more than others. Yet the special fabric that binds this institution in purpose and in achievement is bipartisan.

I am the first to admit that no political party has an exclusive patent on common sense or can lay claim to what is absolutely right. Personally, I try very hard to work with my good Democrat colleagues and friends. And, yes, they are my friends. Now, to be sure, we have our differences, but for the most part we work together, and we try on the other fellow's boots. Sometimes they pinch—sometimes they pinch really hard—but we get the foot to fit and we get something done.

I try to be the best Member I know how to be. That is tempered by over 30 years of public service as a staffer and a House and Senate Member. I am a piece of old furniture around here.

But to my friends now in the minority and acting as if you are in the majority, that is the rub. Part of what we are is what the other side allows us to be. And during these past 8 or 9 days, you have had us on short reins—in fact, no reins at all. And I know this: If this obstructionism keeps up—the space, the staffing, the ratios, the blue slips, the rules on judges, and Lord knows what is next—you will tear that special fabric that holds us together as the Senate of the United States.

If we do not end this business and get to the business of the Nation, and understand there is a majority and a minority and that the majority rules, we will open up a wound further that will not heal without significant price and scar, not to mention public ridicule for our institution.

The sad thing is, I say to my colleagues, we did not have to go down this road.

Mr. President, I always figure it is a good thing to be a little bit nicer than is called for. I do not think too many Members would call me too nice. But in trying to be a little bit nicer than is called for, you shouldn't take too much guff.

My colleagues across the aisle, it is time to end the guff.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, before the Senator from Kansas leaves the floor, I just want to say to him that in all my years in the Senate, that is one of the finest speeches I have ever heard. And I think it came at a particularly good time, as we remind ourselves, once again, what this body is supposed to be like. No matter how bitterly we contest these elections, at the end of the day we are here to do the people's business. And to fail to even take the elementary steps to make it possible for us to get started in doing that is an enormous disservice to this institution and to the country.

Beyond that, I think it is important to remember what the Intelligence Committee is all about. I think the Senator, by laying out the history of the committee, and the tradition of the committee, and the way it has protected sensitive information, and the way it has, in effect, insisted upon bipartisan cooperation, has done a great service for the Senate. That was a speech we needed to hear, given at precisely the right time.

I thank my friend again.

Mr. ROBERTS. I thank the Senator from Kentucky.

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

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I judge the parliamentary situation is such that the Senator can speak as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. There is no restriction at this point.

Mr. WARNER. I thank the Chair.

#### MEETING OF THE SENATE ARMED SERVICES COMMITTEE

Mr. WARNER. Mr. President, tomorrow morning the Senate Armed Services Committee will conduct a closed hearing with the Secretary of Defense and the Chairman of the Joint Chiefs as our witnesses. This came about in a routine way as a consequence of a letter that Senator LEVIN, the chairman of the committee, and I as ranking member, sent to the Secretary on January 8.

Senator LEVIN and I have worked closely in the joint management of this committee, and I expressed to him, following the Christmas recess, the need that I perceived for Members to get a current briefing with regard to those issues relating to the Department of Defense, obviously one being the deployment to Iraq, the situation in Iraq, the situation in Korea, and other matters—generally speaking, the continuing war that the President is engaging against terrorist.

I am about to read the letter we sent. I have been very much involved in these issues as a member of this committee. Senator LEVIN and I start our 25th year as Senators, and we have been together on that committee now this quarter of a century. We have worked together very closely in a trusting relationship, and that continues.

We have had our strong differences, particularly when we manage the annual Defense authorization bill. We have taken the two desks of our respective leaders here and debated issues during those 25 years. We have our differences with regard to certain issues as they relate to Iraq.

Interestingly enough, we planned a joint trip to Korea some 18 months ago, but that trip just could not be developed.

I bring that background only to say this letter reflects a perfectly routine meeting that we have had through the years and the joint desire on behalf of the committee to have these two very important witnesses appear to bring us up to their current knowledge with regard to these issues. It is a routine matter.

There is some concern that we have summoned the Secretary of Defense to be here tomorrow morning as a consequence of some publicity that has been put forward of recent regarding the relationships between the Congress and the administration and, most specifically, the Department of Defense. Some of that publicity relates to a conference Republican Senators held last week. I have always followed the rule—

and will continue to do so—that those are private matters between the respective conferences of this side of the aisle and that side of the aisle, and what transpires is simply our business.

Nevertheless, certain facts have emanated from the one held by the Republicans.

Coincidentally, the morning after that conference, Senator LEVIN and I—just the two of us from the Senate—had a breakfast meeting with the Secretary of Defense and about, I would say, eight of his senior members to discuss a wide range of issues. At that meeting, we brought up the subject of this letter, and the Secretary said: Of course, let's schedule whatever time you want. I have the letter. I am ready to come.

In fact, he had just briefed the House Armed Services Committee in a similar way.

This letter is straightforward.

I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WARNER. It states in part:

Dear Mr. Secretary, we are writing to request that you or your Deputy, together with Joint Chiefs . . . testify before the Armed Services Committee next week, in both open and closed session—

We have now decided it will be just in closed session—

on current and potential U.S. military operations. . . .

And the letter flows thereafter. It will be part of the RECORD.

In no way is this to be construed as a summons to the Secretary by myself or Senator LEVIN with respect to our concerns about the consultation process between the Department of Defense and the Congress.

To amplify on my concern about certain inquiries that have been received in my office in the last roughly 36 hours, I do feel very strongly about the situation in Iraq; likewise, the situation in Korea. I believe every Member of this body feels very strongly about it.

Frankly, candidly, and proudly, I say that our President has exhibited the extraordinary leadership with regard to particularly the situation in Iraq and the manner in which he has taken steps in the international arena—the United Nations, the Security Council—working with the heads of state and governments of nations which are now and have been close friends and allies in trying to bring about peace in this world.

I have said in this Chamber, and I will continue to say, that in my humble career, almost a quarter of a century in this body and some 5 years I spent in the Pentagon where I was exposed to international situations, foremost among them the war in Vietnam, Mr. President, the situation in Iraq is one of the most complex and serious situations I have ever witnessed in my

professional career as a public servant. I think it requires the highest degree of attention that it is receiving by our President, that it has, is, and will be received by this august body, the Senate, and working with the House as a Congress as a whole. I think our President has received strong support with regard to the steps he has taken.

I was proud with Senator MCCAIN, Senator BAYH, and Senator LIEBERMAN to draw up a resolution which was passed by this body on which, for the record—and it is in the Record—Senator LEVIN and I had disagreements, but there was a strong endorsement of the actions being taken by our President.

In that context, I think the consultation process between the President and his principal Cabinet officers and others in the Congress has to be stronger than it has ever been because of the complexity of this situation. That is why I urged Senator LEVIN to have this hearing tomorrow. That is why I am taking other steps to see that our committee, the Senate Armed Services Committee, which presumably in the not too distant future I will be named chairman, receives the maximum amount of information, not only that it desires but that it needs to properly perform our oversight process, that it needs to properly not only relate to our constituents but to members of the administration to convey our feelings and views which indeed could be contrary in some respects to actions taken or that are about to be taken by the President and others as it relates to this situation.

North Korea is a very special and complex situation. Again, I think our President is following the correct steps.

Had I had the opportunity, I probably would have advised a greater relationship in terms of visitations and otherwise with the regime in North Korea, assuming the opportunity had been provided, but that government completely abandoned the commitments they had made earlier, and indeed the commitments which presumably they were continuing with this administration of President George Bush.

I will not get involved in the various details there, but I am gravely concerned about the some 37,000 men and women in the Armed Forces who are essential on that border to show the resolve of this country to protect South Korea and to try to promote first the deterrence of any combat and then perhaps promote closer relationships between the North and the South. Those forces, together with other associated forces on standby, are in the area of North and South Korea for peaceful purposes.

I do not know what will evolve from the efforts by the administration, which I think are very positive. The administration has sent a high-ranking official over there to see whether, in working with our principal allies on this matter—Japan, China, Russia—we

can work together as a group of nations to once again bring back a course of action which will involve the cessation of the manufacture of weapons of mass destruction by North Korea and to foster a closer and more peaceful relationship with those two countries and North Korea as it relates to the neighboring countries in that area of the world, and hopefully to curtail the continued export by North Korea of weapons of mass destruction to other nations.

I return to this whole subject of the consultation and its importance at this particular time because of the complexity and the difficulty of the American people to really fully grasp the seriousness of this situation in Iraq and the threat posed by Saddam Hussein.

I saw where there is being planned what has been termed a peaceful march, a protest march, protesting the possibility of military engagement with Iraq at some point in time. I underscore that our President has made no decision about that and repeatedly says he has made no decision about it.

For over 5 years during the war in Vietnam, I was privileged to serve in the Navy Secretariat. I remember so many times coming up to the Hill to testify. I remember the widening gap between the Congress of the United States and the administration in that period of time because of the different views with regard to that conflict. Who suffered the most? It was really the men and women of the Armed Forces who were courageously fighting in that war.

I suppose at no time in the long public career which I have been privileged to have in this country have I had such heartfelt compassion for the men and women in the Armed Forces than in that period. They would come home on leave or come home wounded or tragically, in many cases, not come home as a consequence of being a casualty on the battlefields, battlefields which I visited on occasion, and the ships, and they would come home to a nation that did not understand what they were doing, a nation that was hostile to them individually and collectively, as well as to the families of those service persons.

Strengthening the consultation between the Congress and the executive branch at this time is essential to see that that chapter in American history is never repeated.

Today we have an all-volunteer force, and I think it is magnificent. I do not think we have to return to the draft—but I will save that for another day—because I experienced the draft periods. I was privileged to serve briefly in a very modest way in the Navy in the concluding months of World War II when the draft was on. I happened to volunteer at 17. Most of my age group at that time did volunteer for selective service. I served again in the Korean war, briefly again in Korea. Again, it was a draft situation. I do not want to return to those periods where men and

women—well, in those days men were drafted. Any future draft would have to involve both sexes, but that is a subject for another time.

I harken back to those periods of Vietnam, and I will watch very carefully what transpires in the next few days during this hopefully peaceful protest of the policies of the Government as they relate to the possible use of our troops in the war.

I want to recount one other chapter which I will never forget. My recollection is it was Saturday afternoon and I was in my office and my beloved, dear friend John Chafee, who used to sit right at that desk, was Secretary of the Navy and I was Under Secretary, and Secretary Laird telephoned me and said: I would like to have you and John Chafee go down to The Mall and take a look at another demonstration—by the young men and women of that era—in protest to Vietnam and come back and have a talk with me.

I remember so well that in those days we were all dressed up in our business suits even though it was a Saturday. We used to work pretty much 6 days a week during that war. We dispensed with our chauffeur-driven cars. We got in an old car and drove down to The Mall in some sort of cobbled together set of gym clothes, or whatever we had on. We blended right into that crowd. I can see it as clearly this moment as I did then.

Estimates were there were close to a million—I want to repeat that—close to a million young men and women. There was no particular anger, but they were protesting the war in Vietnam and the impact that war was having on their lives, their future, and their loved ones or friends or otherwise who had suffered the consequences of serving in uniform in that period. I do not want to see a return to that.

I remember we went back and talked to Secretary of Defense Laird about what we had seen, and I can see him now. He was very concerned because we did not have in place then a clear policy by which at some point in time we as a nation had to come to the conclusion that we had to basically make an honorable and dignified exit in that situation. That is for another day for historians to examine. It is emblazoned in my mind. I do not see nor do I sense among our people across the Nation today any feeling that such magnitude of a problem exists at this point in time with regard to Iraq.

Nevertheless, those situations come about sometimes quickly. That is why I will always be an advocate—whether it is the Bush administration, whether it is the Clinton administration, the Carter administration, or the previous Bush administration; I have worked with them all; I have been privileged to work in this body a quarter of a century—why I have been a steadfast proponent for consultation. I will continue. I hope it is not misconstrued by way of criticism. It is constructive thinking and drawing upon my own,

you might say limited, experiences in previous military conflicts in this country.

I recall at the conclusion of World War II when those in uniform came home. They were welcomed with open arms. It is impossible in these few minutes to describe the gratitude of the Nation, of the world, for the participation of those upward 16 million who served in that conflict and how all doors were open when they came home.

That was not present in Korea. It is why it is called the forgotten war. When they came back, there was no warm reception. We read something about it, but we were not entirely sure what it was they were fighting for over there. It is called the forgotten war. Over 50,000 men, and some women, from the United States of America gave their lives in that conflict. That is why it is called the forgotten war. Fortunately, today there are a number of things that have taken place to properly put in perspective the enormous sacrifice this country gave to secure for South Korea the freedoms they have enjoyed, the freedoms that have flourished. It is with a certain sense of sadness I read from time to time now that certain elements of the South Korean people resent our presence there.

The principle focus of these remarks is to reflect in the quiet moments at the end of a long day in the Senate a subject I feel strongly about, the consultation between the executive branch—whatever President it would be—and his principal Cabinet and other officers with this body, particularly in times as stressful and as complex as we are now facing here with the Iraqi situation or with the Korean situation.

I encourage the Department of Defense at the earliest point to release such statistics they keep with regard to the consulting process, the number of times that the Secretary of Defense has been up to brief the Congress—as they are going to do tomorrow. To the extent I can reflect on those brief remarks that I make to our conference, they were done in a constructive tone, a noncritical tone, and against the background that I briefly described of what I have experienced in my years as a public servant in times that are parallel, in many respects, to what we have now with the extraordinary tensions in this world as a consequence of terrorists, as a consequence of a despot such as Saddam Hussein.

Much is unknown about the Government of North Korea and its principal leaders. That is, in itself, very difficult. We have so little insight into that regime and particularly the leader of that nation at this time.

I conclude by saying I will continue to speak out. If I feel strongly enough I will criticize. I have been known to do it. At this time I am trying to provide an element of constructive leadership as it relates to my good friend and longtime friend. When I was in the Navy, Secretary Rumsfeld was on President Nixon's staff in the White

House, and we have known each other from that period of time. We formed a friendship then and have seen each other in the intervening years. We remain trusting and good, close working colleagues. Now and then he has a few choice words about me about some of the things I have done over here. He was not entirely pleased with my efforts on TRICARE For Life and current receipts, but those are honest differences between public servants.

In this instance, what I said at that conference was done in a heartfelt, constructive manner and it was not in any way directed it as a personal criticism against any of the President's Cabinet or the President himself. It was done simply to lay down a format for consultation with this body in the weeks and months to come, as we are continuing to lead as a nation to secure freedom in this world and a greater degree of peace for others.

Tomorrow's hearing will be very important before the Senate Armed Services Committee. I am confident the Secretary will share such information that is essential for us to perform our functions.

I yield the floor.

EXHIBIT 1

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, January 8, 2003.

Hon. DONALD H. RUMSFELD,  
Secretary of Defense, the Pentagon, Washington, DC

DEAR MR. SECRETARY: We are writing to request that you or your Deputy, together with Joint Chiefs of Staff Chairman General Richard B. Myers, USAF, testify before the Armed Services Committee next week, in both open and closed session, on current and potential U.S. military operations. In particular, we request that you discuss the commitment of military forces in and around Afghanistan allocated to the global war on terrorism, the buildup of U.S. military personnel and equipment in the Persian Gulf region to confront the threat posed by Iraq, and potential military commitments in support of a diplomatic solution to the enhanced tensions on the Korean Peninsula.

As the 108th Congress convenes, our nation is facing a broad range of national security challenges. Together with a large coalition of nations, our troops are engaged in the second year of operations in Afghanistan; on an almost daily basis, U.S. military forces are deploying to areas around Iraq; and for the past month, we have witnesses escalating tension over the North Korean nuclear weapons program.

Our Committee last conducted hearings on Iraq in September of 2002, prior to the vote on the resolution to authorize the use of force against Iraq, followed by a briefing in December. We had comprehensive hearings on Afghanistan in July 2002, and North Korea in March 2002, when the combatant commanders responsible for those regions testified.

As the new Congress convenes, and the Committee has a large number of new Members, it is essential to our oversight responsibilities to gain a timely update on vital national security issues in order to fulfill our constitutional responsibilities.

Sincerely,

JOHN WARNER.  
CARL LEVIN.

Mr. WARNER. I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MAKING MAJORITY PARTY APPOINTMENTS—Continued

Mr. FRIST. Mr. President, I will take just a very brief moment to update our Members as to where we are in our recent discussions. We have spent most of today, while debate has been underway, continuing discussions in terms of the committee resolution. Pending on the floor is that resolution making the majority party appointments for the 108th Congress. A number of the issues have been raised, both on the floor as well as between the leaders, and we have made tremendous progress. We have, over the course of the day, resolved many of the concerns that have been raised. I believe we are very close to working out an agreement that will let us adopt the respective committee resolution—and very quickly begin work on the appropriations bill.

My hope is that over the course of this evening and in the morning, the last of these issues will have been worked through and we can achieve the objective of organizing the committees.

I will say that as a backstop, or a preventive measure, I am compelled tonight to file cloture on the resolution in the event—again, this is not anticipated at all because of the great progress that has been made—in the event that we are unable to reach an agreement on the committee resolution. Again, I am very hopeful that early tomorrow we will be ready to pass the respective party resolutions and begin the appropriations process.

#### CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk to S. Res. 18 making majority party appointments for the 108th Congress.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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, do hereby move to bring to a close debate on S. Res. 18, a resolution making majority appointments to committees.

Bill Frist, Mitch McConnell, Ted Stevens, Kay Bailey Hutchison, Ben Nighthorse Campbell, Larry E. Craig, Conrad R. Burns, Orrin Hatch, Norm Coleman, Pete Domenici, Pat Roberts, R.F. Bennett, Michael B. Enzi, George Allen, James Talent, Gordon Smith, James M. Inhofe, Richard Shelby, John W. Warner, Jim Bunning, Chuck Grassley, John Ensign, Rick Santorum, Lincoln Chafee, George V. Voinovich, Jeff

Sessions, C.S. Bond, Susan Collins, Mike DeWine, Thad Cochran, Olympia J. Snowe, John McCain, Peter Fitzgerald, Sam Brownback, Lindsey Graham, John E. Sununu, Jon Kyl, Lamar Alexander, Elizabeth Dole, John Cornyn, Craig Thomas, Judd Gregg, Don Nickles, Richard G. Lugar, Trent Lott, Wayne Allard, Lisa Murkowski, Saxby Chambliss, Arlen Specter, Chuck Hagel, Mike Crapo.

Mr. FRIST. I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. REID. Will the majority leader yield?

Mr. FRIST. I yield.

Mr. REID. I say, through the Presiding Officer, to the majority leader, there have been a lot of speeches on the floor today. People said what they said. I think everything has been said, but not quite everyone has said it.

I feel good about the progress that has been made. However, I say to the majority leader, you and Senator DASCHLE are really close to being able to work something out. This is where it really gets hard. This is where you and Senator DASCHLE really have to show your leadership. I am confident that will happen. It would be good for the institution if we could get this done. We could move on, as the leader knows, to the appropriations bills which need to be done.

In spite of the threatening nature of the speeches on both sides today, tomorrow will be a better day. I am hopeful and very confident, and so is Senator DASCHLE, that we can work this out. I express to the majority leader my wishes for a productive final half yard to the goal line.

Mr. FRIST. Again, progress has been made. I appreciate the comments. I expect continuing progress to be made such that tomorrow we will have a very successful day in progressing the agenda that the American people expect.

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period of morning business.

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

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 6, 2001 in Middleburg, PA. A gay man was severely beaten by two neighbors. Michael Aucker, 41, and two brothers,

Todd Justin Clinger, 20, and Troy Lee Clinger, 18, were drinking beer in a trailer when the brothers thought Aucker made a sexual advance towards them. Police said the brothers took Aucker out on the deck and stomped on him with heavy work boots. Aucker was discovered a day and a half later by another neighbor and co-worker. He was in a coma and every bone in his face and nose were broken. 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 is 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.

#### SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Mr. FEINGOLD. Mr. President, I rise to call my colleagues' attention to a situation in the Democratic Republic of the Congo. Last month, the parties to the bloody conflict in the Democratic Republic of the Congo signed an accord intended to end the country's 4-year civil war. But central Africans may not have much reason to celebrate yet, because unless this step is accompanied by meaningful new initiatives, the agreement promises little change from the insecurity and repression that have killed millions of their countrymen and dominated their lives throughout the conflict.

As the outgoing chairman and incoming ranking Democratic member of the Senate Subcommittee on African Affairs, I have monitored events in the Congo in recent years, and I must share some of this skepticism. The international community has been eager to certify a withdrawal of foreign forces so that it could move the Congo file out of the international crisis bin and into the overstuffed stack of civil collapses. Consequently, the world has demanded very little of the signatories to this new accord. Meanwhile, the demands of the Congolese people appear to have not been taken into account at all.

The agreement provides for Joseph Kabila, who was installed as President in Kinshasa after his father's assassination, to remain in the Presidency, and establishes four Vice-Presidential positions to accommodate his own party, the two major armed rebel groups, and the unarmed political opposition. But neither the President nor this bevy of Vice-Presidents can boast of any real political legitimacy, and thus far plans to ensure an eventual democratic transition have a feeble, wishful quality that suggests no one takes them terribly seriously.

Intercommunal tensions in Eastern Congo continue to simmer violently in the context of atrocious governance, but this is treated as an extraneous and inconvenient detail. Violence continues to rage in the Ituri region, displacing tens of thousands, it is clear,



killing many civilians caught in a brutal struggle for power between factions uninterested in any aspect of governance save the accumulation of power and riches.

Evidence that virtually all parties now ensconced in an internationally sanctioned government have participated in rapacious exploitation of Congo's natural resources merited ambitious reports from a U.N. commission, but the United States appears to have largely ignored the commission's recommendations. Mr. President, I want to stress how important the commission's work truly is, in exposing the motives of the actors involved and revealing the extent to which the country's resources and future have been sold out to the highest bidder, leaving little for rebuilding the Congolese state and providing for the needs of the Congolese people. The commission's work should continue, and the U.S. should work with our partners in the international community to make its recommendations reality.

But I want to underscore an important fact. Our failure to hold actors within Congo and within the Governments of Rwanda, Uganda, and Zimbabwe accountable for looting the country is a lesser crime than our failure to address the killing, rape, and deprivation that these forces inflicted on the Congolese. Despite the fanfare accompanying recent agreements, no one has meaningfully addressed the need to hold those responsible accountable for the horrific human rights abuses that have characterized this conflict. In fact, the international community has countenanced the slaughter of innocents with impunity throughout the region for years, and appears to have even lost its taste for making the International Criminal Tribunal for Rwanda, established in the wake of the 1994 genocide, an effective and impartial body.

To consider the history of the Congo is to confront an appalling litany of exploitation and manipulation—first orchestrated by Belgium's rapacious King Leopold, then by the American-backed kleptocrat, Mobutu Sese Seko. The Congolese people deserve finally to have a voice in decisions about their political leadership and some degree of control over their own destiny. But I fear that they are about to get more of the same—more harassment of civil society and the free press, more underdevelopment, and more thuggery disguised as authority. The hundreds of millions of dollars that the U.S. is devoting to peacekeeping in the Congo must be accompanied by real political leadership that underscores the need for accountability, improved governance, grassroots participation, and focused reconstruction and rehabilitation efforts. Without that leadership, the American people will have simply made a costly investment in continued injustice.

The current approach is not merely morally reprehensible and fiscally irre-

sponsible, it is also dangerous. In hearings I convened earlier this year, I tried to draw out the links between unstable and lawless swathes of Africa and international criminal networks—including terrorist networks. Experts have warned about the potential for terrorists to acquire uranium from central African sources. A free-for-all of corruption and instability is appealing to money-launderers, arms and mineral traffickers, and others who would prefer to keep their activities in the shadows. The spillover effects of sustained chaos in Congo are simply too serious to be ignored. The U.S. needs a coherent, long-term policy aimed at building stability and strengthening institutions.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MAYOR "DU" BURNS

• Ms. MIKULSKI. Mr. President, I rise to pay tribute to the life and legacy of Mayor Clarence Henry Burns.

Mayor "Du" Burns was born to an economically poor family—but he was rich in hope and spirit. No one gave Du Burns anything on a silver platter. What he had and what he became—he did on his own—using his God-given skills. He used his grit and gifts to make life better for the people of Baltimore. He went from being a locker-room attendant to become the first African American Mayor of Baltimore, and he took his whole community with him.

I had the pleasure of serving with Du Burns on the Baltimore City Council. I had such great respect and affection for him. We worked together to strengthen neighborhoods and built communities. He believed, as I do, that the best ideas come from the people. His mission was to meet the day to day needs of the people of Baltimore.

Mayor Burns was a coalition builder, forging an alliance for East Baltimore that included the different communities that give our city its strength. He started Baltimore's first homeless program. He strengthened schools and libraries and public housing. He made our city work.

Mayor Du Burns left an indelible mark on the city of Baltimore. He also left a strong and loving family—and so many friends, including me. His wife Edith and his family are in my thoughts and prayers. •

##### HONORING A BROADCASTING PIONEER

• Mr. NELSON of Florida. Mr. President, I rise today to recognize a Floridian who has made significant contributions to his community through the field of broadcasting and communications.

A resident of St. Petersburg, Patrick L. McLaughlin is a broadcast engineer whose career began after service in the United States Navy in World War II

and culminated with this retirement from the television industry in 1985.

He, and many radio-and-television pioneers like him, literally helped get television off the ground, laboring behind-the-scenes to usher in the dawn of modern, electronic television. For the technicians and engineers of those early days of TV, it often was a low-budget, low-glamour profession. But they pressed on and built an extraordinary industry.

In 1954, Mr. McLaughlin helped build up West Central Florida's first television station, WSUN-TV, Channel 38. Later, he served as chief engineer at WFLA-TV, Channel 8, in Tampa, now one of the country's largest media markets.

Under his guidance, WFLA and other television stations initiated important technological changes that have been models for later industry transformations. Along the way, he made sure local stations remained on the air during times of crisis to provide an essential lifeline and source of information for dispersed Tampa Bay area communities when they were hit by hurricanes and riots.

Nowadays, we take television so much for granted that it's easy to forget that innovative technicians and engineers, such as Mr. McLaughlin, helped transform broadcasting stations into a source of entertainment and education for current and future generations, as well as a powerful medium that helps shape both popular culture and contemporary history.

For this, we owe that early generation of broadcast engineering pioneers our gratitude.

I ask my Senate colleagues to join me today in recognizing one of them, Patrick L. McLaughlin. •

##### TRIBUTE TO STEVE YOUNG

• Mr. VOINOVICH. Mr. President, I rise today to pay tribute to Steve Young, the National President of the Fraternal Order of Police, who passed away on January 9, 2002. One of the most rewarding things about serving in the government is having the opportunity to meet some very special people, and Steve was one of them. Every so often in life a person is fortunate enough to cross paths with someone who makes them feel good about being in their presence, someone who is caring, genuine, sincere and who brings a special life to the lives of others. That was Steve Young and I feel blessed to have known him. Steve, a native of Upper Sandusky, OH and graduate of upper Sandusky High School, is survived by his wife, Denise; his two sons, Steven David and Staten Daniel; his three sisters Gloria Steurer, Kay Baker, and Deborah Smith and his mother, Lillian Heffelfinger.

Serving as a member of the Fraternal Order of Police, F.O.P., for 26 years, Steve dedicated his life and career to law enforcement. His distinguished membership included eleven years as

President of the Ohio State lodge, four years as National Vice President, and 17 months as National President.

Steve's understanding of the rigorous demands placed on law enforcement officers who protect our citizens each and every day made him an extremely effective and well-respected leader. His innovative leadership style produced a list of accomplishments that set a new standard for success.

During his career, Steve helped to create the Ohio Labor Council, with more than 8,000 members, to improve the effectiveness of labor-management negotiations within police forces. Remarkably, fourteen States across our Nation are using this methodology as a model for improving labor-management relations. He also implemented the Critical Incident Response program, to rapidly assist officers psychologically damaged in the line of duty, a program that has been implemented across the country.

It came as no surprise that Steve's numerous accomplishments led to his overwhelming election as the National President of the F.O.P. in August 2001. During his tenure, Steve's enthusiasm, spirit, and love of law enforcement never diminished. In fact, he continued to dedicate his career to the citizens of Ohio serving as Lieutenant in the Marion City Police Department, until his passing.

One would not know by looking at his achievements, but his term as President of the F.O.P. was all too brief. Under his Presidency, the F.O.P. developed a close relationship with the Bush Administration, which led to Steve's appointment to the Homeland Security Advisory Council. Thanks to Steve, the F.O.P. will now play an important role in the transition as the various law enforcement agencies are folded into the new Department of Homeland Security.

Under Steve's presidency and at the request of the Administration, the F.O.P. was asked to serve as a Charter member of the National Citizens Corps Council. This group is dedicated to bringing together national leaders from first responder groups, emergency management agencies, volunteer service organizations, State and local governments, and the private sector in an effort to engage citizens in homeland security and promote community and family safety practices across the country.

Recognizing the importance of family and the commitment that law enforcement officers make each day, Steve worked with Secretary Elaine Chao to obtain a \$2 million grant from the U.S. Department of Labor so that the F.O.P. could design and administer a scholarship program for the spouses of fallen officers.

It is evident that Steve Young served our country and his community with honor, courage, and distinction. However, in times of great loss, words often fail to comfort the anguish loved ones feel for their departed. I can only hope

that the entire Young family will find solace in the thoughts and prayers of loved ones, friends, and the countless other lives that Steve touched.

May God bless Steve Young and his entire family.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in Executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### 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. BIDEN (for himself, Mr. SPECTER, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. CARPER, Mrs. FEINSTEIN, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mr. CRAIG, Mr. WARNER, Mrs. MURRAY, Mr. EDWARDS, Ms. COLLINS, Mr. CORZINE, Mr. ALLEN, Ms. LANDRIEU, Mr. KOHL, and Ms. STABENOW):

S. 152. A bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. GRASSLEY, Mr. SESSIONS, and Mr. CRAIG):

S. 153. A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 154. A bill to provide emergency disaster assistance to agricultural producers, to impose tariff-rate quotas on certain casein and milk protein concentrates, and to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes; to the Committee on Finance.

By Mr. ENZI:

S. 155. A bill to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. INHOFE):

S. 156. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, and Mr. LAUTENBERG):

S. 157. A bill to help protect the public against the threat of chemical attacks; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Mr. BOND):

S. 158. A bill to amend the Internal Revenue Code of 1986 to expand the depreciation benefits available to small businesses, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. ALLEN):

S. 159. A bill to require the Federal Communication Commission to allocate additional spectrum for unlicensed use by wireless broadband devices, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. HATCH, Mr. BUNNING, Mr. KENNEDY, Mrs. CLINTON, Mr. SCHUMER, and Mr. GRAHAM of South Carolina):

S. 160. A bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. INOUE, Mr. DORGAN, and Mrs. HUTCHISON):

S. 161. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S.J. Res. 3. A joint resolution expressing the sense of Congress with respect to human rights in Central Asia; to the Committee on Foreign Relations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST:

S. Res. 18. A resolution making majority party appointments to certain Senate committees for the 108th Congress; submitted and read.

By Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. KENNEDY):

S. Res. 19. A resolution expressing the sense of the Senate that Congress should increase the maximum individual Federal Pell Grant award to \$9,000 by 2010; to the Committee on Health, Education, Labor, and Pensions.

#### ADDITIONAL COSPONSORS

S. 27

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was withdrawn as a cosponsor of S. 27, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

S. 27

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 27, supra.

S. 85

At the request of Mr. LUGAR, the names of the Senator from New York

(Mr. SCHUMER), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 91

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 91, 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. 105

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 105, a bill to repeal certain provisions of the Homeland Security Act (Public Law 107-296) relating to liability with respect to certain vaccines.

S. 125

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 125, a bill to provide emergency disaster assistance to agricultural producers.

S. 140

At the request of Mrs. FEINSTEIN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. SPECTER, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. CARPER, Mrs. FEINSTEIN, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mr. CRAIG, Mr. WARNER, Mrs. MURRAY, Mr. EDWARDS, Ms. COLLINS, Mr. CORZINE, Mr. ALLEN, Ms. LANDRIEU, Mr. KOHL, and Ms. STABENOW):

S. 152. A bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise along with the distinguished Senior Senator from Pennsylvania, Senator SPECTER, to introduce the DNA Sexual Assault Justice Act of 2003, a bill that guarantees prompt justice to victims of sexual assault crimes through DNA technology. This bill is not new to my colleagues. Last session, I introduced the DNA Sexual Assault Justice Act with Senators SPECTER, CANTWELL, CLINTON, and SCHUMER. The bill was voted favorably out of the Judiciary Committee with the key support of my good friend across the aisle, Senator SPECTER. And in September, with twen-

ty co-sponsors, Republicans and Democrats, the DNA Sexual Assault Justice Act unanimously passed the Senate. Regrettably, our House counterparts were not able to act so quickly or decisively on a DNA bill, so I am back to re-introduce the bill and to urge quick passage of the DNA Sexual Assault Justice Act of 2003. I am pleased that, once again, this bill has strong bipartisan support and I look forward to working with my good friend from Utah, the distinguished Senior Senator, Senator HATCH, in acting promptly in marking up this bill when he assumes chairmanship of the Judiciary Committee.

Promoting and supporting DNA technology as a crime-fighting tool is not a new endeavor for me. A provision of my 1994 Crime Bill created the Combined DNA Index System, called "CODIS", which is an electronic database of DNA profiles, much like the FBI's fingerprint database. CODIS includes two kinds of DNA information, convicted offender DNA samples and DNA from crime scenes. CODIS uses the two indexes to generate investigative leads in crimes where biological evidence is recovered from the scene. In essence, CODIS facilitates the DNA match. And once that match is made a crime is solved because of the incredible accuracy and durability of DNA evidence.

99.9 percent—that is how accurate DNA evidence is. 1 in 30 billion, those are the odds someone else committed a crime if a suspect's DNA matches evidence at the crime scene. 20 or 30 years, that is how long DNA evidence from a crime scene lasts.

Just ten years ago DNA analysis of evidence could have cost thousands of dollars and taken months; now testing one sample costs \$40 and can take days. Ten years ago forensic scientists needed blood the size of a bottle cap, now DNA testing can be done on a sample the size of a pinhead. The changes in DNA technology are remarkable, and mark a sea change in how we can fight crime, particularly sexual assault crimes.

The FBI reports that since 1998 the national DNA database has helped put away violent criminals in 6,257 investigations in 40 States. How? By matching the DNA crime evidence to the DNA profiles of offenders. Individual success stories of DNA "cold hits" in sexual assault cases make these numbers all too real.

Just last month, Alabama authorities charged a man in the rape of an 85-year-old woman almost ten years ago after he was linked to the case by a DNA sample he was compelled to submit while in prison on unrelated charges.

In Colorado Springs, CO, a trial will soon begin of a man accused of at least fourteen rapes and sexual assaults. Due to the national DNA database, prosecutors were able to trace the defendant to rapes and assaults that occurred in Colorado, California, Arizona, Nevada and Oklahoma between 1999 and 2002.

In Florida, Kellie Green was brutally attacked and raped in the laundry room of her apartment complex. Because of lack of funds, her rape kit sat on the shelf for three years until a persistent detective had it analyzed. The evidence matched the profile of a man already incarcerated for beating and raping a woman 6 weeks before Kellie.

Or take, for example, a 1996 case in St. Louis where two young girls were abducted from bus stops and raped at opposite ends of the city. The police were unable to identify a suspect. In 1999, the police decided to re-run the DNA testing to develop new leads. In January 2000, the DNA database matched the case to a 1999 rape case, and police were able to identify the perpetrator.

Last spring, the New York Police Department arrested a man linked to the rape of a woman years ago. In 1997, a woman was horribly beaten, robbed and raped, there were no suspects. Five years later, the perpetrator submitted a DNA sample as a condition of probation after serving time for burglary. The DNA sample matched the DNA from the 1997 rape. Crime solved, streets safer.

Undoubtedly, DNA matching by comparing evidence gathered at the crime scene with offender samples entered on the national DNA database has proven to be the deciding factor in solving stranger sexual assault cases—it has revolutionized the criminal justice system, and brought closure and justice for victims.

In light of the past successes and the future potential of DNA evidence, the reports about the backlog of untested rape kits and other crime scene evidence waiting in police warehouses are simply shocking. It is a national problem, plaguing both urban and rural areas, that deserves national attention and solutions. One woman, in particular, has reminded State and Federal lawmakers that we cannot ignore even one rape kit sitting on a shelf gathering dust, Debbie Smith. In 1989, Mrs. Smith was brutally taken from her home and raped. There were no known suspects and Mrs. Smith lived in fear of her attacker's return. Six years later, the Virginia crime laboratory discovered a DNA match between the rape scene evidence and a State prisoner's DNA sample. Mrs. Smith had her first moment of real security and closure and since then, she has traveled the country to advocate on behalf of assault victims and champion the use of DNA to fight sexual assault. I am pleased that the DNA Sexual Assault Justice Act of 2003 bears a provision entitled, "The Debbie Smith DNA Backlog Grants."

Today I am introducing legislation, "The DNA Sexual Assault Justice Act of 2003", to strengthen the existing Federal DNA regime as an effective crimefighting tool. My bill addresses five pressing issues.

First, exactly how bad is the backlog of untested rape kits nationwide? A

1999 government report found over 180,000 rape kits were sitting, untested, on the storage shelves of police department and crime laboratories all across the country.

While recent press reports estimate that the number today is approaching 500,000 untested rape kits, I am told that there are no current, accurate numbers of the backlog. Behind every single one of those rape kits is a victim who deserves recognition and justice. Accordingly, my legislation would require the Attorney General to survey law enforcement agencies nationwide to assess the extent of the backlog of rape kits waiting to undergo DNA testing. To combat the problem of rape kit backlogs, it is imperative to know the real numbers, and how best to utilize Federal resources.

Second, how can existing Federal law be strengthened to make sure that State crime labs have the funds for the critical DNA analysis needed to solve sex assault cases? To fight crime most effectively, we must both test rape kits and enter convicted offender DNA samples into the DNA database. There has been explosive growth in the use of forensic sciences by law enforcement. A government survey found that in 2000 alone, crime labs received 31,000 cases—a 47 percent increase from almost 21,000 cases in 1999. In addition, the labs received 177,000 convicted offender DNA samples, an almost 77 percent increase from 100,242 samples in 1999.

The backlog in DNA testing is found all across the country. Last month a Michigan newspaper reported that its State police forensic unit is expected to have a 10-year backlog of items in need of DNA testing. Similar news reports are elsewhere. The Florida crime lab system is facing a backlog of more than 2,400 rape, murder and assault and burglary cases with DNA evidence waiting for testing. In North Carolina, up to 20,000 rape kit tests sit on evidence shelves because the lab does not have the resources to conduct timely DNA testing.

Many crime laboratories report personnel shortages in the face of this overwhelming work. According to a government survey, on average, there are 6 employees in a State crime lab, a lab that must not only conduct DNA testing for hundreds of cases, but also run forensic tests on blood, footprints or ballistic evidence.

The bill I'm introducing would: 1. Increase current funding levels to both test rape kits and to process and upload offender samples; and 2. allow local governments to apply directly to the Justice Department for these grants. I thank my colleagues Senators KOHL and DEWINE who began this effort with the DNA Backlog Elimination Act of 2000 and acknowledge their ongoing interest in this area.

Third, what assistance does the FBI need to keep up with the crushing number of DNA samples which need to be tested or stored in the national database? I am told that the current

national DNA database, "CODIS", is nearing capacity of convicted offender DNA samples. My bill would provide funds to the FBI to 1. Upgrade the national DNA computer database to handle the huge projections of samples; and 2. process and upload Federal convicted offender DNA samples into the database.

Efforts to include more Federal and State convicted offenders in our database just makes plain sense to fight crime. We know that sexual assault is a crime with one of the highest rates of recidivism, and that many sexual assault crimes are committed by those with past convictions for other kinds of crime. Their DNA samples from prior convictions help law enforcement efforts enormously. We cannot wait; the 2001 FBI crime records show that one forcible rape occurs every 5.8 minutes, and the most recent reports from the first six months of 2002 indicate a 1.8 percent increase in the number of rapes as compared to 2001 statistics.

Fourth, what additional tools are needed to help treat victims of sexual assault? One group that understands the importance of gathering credible DNA evidence are forensic sexual assault examiners, who are sensitive to the trauma of this horrible crime and make sure that patients are not re-victimized in the aftermath. These programs should be in each and every emergency room and play an integral role in police departments to bridge the gap between the law and the medicine.

I first recognized the importance of sexual assault nurse examiners in solving rape cases when I authored the Violence Against Women Act. A key provision in the Violence Against Women Act requires the Attorney General to evaluate and recommend standards for training and practice for licensed health care professionals performing sexual assault forensic exams. So I knew that any DNA bill aimed at ending sexual assault must include resources for sexual forensic examiners, and not just one type. My bill ensures that sexual forensic nurses, doctors, and response teams are all eligible for assistance.

Tapping the power of DNA requires well-trained law enforcement who know how to collect and preserve DNA evidence from the crime scene. Training should be a matter of course for all law enforcement. No rape kit evidence will lead to the perpetrator if the DNA evidence is collected improperly.

The DNA Sexual Assault Justice Act would create a new grant program to carry out sexual assault examiner programs and training. And it would train law enforcement personnel and prosecutors in the handling of sexual assault cases, including drug-facilitated assaults, and the collection and use of DNA samples for use as forensic evidence at trial.

Fifth, what can be done to ensure that sexual assault offenders who cannot be identified by their victim are nevertheless brought to justice?

Profound injustice is done to rape victims when delayed DNA testing leads to a "cold hit" after the statute of limitations has expired. For example, Jeri Elster was brutally raped in her California home, and for years the police were unable to solve the crime. Seven years later, DNA from the rape matched a man in jail for an unrelated crime. Yet the rapist was never charged, convicted or sentenced because California's statute of limitations had expired the previous year.

The DNA Sexual Assault Justice Act of 2003 would change current law to authorize Federal "John Doe/DNA indictments" that will permit Federal prosecutors to issue an indictment identifying an unknown defendant by his DNA profile within the five year statute of limitations. Once outstanding, the DNA indictment would permit prosecution at anytime once there was a DNA "cold hit" through the national DNA database system.

John Doe/DNA indictments strike the right balance between encouraging swift and efficient investigations, recognizing the durability and credibility of DNA evidence and preventing an injustice if a cold hit happens years after the crime. Criminal law must catch up with DNA technology without the wholesale eradication of prevailing statutes of limitations.

I started looking at the issue of improved prosecution of sexual assault crimes almost two decades ago when I began drafting the Violence Against Women Act. The DNA Sexual Justice Act of 2003 is the next step, a way to connect the dots between the extraordinary strides in DNA technology and my commitment to ending violence against women. We must ensure that justice delayed is not justice denied.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 152

*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 "DNA Sexual Assault Justice Act of 2003".

#### SEC. 2. ASSESSMENT OF BACKLOG IN DNA ANALYSIS OF SAMPLES.

(a) ASSESSMENT.—The Attorney General, acting through the Director of the National Institute of Justice, shall survey Federal, State, local, and tribal law enforcement jurisdictions to assess the amount of DNA evidence contained in rape kits and in other evidence from sexual assault crimes that has not been subjected to testing and analysis.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the assessment carried out under subsection (a).

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the results of the assessment carried out under subsection (a);

(B) the number of rape kit samples and other evidence from sexual assault crimes

that have not been subjected to DNA testing and analysis; and

(C) a plan for carrying out additional assessments and reports on the backlog in crime scene DNA testing and analysis.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Department of Justice to carry out this section \$500,000 for fiscal year 2004.

### SEC. 3. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by striking the heading and inserting “**AUTHORIZATION OF DEBBIE SMITH DNA BACKLOG GRANTS.**”; and

(2) in subsection (a)—  
(A) in paragraph (2), by inserting “including samples from rape kits and samples from other sexual assault evidence, including samples taken in cases with no identified suspect” after “crime scene”; and

(B) by adding at the end the following:

“(4) To ensure that DNA testing and analysis of samples from rape kits and nonsuspect cases are carried out in a timely manner.”.

### SEC. 4. INCREASED GRANTS FOR ANALYSIS OF DNA SAMPLES FROM CONVICTED OFFENDERS AND CRIME SCENES.

Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “and” at the end; and

(B) by striking subparagraph (C) and inserting the following:

“(C) \$15,000,000 for fiscal year 2004;  
“(D) \$15,000,000 for fiscal year 2005;  
“(E) \$15,000,000 for fiscal year 2006;  
“(F) \$15,000,000 for fiscal year 2007; and  
“(G) \$15,000,000 for fiscal year 2008.

Amounts made available to carry out the purposes specified in subsection (a)(1) shall remain available until expended.”; and

(2) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following:

“(C) \$75,000,000 for fiscal year 2004;  
“(D) \$75,000,000 for fiscal year 2005;  
“(E) \$75,000,000 for fiscal year 2006;  
“(F) \$75,000,000 for fiscal year 2007; and  
“(G) \$25,000,000 for fiscal year 2008.

Amounts made available to carry out the purposes specified in paragraphs (2) and (3) of subsection (a) shall remain available until expended.”.

### SEC. 5. AUTHORITY OF LOCAL GOVERNMENTS TO APPLY FOR AND RECEIVE DNA BACKLOG ELIMINATION GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “, units of local government, or Indian tribes” after “eligible States”; and

(ii) by inserting “, unit of local government, or Indian tribe” after “State”; and

(B) in paragraph (3), by striking “or by units of local government” and inserting “, units of local government, or Indian tribes”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “or unit of local government, or the head of the Indian tribe” after “State” each place that term appears;

(B) in paragraph (1), by inserting “, unit of local government, or Indian tribe” after “State”;

(C) in paragraph (3), by inserting “, unit of local government, or Indian tribe” after “State” the first time that term appears;

(D) in paragraph (4), by inserting “, unit of local government, or Indian tribe” after “State”; and

(E) in paragraph (5), by inserting “, unit of local government, or Indian tribe” after “State”;

(3) in subsection (c), by inserting “, unit of local government, or Indian tribe” after “State”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “or a unit of local government” and inserting “, a unit of local government, or an Indian tribe”; and

(ii) in subparagraph (B), by striking “or a unit of local government” and inserting “, a unit of local government, or an Indian tribe”; and

(B) in paragraph (2)(A), by inserting “, units of local government, and Indian tribes,” after “States”;

(5) in subsection (e)—

(A) in paragraph (1), by inserting “or local government” after “State” each place that term appears; and

(B) in paragraph (2), by inserting “, unit of local government, or Indian tribe” after “State”;

(6) in subsection (f), in the matter preceding paragraph (1), by inserting “, unit of local government, or Indian tribe” after “State”;

(7) in subsection (g)—

(A) in paragraph (1), by inserting “, unit of local government, or Indian tribe” after “State”; and

(B) in paragraph (2), by inserting “, units of local government, or Indian tribes” after “States”; and

(8) in subsection (h), by inserting “, unit of local government, or Indian tribe” after “State” each place that term appears.

### SEC. 6. IMPROVING ELIGIBILITY CRITERIA FOR BACKLOG GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) if the applicant is a unit of local government, certify that the applicant participates in a State laboratory system;

“(7) provide assurances that, not later than 3 years after the date on which the application is submitted, the State, unit of local government, or Indian tribe will implement a plan for forwarding, not later than 180 days after a DNA evidence sample is obtained, all samples collected in cases of sexual assault to a laboratory that meets the quality assurance standards for testing under subsection (d); and

“(8) upon issuance of the regulations specified in section 10(d), certify that the State, unit of local government, or Indian tribe is in compliance with those regulations.”; and

(2) by adding at the end the following:

“(k) **PRIORITY.**—In awarding grants under this section, the Attorney General shall give priority to a State or unit of local government that has a significant rape kit or non-suspect case backlog per capita as compared with other applicants.”.

### SEC. 7. QUALITY ASSURANCE STANDARDS FOR COLLECTION AND HANDLING OF DNA EVIDENCE.

(a) **NATIONAL PROTOCOL.**—

(1) **IN GENERAL.**—The Attorney General shall review national, State, local, and tribal government protocols, that exist on or before the date of enactment of this Act, on the collection and processing of DNA evidence at crime scenes.

(2) **RECOMMENDED PROTOCOL.**—Based upon the review described in paragraph (1), the Attorney General shall develop a recommended national protocol for the collection of DNA evidence at crime scenes, including crimes of rape and other sexual assault.

(b) **STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT FORENSIC EXAMINATIONS.**—Section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note) is amended—

(1) in paragraph (2), by inserting “and emergency response personnel” after “health care students”; and

(2) in paragraph (3), by inserting “and DNA evidence collection” after “sexual assault forensic examinations”.

### SEC. 8. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) **AUTHORIZATION OF GRANTS.**—The Attorney General shall make grants to eligible entities to—

(1) establish and maintain sexual assault examiner programs;

(2) carry out sexual assault examiner training and certification; and

(3) acquire or improve forensic equipment.

(b) **ELIGIBLE ENTITY.**—For purposes of this section, the term “eligible entity” means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning;

(4) an Indian tribe;

(5) sexual assault examination programs, including sexual assault nurse examiner (SANE) programs, sexual assault forensic examiner (SAFE) programs, and sexual assault response team (SART) programs; and

(6) a State sexual assault coalition.

(c) **APPLICATION.**—To receive a grant under this section—

(1) an eligible entity shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require; and

(2) an existing or proposed sexual assault examination program shall also—

(A) certify that the program complies with the standards and recommended protocol developed by the Attorney General pursuant to section 1405 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(B) certify that the applicant is aware of, and utilizing, uniform protocols and standards issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes.

(d) **PRIORITY.**—In awarding grants under this section, the Attorney General shall give priority to proposed or existing sexual assault examination programs that are serving, or will serve, populations currently underserved by existing sexual assault examination programs.

(e) **RESTRICTIONS ON USE OF FUNDS.**—

(1) **SUPPLEMENTAL FUNDS.**—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) **ADMINISTRATIVE COSTS.**—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) **NONEXCLUSIVITY.**—Nothing in this section shall be construed to limit or restrict the ability of proposed or existing sexual assault examination programs to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Justice, to remain available until expended, \$30,000,000 for each of

fiscal years 2004 through 2008 to carry out this section.

#### SEC. 9. DNA EVIDENCE TRAINING GRANTS.

(a) **AUTHORIZATION OF GRANTS.**—The Attorney General shall make grants to eligible entities to—

(1) train law enforcement personnel and all other first responders at crime scenes, including investigators, in the handling of sexual assault cases and the collection and use of DNA samples for use as forensic evidence;

(2) train State and local prosecutors on the use of DNA samples for use as forensic evidence; and

(3) train law enforcement personnel to recognize, detect, report, and respond to drug-facilitated sexual assaults.

(b) **ELIGIBLE ENTITY.**—For purposes of this section, the term “eligible entity” means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning; and

(4) an Indian tribe.

(c) **APPLICATION.**—To receive a grant under this section, the chief executive officer of a State, unit of local government, or university, or the head of a tribal government that desires a grant under this section shall submit to the Attorney General—

(1) an application in such form and containing such information as the Attorney General may require;

(2) certification that the applicant is aware of, and utilizing, uniform protocols and standards issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes;

(3) certification that the applicant is aware of, and utilizing, the national sexual assault forensic examination training protocols developed under section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(4) if the applicant is a unit of local government, certification that the applicant participates in a State laboratory system.

(d) **RESTRICTIONS ON USE OF FUNDS.**—

(1) **SUPPLEMENTAL FUNDS.**—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) **ADMINISTRATIVE COSTS.**—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) **NONEXCLUSIVITY.**—Nothing in this section shall be construed to limit or restrict the ability of an eligible entity to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Justice \$10,000,000 for each of fiscal years 2004 through 2008 to carry out this section.

#### SEC. 10. AUTHORIZING JOHN DOE DNA INDICTMENTS.

(a) **LIMITATIONS.**—Section 3282 of title 18, United States Code, is amended—

(1) by striking “Except” and inserting the following:

“(a) **LIMITATION.**—Except”; and

(2) by adding at the end the following:

“(b) **DNA PROFILE INDICTMENT.**—

“(1) **IN GENERAL.**—In any indictment found for an offense under chapter 109A, if the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

“(2) **EXCEPTION.**—Any indictment described in paragraph (1), which is found within 5

years after the offense under chapter 109A shall have been committed, shall not be subject to—

“(A) the limitations period described in subsection (a); and

“(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charges contained in the indictment.

“(3) **DEFINITION.**—For purposes of this subsection, the term ‘DNA profile’ means a set of DNA identification characteristics.”.

(b) **RULES OF CRIMINAL PROCEDURE.**—Rule 7 of the Federal Rules of Criminal Procedure is amended in subdivision (c)(1) by adding at the end the following: “For purposes of an indictment referred to in section 3282 of title 18, United States Code, if the identity of the defendant is unknown, it shall be sufficient to describe the defendant, in the indictment, as an individual whose name is unknown, but who has a particular DNA profile, as defined in that section 3282.”.

#### SEC. 11. INCREASED GRANTS FOR COMBINED DNA INDEX (CODIS) SYSTEM.

Section 210306 of the DNA Identification Act of 1994 (42 U.S.C. 14134) is amended—

(1) by striking “There” and inserting the following:

“(a) **IN GENERAL.**—There”; and

(2) by adding at the end the following:

“(b) **INCREASED GRANTS FOR CODIS.**—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out upgrades to the Combined DNA Index System (CODIS) \$9,700,000 for fiscal year 2003.”.

#### SEC. 12. INCREASED GRANTS FOR FEDERAL CONVICTED OFFENDER PROGRAM (FCOP).

Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended by adding at the end the following:

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out this section \$500,000 for fiscal year 2003.”.

#### SEC. 13. PRIVACY REQUIREMENTS FOR HANDLING DNA EVIDENCE AND DNA ANALYSES.

(a) **PRIVACY PROTECTION STANDARD.**—Section 10(a) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(a)) is amended by inserting before the period at the end the following: “or in section 3282(b) of title 18, United States Code”.

(b) **LIMITATION ON ACCESS TO DNA INFORMATION.**—Section 10 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended by adding at the end the following:

“(d) **LIMITATION ON ACCESS TO DNA INFORMATION.**—

“(1) **IN GENERAL.**—The Attorney General shall establish, by regulation, procedures to limit access to, or use of, stored DNA samples or DNA analyses.

“(2) **REGULATIONS.**—The regulations established under paragraph (1) shall establish conditions for using DNA information to—

“(A) limit the use and dissemination of such information, as provided under subparagraphs (A), (B), and (C) of section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

“(B) limit the dissemination of such information;

“(C) ensure the accuracy, security, and confidentiality of such information;

“(D) protect any privacy rights of individuals who are the subject of such information; and

“(E) provide for the timely removal and destruction of obsolete or inaccurate information, or information required to be expunged.”.

(c) **CRIMINAL PENALTY.**—Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended—

(1) in paragraph (1), by striking “discloses a sample or result” and inserting “discloses or uses a DNA sample or DNA analysis”; and

(2) in paragraph (2), by inserting “per offense” after “\$100,000”.

Ms. CANTWELL. Mr. President, I am pleased to cosponsor this important legislation to address the shameful backlog of unanalyzed DNA evidence in rape kits. Senator BIDEN, Senator SPECTOR and I worked closely on this issue last year and this bill is an excellent compromise that combines aspects of bills introduced by myself and by Senator BIDEN. This bill provides critical resources to State and Federal Governments to ensure that all the DNA evidence sitting in storage rooms across the country can be tested and perpetrators found and convicted. As more and more states have moved to require DNA samples from all convicted felons, the Federal resources that this bill provides to aid in the building of convicted offender records has also become more critical. The bill unanimously passed both the Judiciary Committee and the full Senate last year. It once again has strong bipartisan support, and I anticipate that we will work quickly to pass the bill in this new Congress, so that the bill can also pass the House of Representatives and become law. This bill reauthorizes a 2000 bill and time is of the essence as those authorizations expire soon. The power of DNA to find and convict rapists in cases where there have never even been an identified suspect cannot be overstated. We must act now to help law enforcement and prosecutors across the country be able to make full use of the most valuable tool at their disposal.

One of the things that I am most pleased about is that the grant program in this bill to fund DNA testing of existing rape kits throughout the country will bear the name of Debbie Smith. In her testimony before the Crime Subcommittee of the Judiciary Committee last June, she proved herself an extraordinary spokesperson on the power of DNA evidence to bring not just justice but peace to victims of sexual assault.

The heart of this bill is about getting DNA evidence from rape cases that is currently sitting in police evidence rooms tested and checked against the DNA profiles of convicted felons. We all know that DNA is a tool that works and as more states begin building their felon data bases, more and more cases of rape where police have no suspect are being solved.

We owe every woman in this country who has had the courage to come forward and undergo an invasive physical exam and evidence gathering after the trauma of a sexual assault, at a minimum, the absolute guarantee that the collected evidence is being checked against known felons. That is what this bill does.

In my state of Washington alone, in the past five years at least 12,950 women have submitted to humiliating and traumatic exams for the collection



of evidence that has not been analyzed to help solve their rape. When applied on a national scale, these findings would indicate a national backlog of 615,000 cases of untested evidence. Washington State University is currently in the process of conducting a national assessment of the backlog of rape kits and I look forward to learning those results but we simply must provide the resources to get this evidence analyzed now.

We need to pass this bill and fund this bill to help police solve more rapes and give women receive the peace of mind of knowing that everything that can be done to catch their attacker is being done.

Mr. KOHL. Mr. President, I rise today in support of S. 152, the DNA Sexual Justice Act of 2003. Building on the success of the Kohl-DeWine DNA Analysis Backlog Elimination Act enacted during the 106th Congress, this legislation will provide law enforcement and prosecutors with critical physical evidence that will help put more criminals behind bars. Currently, DNA evidence is languishing untested at laboratories nationwide, simply for lack of funding. The DNA Sexual Justice Act will assess the extent of the backlog and provide funding for its elimination. Further, this legislation will ensure that DNA evidence from cases involving sexual assault is handled properly by providing training for emergency personnel, medical examiners, law enforcement, forensic analysts and prosecutors.

Currently, all 50 States and the Federal Government require DNA samples to be obtained from certain convicted offenders, and these samples increasingly can be shared through a national DNA database established by Federal law. This national database, part of the Combined Database Index System, CODIS, enables law enforcement officials to link DNA evidence found at a crime scene with any suspect whose DNA is already on file. By identifying repeat offenders, this DNA sharing can and does make a difference.

Before passage of the Kohl-DeWine Backlog Elimination Act in 2000, law enforcement was in large part unable to take advantage of DNA analysis as a crime-fighting technology. This was primarily due to the fact that DNA sample collection was not required of all Federal offenders, forensic labs did not have enough resources or equipment to analyze collected samples, and State databases were not interoperable with Federal databases. This bill will further address these issues by directing the Attorney General to survey forensic laboratories across the country to determine the scope of the backlog and authorizes the funding necessary to eliminate the backlog over the next four years.

However this legislation goes even further, focusing new, targeted grant programs toward DNA evidence collected from crimes of sexual assault or violence. By authorizing funding for

the training of emergency personnel and medical examiners, this legislation ensures that DNA evidence will be properly collected. With funding for forensic equipment and the training of forensic examiners, it ensures that DNA evidence will be accurately analyzed. And by providing funding for the training of prosecutors, this legislation ensures that the evidence will be used to its greatest possible effect in the courtroom.

This measure will ensure that women who have been victims of sexual assault or violence will have the most reliable tools to bring their assailants to justice. Most importantly, this legislation will help police use modern technology to solve crimes and prevent repeat offenders from committing new ones.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. GRASSLEY, Mr. SESSIONS, and Mr. CRAIG):

S. 153. A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to reintroduce the Identity Theft Penalty Enhancement Act along with Senator KYL, Senator GRASSLEY, Senator SESSIONS, and Senator CRAIG.

I first introduced this bipartisan legislation last June with the full support of the Justice Department. The bill will make it easier for prosecutors to target those identity thieves who, as is so often the case, steal an identity for the purpose of committing one or more other crimes.

I am hopeful that we can build on the momentum generated by this legislation in the 107th Congress. The Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information conducted a hearing on the bill on July 9, 2002.

The Judiciary Committee subsequently passed the legislation out of Committee on November 14, shortly before the Senate went out of session.

As we enter the 108th congress, there remains a compelling need to stiffen the penalties for identity thieves.

A little more than a month ago, the largest single identity theft case in U.S. history was uncovered. Federal authorities arrested Philip Cummings who, along with two accomplices, allegedly sold the credit reports and other personal information of 30,000 victims for as little as \$30 each. Investigators have confirmed \$2.7 million in losses so far, and the totals are expected to be much greater. This case is an example of the tremendous damage that an identity thief can cause.

Moreover, many serious crimes, even including terrorism, are aided by stolen identities.

Lofti Raissi, a 27-year old Algerian pilot from London who is believed to have trained four of the 9/11 hijackers, was identified in British court papers as having used the Social Security

number of Dorothy Hansen, a retired factory worker from Jersey City, NJ, who died in 1991.

Last year, the Department of Justice filed charges against an Algerian national who stole the identities of 21 members of a health club in Cambridge, MA. He then transferred those stolen identities to one of the individuals convicted in the failed plot to bomb Los Angeles International Airport in 1999.

Joseph Kalady of Chicago was charged with trying to fake his own death using the identity of another. Kalady, who was awaiting trial on charges of counterfeiting birth certificates, Social Security cards and driver's licenses, allegedly suffocated a homeless man and sought to have him cremated under Mr. Kalady's identity in order to fake his own death and avoid prosecution.

The stories go on and on, and it is those stories that make the legislation we introduce today so vital. Identity theft has become the major escalating crime of the new millennium, and Congress needs to give law enforcement the tools to prosecute these crimes.

Let me just outline what this bill would do.

First, the bill would create a separate crime of "aggravated identity theft" for any person who uses the identity of another person to commit certain serious, Federal crimes.

Specifically, the legislation would provide for an additional two-year penalty for any individual convicted of committing one of the following serious Federal crimes while using the identity of another person: Stealing another's identity in order to illegally obtain citizenship in the United States; stealing another's identity to obtain a passport or visa; using another's identity to remain in the United States illegally after a visa has expired or an individual has been ordered to depart this country; stealing an individual's identity to commit bank, wire or mail fraud, or to steal from employee pension funds; and other serious Federal crimes, all of them felonies.

Furthermore, the legislation would provide for an additional five-year penalty for any individual who uses the stolen identity of another person to commit any one of the enumerated Federal terrorism crimes found in 18 U.S.C. 2332b(g)(5)(B). These crimes include: The destruction of aircraft; the assassination or kidnapping of high level Federal officials; bombings; hostage taking; providing material support to terrorism organizations; and other terrorist crimes.

Under the legislation, aggravated identity theft is a separate crime, not just a sentencing enhancement. And the two-year and five-year penalties for aggravated identity theft must be served consecutively to the sentence for the underlying crime.

This bill also strengthens the ability of law enforcement to go after identity thieves and to provide their case.

First, the bill adds the word “possesses” to current law, in order to allow law enforcement to target individuals who possess the identity documents of another person with the intent to commit a crime. Current Federal law prohibits the transfer or use of false identity documents, but does not specifically ban the possession of those documents with the intent to commit a crime.

So if law enforcement discovers a stash of identity documents with the clear intent to use those documents to commit other crimes, the person who possesses those documents will now be subject to prosecution.

Second, the legislation amends current law to make it clear that if a person uses a false identity “in connection with” another Federal crime, and the intent of the underlying Federal crime is proven, then the intent to use the false identity to commitment that crime need not be separately proved.

This simply makes the job of the prosecutor easier when an individual is convicted of a Federal crime and uses a false identity in collection with that crime.

This legislation also increases the maximum penalty for identity theft under current law from three years to five years.

And finally, the legislation we introduce today will clarify that the current 25-year maximum sentence for identity theft in facilitation of international terrorism also applies to identity theft in facilitation of domestic terrorism as well.

Identity theft is a crime on the rise in America, and it is a crime with severe consequences not only for the individual victims of the identity theft, but for every consumer and every financial institution as well.

Identity theft comes in many forms and can be perpetrated in many ways, and that is why I have worked for many years now with Senator KYL and others to put some safeguards into the law that might better prevent the fraud from occurring in the first place, and to crack down on identity thieves.

And other legislation I have introduced would put into place certain procedural safeguards to protect credit card numbers, personal information, and other key data from potential identity thieves.

The legislation we introduce today is meant to beef up the law in terms of what happens after an identity theft takes place. In seriously enhancing the penalties for identity thieves who commit other Federal crimes, we mean to send a strong signal to all those who would commit this increasingly popular crime that the relatively free ride they have experienced in recent years is over.

No longer will prosecutors decline to take identity theft seriously. No longer will identity thieves get off with just a slap on the wrist, if they are prosecuted at all. Under this legislation, penalties will be severe, prosecution

will be more likely, and cases against identity thieves will be easier to prove.

Every day in this country serious criminals and criminal organizations are stealing and falsifying identities with the purpose of doing serious harm to common citizens, government officials, or even our Nation itself. It is time we did something about it, and this bill is an important step in that process.

I urge my colleagues to support this bill, and I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 153

*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 “Identity Theft Penalty Enhancement Act”.

#### SEC. 2. AGGRAVATED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

##### “§ 1028A. Aggravated identity theft

“(a) OFFENSES.—

“(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

“(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

“(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

“(1) a court shall not place on probation any person convicted of a violation of this section;

“(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

“(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

“(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

“(c) DEFINITION.—For purposes of this section, the term ‘felony violation enumerated

in subsection (c)’ means any offense that is a felony violation of—

“(1) section 664 (relating to theft from employee benefit plans);

“(2) section 911 (relating to false personation of citizenship);

“(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

“(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

“(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

“(6) any provision contained in chapter 69 (relating to nationality and citizenship);

“(7) any provision contained in chapter 75 (relating to passports and visas);

“(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

“(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

“(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

“(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a-7b(a)) (relating to false statements relating to programs under the Act).”.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

“1028A. Aggravated identity theft.”.

#### SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking “transfers” and inserting “transfers, possesses,”; and

(B) by striking “abet,” and inserting “abet, or in connection with,”;

(2) in subsection (b)(1)(D), by striking “transfer” and inserting “transfer, possession,”;

(3) in subsection (b)(2), by striking “three years” and inserting “5 years”; and

(4) in subsection (b)(4), by inserting after “facilitate” the following: “an act of domestic terrorism (as defined under section 2331(5) of this title) or”.

By Mr. VOINOVICH (for himself and Mr. INHOFE):

S. 156. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions; to the Committee on Environmental and Public Works.

Mr. VOINOVICH. Mr. President, I rise today, as the Chairman of the Clean Air, Climate Change, and Nuclear Safety Subcommittee, to introduce a bill to reauthorize the Price-Anderson Act. While the Act was first passed in 1957 and has been renewed three times, the current authorization expired on August 1, 2002 for Nuclear Regulatory Commission licensees. The growth of nuclear power depends greatly on the reauthorization of this Act, which provides liability for damages to the general public from nuclear incidents.

It is important for the American public to understand how the Price-Anderson liability program works. The nuclear industry actually funds the program; it is not a Federal subsidy. Each nuclear power plant purchases liability insurance from private insurers to cover the first \$200 million for immediate response in the case of an accident. If the damages amounted to more than this amount, a second level of financial protection would apply. In these cases, each of the U.S. licensed nuclear units would pay up to \$10 million annually into a collective fund to cover the damages, with a maximum payment of \$88.1 million per accident. This, together with the \$200 million in insurance money, provides a total of about \$9.3 billion in insurance coverage to compensate the public in the case of a nuclear accident. If more than this amount is needed, Congress could then go back to the industry and demand a larger contribution.

This is an incredible system. I am not aware of any facility in the country or world that is insured for up to \$9.3 billion. Neither do I know of any other industry in which all of the competitors agree up front to pay for the mistakes or acts of God that affect any one company. Furthermore, instead of fighting claims in court, the industry waives its traditional tort defense so that the fund begins making payments immediately. This means that if there were a nuclear disaster somewhere, the insurance companies would immediately start paying out claims. In fact, after the Three Mile Island incident, claims offices were on the site within 24 hours. This program provides extensive insurance coverage and provides it up front.

The expiration of this program affects only new NRC licenses, not existing licensees. Without the program, a new nuclear facility would be unable to obtain the liability insurance that this program provides, making new licenses very improbable, if not impossible.

Nuclear energy is important to our Nation's national security, economy, and environment. America's nuclear energy industry currently provides approximately 20 percent of our energy. It is a safe, reliable, and zero-emission source of energy. This has had a tremendous positive effect on the environment and public health. Since 1973, nuclear energy has prevented 62 million tons of sulfur dioxide, a key component of acid rain, and 32 million tons of nitrogen oxide, a precursor to ozone, from being released into the atmosphere. Arguably, nuclear power has contributed more to achieving a reduction in emissions than any other source of energy, except possibly solar, wind, and hydropower.

Our Nation needs to do whatever it can to promote a safe and efficient nuclear energy industry and encourage the development of new nuclear reactors. Reauthorizing the Price-Anderson Act is a major step in that direction.

During the previous administration, both the Department of Energy and the

NRC issued reports to Congress recommending the reauthorization of Price-Anderson. Last Congress, I introduced legislation to reauthorize Price-Anderson, S. 1360, and included these provisions in an amendment that I proposed to the energy bill. My amendment, S. Amdt. 2983, was agreed to by a vote of 78-21 on March 7, 2002. This amendment reauthorized the program for both DOE contractors and NRC licensees. The amendment falls under the shared jurisdiction of both the Energy Committee for contractors and the Environment and Public Works Committee for NRC licensees. I look forward to working with the EPW Committee to pass this bill to reauthorize the Price-Anderson Act for 10 years for NRC licensees.

I thank Senator INHOFE for joining me in cosponsoring this bill. The Price-Anderson Act is so vital to the future expansion of our nuclear energy industry. I urge the speedy consideration and passage of this bill.

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. 156

*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 "Price-Anderson Amendments Act of 2003".

#### SEC. 2. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

- (1) in the subsection heading, by striking "LICENSEES" and inserting "LICENSEES"; and
- (2) by striking "August 1, 2002" each place it appears and inserting "August 1, 2012".

#### SEC. 3. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "August 1, 2008".

#### SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on August 1, 2002.

By Mr. CORZINE (for himself,  
Mr. JEFFORDS, Mrs. BOXER, Mrs.  
CLINTON, and Mr. LAUTENBERG):

S. 157. A bill to help protect the public against the threat of chemical attacks; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to reintroduce an important piece of legislation that I worked on in the 107th Congress, the Chemical Security Act. I am proud to be joined by Senators JEFFORDS, BOXER, CLINTON, and LAUTENBERG in reintroducing this bill. Senators JEFFORDS, BOXER, and CLINTON were all strong allies in the 107th Congress, and I thank them for their continuing support. And I am pleased to have Senator LAUTENBERG as a cosponsor. He has a long history of working to protect communities from all types of chemical threats. I particu-

larly want to thank Senator JEFFORDS for his hard work on this legislation in the 107th Congress. As Chairman of the Environment and Public Works committee, he provided critical leadership in bringing this bill through the committee successfully. I thank him and his staff for their hard work and look forward to continuing to work with them on this important issue.

I'll describe what the bill does in a minute. But first I want to briefly explain why I think this legislation is so important.

September 11 shocked us into the realization that our assets can be turned against us by terrorists. If you are a New Jersey Senator, you don't have to think about that idea for too long before you realize that chemical plants and other facilities that have hazardous chemicals would be high on a terrorists' list. The fact is, that we have a lot of those types of facilities in my State, and because we're such a densely populated State, chemical releases from these facilities pose grave risks. In fact, according to EPA data, there are eight plants in my State where a worst-case release of toxic chemicals could threaten more than a million people.

But this is not a parochial issue. The same EPA data shows that there are 110 plants nationwide where such a release could threaten more than a million people. These plants are located in 22 States. And there are 44 States that have at least one facility where such a release could threaten more than 100,000 people.

I want to be clear that I am stating these facts here today in an effort to advance a measure that would protect workers and communities, not in an attempt to vilify our nations' chemical companies. Indeed, these companies are a key part of our industrial fabric, providing jobs and producing products essential to our lives. This is certainly true of my home State of New Jersey, as I have already indicated.

But when you look at the numbers, as I have laid them out here today, you realize that we have a problem to deal with. I'm certainly not unique in recognizing this issue. EPA, the Justice Department, the Nuclear Regulatory Commissions, industry groups, and public safety groups all agree. In addition, the White House Strategy for Homeland Security recognizes the chemical and hazardous materials sector as an infrastructure protection priority. Governor Ridge amplified this point in his testimony before the Senate Environment Public Works committee on July 10 of last year. He said that:

The fact is, we have a very diversified economy and our enemies look at some of our economic assets as targets. And clearly, the chemical facilities are one of them. We know that there have been reports validated about security deficiencies at dozens and dozens of those.

I want to pick up on that last point that Governor Ridge made about security deficiencies, because it speaks to why I am putting this bill forward.

Some companies have taken actions and are continuing to work to implement security measures in light of the post-September 11 environments. Others, however, are not. That's one crucial reason why a Federal program is needed. We need to be able to assure our constituents that this major vulnerability is being addressed in a swift and effective manner. We also want to assure them that certain minimum standards are being met throughout the country.

We already do that to address certain infrastructure vulnerabilities. Most notably, we require nuclear power plants to meet extensive security standards as a condition of their operating licenses. I think we ought to tighten those standards, but the fact is that we have no standards at all for our chemical facilities.

Before I go into specifics, I want to outline the general organizational scheme of the bill. In my view, addressing the risk to communities from a terrorist-caused release of hazardous chemicals requires two fundamental components. The first is improving security, so that the likelihood of a successful terrorist attack is lowered. The second is reducing hazards so that the impact of a successful attack is minimized.

This requires two fundamentally different types of expertise and skills. That's why the bill involves both the EPA and the Department of Homeland Security. EPA has the chemical hazard expertise, and the Department of Homeland Security has the security expertise. EPA has a lead role in most of the bill, because it already has relationships with chemical facilities through its existing accident prevention programs.

As to the specifics of the bill, I think it is a common-sense approach to dealing with the issue. I want to note that this bill is nearly identical to the version of the bill that was reported out of the Senate Environment and Public Works Committee last July by a 19-0 vote. Two minor technical changes have been made to clarify the intent of the legislation, but it is otherwise exactly the same as the committee-reported bill that was acted on unanimously by the EPW committee last year.

The heart of the bill is section 4. This section requires EPA and the Department of Homeland Security to identify "high priority" chemical facilities and then require those facilities to assess vulnerabilities and hazards, and then develop and implement a plan to improve security and use safer technologies.

Section 4(a)(1) establishes the priority setting process, by which the EPA Administrator, in consultation the Secretary of the Department of Homeland Security, as well as States and local government entities, is directed to identify high priority chemical facilities, based on factors identified in section 4(a)(2). These factors in-

clude the severity of harm that could be caused by a chemical release, proximity to population centers, threats to national security or critical infrastructure, threshold quantities of substances of concern that pose a serious threat, and such other safety or security factors that the Administrator considers appropriate.

Because of the way the bill is structured, this means that EPA and the Department of Homeland Security are directed to start with the facilities that are subject to EPA's Risk Management Program requirements. This program applies to approximately 15,000 facilities in the United States that use, produce or store large quantities of hazardous chemicals. By applying the factors I mentioned, the priority setting process is meant to shorten this list of 15,000 facilities considerably. But the bill leaves it up to the Administration to determine exactly how many facilities within this universe ought to be covered by the bill.

So that's step one, setting priorities, and that has to be done within one year of enactment.

At this point, I want to mention the first of the clarifying technical changes that I have made to the bill. It was never the intent, nor I believe the effect, of the bill to include propane retailers as potentially regulated entities under this bill. But there was some confusion about the point after the bill was marked up last July. So last fall, I worked with the National Propane Gas Association on language that eliminates this confusion, and it is included in this bill. So I again want to make clear that the same propane retailers who are not subject to the EPA Risk Management Program requirements will not be "high priority" facilities under this bill, and therefore will not be subject to its requirements.

In addition to identifying high priority facilities within the first year, EPA and the Department of Homeland Security must also promulgate regulations to require the high priority facilities to take the following steps: conduct a vulnerability and hazard assessment within one year after the regulations are promulgated; prepare and implement a response plan that addresses those vulnerabilities within 18 months after the regulations are promulgated.

I want to say more about the assessments and response plans, because these requirements are really the core of the amendment.

First, the amendment requires chemical facilities to work with local law enforcement and first responders, such as firefighters, in developing the assessments and plans. The second of the clarifying technical changes that I referred to in the opening part of my statement is simply to make clear the firefighters are among the first responders that the bill is referring to.

September 11 showed us how brave and important these our first responders are. Every day, they are willing to risk their lives to respond to terrorist

attacks if they need to. So it makes sense that they ought to be a part of the process of developing vulnerability assessments and response plans, as this bill would require.

The same goes for employees of the high priority chemical facilities. They're on the front lines, which means two things. First, they are most at risk in case of a terrorist attack on their plants. Second, because they work in the plants every day, they will have ideas about how to secure the facilities and reduce hazards. So employees are part of the process as well.

As to the assessments and plans themselves, the requirements in the bill are fairly general. There are a variety of vulnerability assessment tools that have already been developed by groups such as Sandia laboratories and the Center for Chemical Process Safety. I would expect that EPA and DHS would take advantage of existing methodologies such as these, but the bill leaves it up to the experts to decide what types of approaches make the most sense. And that probably won't be the same for everyone, I'm not advocating a one-size-fits-all approach here. But I do want to be sure that all of the high priority chemical facilities do a credible vulnerability assessment.

The response plan requirements are also fairly general. Each facility is required to prepare prevention, preparedness and response plan that incorporates the results of the assessments. The plan must include actions and procedures, including safer design and maintenance, to eliminate or significantly lessen the potential consequences of a release.

What this means in simple terms is that each facility has to develop a plan and take steps to reduce both the likelihood of a successful attack and to the harm that would occur if an attack were successful. In other words, they have to look at traditional security measures, such as fences, alarms, and guards. But they also have to look at whether they can make the plant safer. In other words, can less hazardous chemicals be used? Can containment technology such as fans or scrubbers be improved or employed to contain chemicals that may be released? Chemical facilities ought to evaluate the full range of options, look at the tradeoffs among them, and go forward with the best mix of security and technology options.

Facilities are then required to send their assessments and plans to the EPA. EPA and DHS must review those assessments and plans, and certify compliance with the regulations. Any deficiencies identified by EPA and DHS can be remedied by issuance of an order. But the order can only be issued after a deliberate process that includes notification, compliance assistance, and an opportunity for a hearing.

The certification process is there to ensure the public that facilities are complying the law. Those certifications will be the only information

from the assessments and plans that is publicly available. The bill exempts all other information produced under the bill, most importantly, the assessments and plans themselves, from disclosure under the Freedom of Information Act. I don't take FOIA exemptions lightly. I believe strongly that, in general, the public has a right to information collected by the government. But I think it's pretty obvious that in the case of the information that would be submitted to the government under this bill, the vulnerability assessments and response plans, we simply can't allow the security details in these plans to be publicly available. But I think it does make sense that people who live near a chemical plant be able to find out from EPA and the DHS whether or not that plant has complied with the law.

The bill goes even beyond FOIA exemptions to protect the assessments and plans. To ensure that the assessments and plans are properly safeguarded, the bill includes a requirement for EPA and Homeland Security to develop protocols to prevent unauthorized disclosure of those documents. And it attaches penalties to unauthorized disclosure.

That's the essence of the bill.

First, identify "high priority" chemical facilities.

Second, require those facilities to assess vulnerabilities and hazards, and then develop and implement a plan to improve security and implement safer technologies.

Third, EPA and the Department of Homeland Security review the assessments and plans, and they have the authority to require changes if deficiencies are identified.

Fourth, assessments and plans are protected from unauthorized disclosure through a FOIA exemption and penalties that apply to unauthorized disclosure.

The bill also includes an early compliance section that is designed to address concerns that the bill might slow ongoing voluntary security efforts. This provision enables companies to submit assessments and plans prior to promulgation of the regulations and have them judged by the standards in the Act. So companies don't have to wait for the regulations to come out to continue work or to submit plans.

In conclusion, I think this is a balanced bill that puts common-sense requirements in place to deal with a significant problem. I think the bill has moved a long way from the introduced bill. It has accommodated many of the concerns that industry raised about the bill I introduced in the 107th Congress. It reflects intensive bipartisan negotiations, and I think it's a good bill.

At the same time, I recognize that some of my colleagues have continuing concerns about the legislation. Last fall, I worked with Senators INHOFE, BREAUX, LANDRIEU and LINCOLN on these issues. I want them to know that

I remain open-minded and committed to working with them, the rest of my colleagues and the Administration to resolve these issues so we can move quickly to protect Americans from the threat of attack on chemical facilities. And I want to extend the same commitment not only to the environmental and labor organizations that have supported the bill in the past, but also to the various industry groups that have worked on this bill. It's vital that we all find common ground quickly, and I stand ready to work with all interested parties.

I want to close by expressing both my sense of urgency about this issue and my optimism that we will be able to move legislation quickly. Last fall, Governor Ridge and Administrator Whitman wrote to the Washington Post expressing their support for bipartisan legislation to deal with the chemical security threat. I ask unanimous consent that that letter be printed in the RECORD.

I believe the letter was sincere, but the Administration has not yet engaged the Congress on this issue. I urge President Bush to provide leadership to ensure that his Administration works with us as the process moves forward.

I am also encouraged that Senator INHOFE has identified chemical security as a legislative priority as he assumes the Chairmanship of the Environment and Public Works committee. I congratulate him on his new post, and again express my willingness to work with him on this important issue.

With that, I yield the floor and urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

[From the Washington Post, Oct. 6, 2002]

#### A SECURITY REQUIREMENT

The Bush administration is committed to reducing the vulnerability of America's chemical facilities to terrorist attack and is working to enact bipartisan legislation that would require such facilities to address their vulnerabilities [news story, Oct. 3].

We applaud voluntary efforts some in the industry have undertaken, but we believe that every one of the 15,000 chemical facilities nationwide that contain large quantities of hazardous chemicals must be required to take the steps the industry leaders are taking at their facilities; performing comprehensive vulnerability assessments and then acting to reduce those vulnerabilities.

Voluntary efforts alone are not sufficient to provide the level of assurance Americans deserve. We will continue to work with Congress to advance this important homeland security goal.

—  
S. 157

*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 "Chemical Security Act of 2003".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the chemical industry is a crucial part of the critical infrastructure of the United States—

(A) in its own right; and

(B) because that industry supplies resources essential to the functioning of other critical infrastructures;

(2) the possibility of terrorist and criminal attacks on chemical sources (such as industrial facilities) poses a serious threat to public health, safety, and welfare, critical infrastructure, national security, and the environment;

(3) the possibility of theft of dangerous chemicals from chemical sources for use in terrorist attacks poses a further threat to public health, safety, and welfare, critical infrastructure, national security, and the environment; and

(4) there are significant opportunities to prevent theft from, and criminal attack on, chemical sources and reduce the harm that such acts would produce by—

(A)(i) reducing usage and storage of chemicals by changing production methods and processes; and

(ii) employing inherently safer technologies in the manufacture, transport, and use of chemicals;

(B) enhancing secondary containment and other existing mitigation measures; and

(C) improving security.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CHEMICAL SOURCE.—The term "chemical source" means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) that contains a substance of concern.

(3) COVERED SUBSTANCE OF CONCERN.—The term "covered substance of concern" means a substance of concern that, in combination with a chemical source and other factors, is designated as a high priority category by the Administrator under section 4(a)(1).

(4) EMPLOYEE.—The term "employee" means—

(A) a duly recognized collective bargaining representative at a chemical source; or

(B) in the absence of such a representative, other appropriate personnel.

(5) FIRST RESPONDER.—The term "first responder" includes a firefighter.

(6) HEAD OF THE OFFICE.—The term "head of the Office" means the Secretary of Homeland Security.

(7) SAFER DESIGN AND MAINTENANCE.—The term "safer design and maintenance" includes, with respect to a chemical source that is within a high priority category designated under section 4(a)(1), implementation, to the extent practicable, of the practices of—

(A) preventing or reducing the vulnerability of the chemical source to a release of a covered substance of concern through use of inherently safer technology;

(B) reducing any vulnerability of the chemical source to a release of a covered substance of concern through use of well-maintained secondary containment, control, or mitigation equipment;

(C) reducing any vulnerability of the chemical source to a release of a covered substance of concern by implementing security measures; and

(D) reducing the potential consequences of any vulnerability of the chemical source to a release of a covered substance of concern through the use of buffer zones between the chemical source and surrounding populations (including buffer zones between the chemical source and residences, schools, hospitals, senior centers, shopping centers and malls,

sports and entertainment arenas, public roads and transportation routes, and other population centers).

(8) SECURITY MEASURE.—

(A) IN GENERAL.—The term “security measure” means an action carried out to increase the security of a chemical source.

(B) INCLUSIONS.—The term “security measure”, with respect to a chemical source, includes—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) protection of the perimeter of the chemical source;

(iv) the installation and operation of an intrusion detection sensor; and

(v) a measure to increase computer or computer network security.

(9) SUBSTANCE OF CONCERN.—

(A) IN GENERAL.—The term “substance of concern” means—

(i) any regulated substance (as defined in section 112(r) of the Clean Air Act (42 U.S.C. 7412(r))); and

(ii) any substance designated by the Administrator under section 4(a).

(B) EXCLUSION.—The term “substance of concern” does not include liquefied petroleum gas that is used as fuel or held for sale as fuel at a retail facility as described in section 112(r)(4)(B) of the Clean Air Act (42 U.S.C. 7412(r)(4)(B)).

(10) UNAUTHORIZED RELEASE.—The term “unauthorized release” means—

(A) a release from a chemical source into the environment of a covered substance of concern that is caused, in whole or in part, by a criminal act;

(B) a release into the environment of a covered substance of concern that has been removed from a chemical source, in whole or in part, by a criminal act; and

(C) a release or removal from a chemical source of a covered substance of concern that is unauthorized by the owner or operator of the chemical source.

(11) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term “use of inherently safer technology”, with respect to a chemical source, means use of a technology, product, raw material, or practice that, as compared with the technologies, products, raw materials, or practices currently in use—

(i) reduces or eliminates the possibility of a release of a substance of concern from the chemical source prior to secondary containment, control, or mitigation; and

(ii) reduces or eliminates the threats to public health and the environment associated with a release or potential release of a substance of concern from the chemical source.

(B) INCLUSIONS.—The term “use of inherently safer technology” includes input substitution, catalyst or carrier substitution, process redesign (including reuse or recycling of a substance of concern), product reformulation, procedure simplification, and technology modification so as to—

(i) use less hazardous substances or benign substances;

(ii) use a smaller quantity of covered substances of concern;

(iii) reduce hazardous pressures or temperatures;

(iv) reduce the possibility and potential consequences of equipment failure and human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 4. DESIGNATION OF AND REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.

(a) DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the head of the Office and State and local agencies responsible for planning for and responding to unauthorized releases and providing emergency health care, shall promulgate regulations to designate certain combinations of chemical sources and substances of concern as high priority categories based on the severity of the threat posed by an unauthorized release from the chemical sources.

(2) FACTORS TO BE CONSIDERED.—In designating high priority categories under paragraph (1), the Administrator, in consultation with the head of the Office, shall consider—

(A) the severity of the harm that could be caused by an unauthorized release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Administrator, in consultation with the head of the Office, determines to be appropriate.

(3) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the head of the Office, the United States Chemical Safety and Hazard Investigation Board, and State and local agencies described in paragraph (1), shall promulgate regulations to require each owner and each operator of a chemical source that is within a high priority category designated under paragraph (1), in consultation with local law enforcement, first responders, and employees, to—

(i) conduct an assessment of the vulnerability of the chemical source to a terrorist attack or other unauthorized release;

(ii) using appropriate hazard assessment techniques, identify hazards that may result from an unauthorized release of a covered substance of concern; and

(iii) prepare a prevention, preparedness, and response plan that incorporates the results of those vulnerability and hazard assessments.

(B) ACTIONS AND PROCEDURES.—A prevention, preparedness, and response plan required under subparagraph (A)(iii) shall include actions and procedures, including safer design and maintenance of the chemical source, to eliminate or significantly lessen the potential consequences of an unauthorized release of a covered substance of concern.

(C) THREAT INFORMATION.—To the maximum extent permitted by applicable authorities and the interests of national security, the head of the Office, in consultation with the Administrator, shall provide owners and operators of chemical sources with threat information relevant to the assessments and plans required under subsection (b).

(4) REVIEW AND REVISIONS.—Not later than 5 years after the date of promulgation of regulations under each of paragraphs (1) and (3), the Administrator, in consultation with the head of the Office, shall review the regulations and make any necessary revisions.

(5) ADDITION OF SUBSTANCES OF CONCERN.—For the purpose of designating high priority categories under paragraph (1) or any subsequent revision of the regulations promulgated under paragraph (1), the Administrator, in consultation with the head of the Office, may designate additional substances

that pose a serious threat as substances of concern.

(b) CERTIFICATION.—

(1) VULNERABILITY AND HAZARD ASSESSMENTS.—Not later than 1 year after the date of promulgation of regulations under subsection (a)(3), each owner and each operator of a chemical source that is within a high priority category designated under subsection (a)(1) shall—

(A) certify to the Administrator that the chemical source has conducted assessments in accordance with the regulations; and

(B) submit to the Administrator written copies of the assessments.

(2) PREVENTION, PREPAREDNESS, AND RESPONSE PLANS.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(3), the owner or operator shall—

(A) certify to the Administrator that the chemical source has completed a prevention, preparedness, and response plan that incorporates the results of the assessments and complies with the regulations; and

(B) submit to the Administrator a written copy of the plan.

(3) 5-YEAR REVIEW.—Not later than 5 years after each of the date of submission of a copy of an assessment under paragraph (1) and a plan under paragraph (2), and not less often than every 3 years thereafter, the owner or operator of the chemical source covered by the assessment or plan, in coordination with local law enforcement and first responders, shall—

(A) review the adequacy of the assessment or plan, as the case may be; and

(B)(i) certify to the Administrator that the chemical source has completed the review; and

(ii) as appropriate, submit to the Administrator any changes to the assessment or plan.

(4) PROTECTION OF INFORMATION.—

(A) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) through (3) of this subsection and section 5(a), all information provided to the Administrator under this subsection, and all information derived from that information, shall be exempt from disclosure under section 552 of title 5, United States Code.

(B) DEVELOPMENT OF PROTOCOLS.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall develop such protocols as are necessary to protect the copies of the assessments and plans required to be submitted under this subsection (including the information contained in those assessments and plans) from unauthorized disclosure.

(ii) REQUIREMENTS.—The protocols developed under clause (i) shall ensure that—

(I) each copy of an assessment or plan, and all information contained in or derived from the assessment or plan, is maintained in a secure location;

(II) except as provided in subparagraph (C), only individuals designated by the Administrator may have access to the copies of the assessments and plans; and

(III) no copy of an assessment or plan or any portion of an assessment or plan, and no information contained in or derived from an assessment or plan, shall be available to any person other than an individual designated by the Administrator.

(iii) DEADLINE.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Administrator shall complete the development of protocols under clause (i) so as to ensure that the protocols are in place before the date on which the Administrator receives any assessment or plan under this subsection.

(C) FEDERAL OFFICERS AND EMPLOYEES.—An individual referred to in subparagraph (B)(ii)



who is an officer or employee of the United States may discuss with a State or local official the contents of an assessment or plan described in that subparagraph.

#### SEC. 5. ENFORCEMENT.

##### (a) REVIEW OF PLANS.—

(1) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall review each assessment and plan submitted under section 4(b) to determine the compliance of the chemical source covered by the assessment or plan with regulations promulgated under paragraphs (1) and (3) of section 4(a).

##### (2) CERTIFICATION OF COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall certify in writing each determination of the Administrator under paragraph (1).

(B) INCLUSIONS.—A certification of the Administrator shall include a checklist indicating consideration by a chemical source of the use of 4 elements of safer design and maintenance described in subparagraphs (A) through (D) of section 3(6).

##### (C) EARLY COMPLIANCE.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall—

(I) before the date of publication of proposed regulations under section 4(a)(3), review each assessment or plan submitted to the Administrator under section 4(b); and

(II) before the date of promulgation of final regulations under section 4(a)(3), determine whether each such assessment or plan meets the consultation, planning, and assessment requirements applicable to high priority categories under section 4(a)(3).

(ii) AFFIRMATIVE DETERMINATION.—If the Administrator, in consultation with the head of the Office, makes an affirmative determination under clause (i)(II), the Administrator shall certify compliance of an assessment or plan described in that clause without requiring any revision of the assessment or plan.

##### (D) SCHEDULE FOR REVIEW AND CERTIFICATION.—

(i) IN GENERAL.—The Administrator, after taking into consideration the factors described in section 4(a)(2), shall establish a schedule for the review and certification of assessments and plans submitted under section 4(b).

(ii) DEADLINE FOR COMPLETION.—Not later than 3 years after the deadlines for the submission of assessments and plans under paragraph (1) or (2), respectively, of section 4(b), the Administrator shall complete the review and certification of all assessments and plans submitted under those sections.

##### (b) COMPLIANCE ASSISTANCE.—

(1) DEFINITION OF DETERMINATION.—In this subsection, the term “determination” means a determination by the Administrator that, with respect to an assessment or plan described in section 4(b)—

(A) the assessment or plan does not comply with regulations promulgated under paragraphs (1) and (3) of section 4(a); or

(B)(i) a threat exists beyond the scope of the submitted plan; or

(ii) current implementation of the plan is insufficient to address—

(I) the results of an assessment of a source; or

(II) a threat described in clause (i).

(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator, after consultation with the head of the Office, makes a determination, the Administrator shall—

(A) notify the chemical source of the determination; and

(B) provide such advice and technical assistance, in coordination with the head of the Office and the United States Chemical Safety and Hazard Investigation Board, as is appropriate—

(i) to bring the assessment or plan of a chemical source described in section 4(b) into compliance; or

(ii) to address any threat described in clause (1) or (ii) of paragraph (1)(B).

##### (c) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If, after the date that is 30 days after the later of the date on which the Administrator first provides assistance, or a chemical source receives notice, under subsection (b)(2)(B), a chemical source has not brought an assessment or plan for which the assistance is provided into compliance with regulations promulgated under paragraphs (1) and (3) of section 4(a), or the chemical source has not complied with an entry or information request under section 6, the Administrator may issue an order directing compliance by the chemical source.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

##### (d) ABATEMENT ACTION.—

(1) IN GENERAL.—Notwithstanding a certification under section 5(a)(2), if the head of the Office, in consultation with local law enforcement officials and first responders, determines that a threat of a terrorist attack exists that is beyond the scope of a submitted prevention, preparedness, and response plan of 1 or more chemical sources, or current implementation of the plan is insufficient to address the results of an assessment of a source or a threat described in subsection (b)(1)(B)(i), the head of the Office shall notify each chemical source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the head of the Office determines that a chemical source has not taken appropriate action in response to a notification under paragraph (1), the head of the Office shall notify the chemical source, the Administrator, and the Attorney General that actions taken by the chemical source in response to the notification are insufficient.

##### (3) RELIEF.—

(A) IN GENERAL.—On receipt of a notification under paragraph (2), the Administrator or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including such orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The district court of the United States for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Administrator or Attorney General requests under subparagraph (A).

#### SEC. 6. RECORDKEEPING AND ENTRY.

(a) RECORDS MAINTENANCE.—A chemical source that is required to certify to the Administrator assessments and plans under section 4 shall maintain on the premises of the chemical source a current copy of those assessments and plans.

(b) RIGHT OF ENTRY.—In carrying out this Act, the Administrator (or an authorized representative of the Administrator), on presentation of credentials—

(1) shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source described in subsection (a) or any premises in which any records required to be maintained under subsection (a) are located; and

(2) may at reasonable times have access to, and may copy, any records, reports, or other information described in subsection (a).

(c) INFORMATION REQUESTS.—In carrying out this Act, the Administrator may require any chemical source to provide such information as is necessary to—

(1) enforce this Act; and

(2) promulgate or enforce regulations under this Act.

#### SEC. 7. PENALTIES.

(a) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates, or fails to comply with, any order issued may, in an action brought in United States district court, be subject to a civil penalty of not more than \$25,000 for each day in which such violation occurs or such failure to comply continues.

(b) CRIMINAL PENALTIES.—Any owner or operator of a chemical source that knowingly violates, or fails to comply with, any order issued shall—

(1) in the case of a first violation or failure to comply, be fined not less than \$2,500 nor more than \$25,000 per day of violation, imprisoned not more than 1 year, or both; and

(2) in the case of a subsequent violation or failure to comply, be fined not more than \$50,000 per day of violation, imprisoned not more than 2 years, or both.

##### (c) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—If the amount of a civil penalty determined under subsection (a) does not exceed \$125,000, the penalty may be assessed in an order issued by the Administrator.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Administrator shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

#### SEC. 8. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this Act affects any duty or other requirement imposed under any other Federal or State law.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Ms. SNOWE (for herself and Mr. BOND):

S. 158. A bill to amend the Internal Revenue Code of 1986 to expand the depreciation benefits available to small business, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Expensing Improvement Act of 2003 on behalf of the Nation's millions of small businesses and self-employed individuals. I am pleased to be joining with my colleague in the House, Congressman WALLY HERGER, to move this important initiative for small business toward enactment.

This legislation embodies a leading provision of the President's economic recovery package for small businesses and entrepreneurs in this country. By enabling small firms to expense more of the equipment they purchase, this bill provides a tailor-made incentive for the small business sector of our economy to invest in new technology and expand their operations.

We should never understate the role that small businesses play in our economy. They represent 99 percent of all employers, employ 51 percent of the private-sector workforce, provide about 75 percent of the net new jobs, contribute 51 percent of the private-sector output, and represent 96 percent of all exporters of goods. In short, size

is the only "small" aspect of small business.

The bill I introduce today recognizes the vitality of the small business and entrepreneurs in America. Regrettably, when we enacted stimulus legislation last year, we missed a tremendous opportunity to improve a provision of the tax law aimed directly at small firms, Section 179 of the Internal Revenue Code, which enables small businesses to write off the cost of new equipment, rather than depreciate it over a period of years. During the Senate's consideration of last year's stimulus bill, we approved an increase to the expensing limits by a vote of 90-2. Sadly, that provision was dropped from the final package that was sent to the President.

As the incoming Chair of the Senate Committee on Small Business and Entrepreneurship, I intend to correct that error by responding to the calls from small businesses in my State of Maine and from across the country for greater expensing of new equipment. I applaud the President for making this issue a key part of his economic recovery proposal.

By tripling the current expensing limit to \$75,000, broadening the phase-out of this provision, and indexing these amounts for inflation, this bill will achieve two important objectives. First, qualifying businesses will be able to write off more of the equipment purchases today, instead of waiting five, seven or more years to recover their costs through depreciation.

That represents substantial savings both in dollars and in the time small businesses would otherwise have to spend complying with the complex depreciation rules. Moreover, new equipment will contribute to continued productivity growth in the business community, which Federal Reserve Chairman Alan Greenspan has repeatedly stressed is essential to the long-term vitality of our economy.

Second, as a result of this bill, more businesses will qualify for this benefit because the phase-out limit will be increased from the current \$200,000 to \$325,000 in new equipment purchases. At the same time, small business capital investment will be pumping more money into the retail-sector of the economy. Accordingly, this is a win-win for small business and the economy as a whole.

I am confident that small businesses will lead us out of the current economic problems as they have in past downturns. We have a tremendous opportunity to help small enterprises succeed by providing an incentive for reinvestment and leaving them more of their earnings to do just that. I urge my colleagues to join me in supporting this important legislation as we work with the President to enact this bill into law.

I ask unanimous consent that following my statement, the text of the bill and an explanation of its provisions be printed in the RECORD.

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

S. 158

*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 "Small Business Expensing Improvement Act of 2003".

#### SEC. 2. MODIFICATIONS TO EXPENSING UNDER SECTION 179.

(a) INCREASE OF AMOUNT WHICH MAY BE EXPENSED.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed \$75,000."

(2) INCREASE IN PHASEOUT THRESHOLD.—Paragraph (2) of section 179(b) of such Code is amended by striking "\$200,000" and inserting "\$325,000".

(3) INFLATION ADJUSTMENT OF DOLLAR AMOUNTS.—Subsection (b) of section 179 of such Code is amended by adding at the end the following new paragraph:

"(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, each dollar amount contained in paragraph (1) or (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by  
 "(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount, as adjusted under the preceding sentence, is not a multiple of \$1,000 (\$10,000 in the case of the dollar amount contained in paragraph (2)), such amount shall be rounded to the nearest multiple of \$1,000 or \$10,000, as the case may be."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2002.

#### SMALL BUSINESS WORKS ACT OF 2001— DESCRIPTION OF PROVISIONS

The bill amends section 179 of the Internal Revenue Code to increase the amount of equipment purchases that small businesses may expense each year from the current \$25,000 to \$75,000. This change will eliminate the complexity and burdensome record-keeping involved in depreciating such equipment and free up capital for small businesses to grow and create jobs.

The bill also increases the phase-out limitation for equipment expensing from the current \$200,000 to \$325,000, thereby expanding the number of small businesses that can qualify for section 179 expensing and the value of equipment that can be expensed currently. This limitation along with the annual expensing amount will be indexed for inflation under the bill beginning in 2004.

The equipment-expensing provisions will be effective for equipment placed in service in taxable years beginning after December 31, 2002.

By Mrs. BOXER (for herself and Mr. ALLEN):

S. 159. A bill to require the Federal Communications Commission to allocate additional spectrum for unlicensed use by wireless broadband devices, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, today, Senator ALLEN and I are introducing the Jumpstart Broadband Act. The Act directs the FCC to set aside an additional 255 megahertz of spectrum in the 5 gigahertz band for unlicensed devices to use to deploy broadband connections. It also directs the FCC to establish rules to minimize interference in that spectrum among devices and to ensure that Department of Defense systems operating in that spectrum are not compromised.

We need this legislation to unleash the potential of new, exciting technologies that promise to deliver high-speed broadband connections wirelessly. Currently, congestion and interference from numerous devices such as cordless phones, ham radios, microwave ovens, ham radios and garage door openers is limiting the potential of these new networks. If we can tap the potential of high-speed broadband, then we can provide numerous benefits to the American people as well as create jobs in high tech industries.

I know that talking about megahertz and spectrum seems somewhat esoteric. But we strongly believe our bill will have real world implications for families, workers, and communities. Making additional spectrum available for new wireless broadband technologies will help make broadband connections more attractive to consumers by extending the reach of those connections. That means more people will sign up for wired connections, creating jobs in the turbulent telecommunications and high-tech industries. Also, as technologies thrive in this area, manufacturers will also create jobs producing and selling more devices to make the connections work.

One such technology is called wireless fidelity, or Wi-Fi for short. In the home, wireless networking can link all the digital products in your house, computers, printers, handheld organizers, DVD players, to each other and to the Internet without cables. Imagine a PC in the bedroom transferring songs to a music system in a car parked in the garage. Imagine an oven being turned on via the Internet by a worker stuck at the office, allowing him to get home to a meal that cooked while he or she commuted.

In rural areas, wireless technologies have the potential to allow communities to use signal repeaters to bring Internet connections to places where wires do not reach, or where the signal over the wire is too weak. Another possibility is that current or new technologies can be manipulated to extend the reach of the initial connection longer distances without repeaters. Our legislation will make all of those kinds connections more likely and reliable.

The benefits greater use of wireless broadband connections are numerous. For rural health clinics, for example, these new wireless connections would connect them quickly to resources at hospitals in cities hundreds of miles away. For schools anywhere, an efficient wireless connection would save

them the cost of knocking down walls to wire the entire school.

Senator ALLEN and I circulated a draft of this legislation in November 2002 and the response we received from the technology and consumer electronics communities was very positive. We made some modifications to address the concerns that some in the cellular community expressed and worked hard to ensure that the new spectrum would allow a variety of new technologies to thrive with minimum rules of operation in the spectrum. Our first modification was to specify that the spectrum would be allocated in the 5 gigahertz band rather than below 6 gigahertz. The previous language was of concern to cellular companies that operate below 3 gigahertz. The second modification was to limit any new FCC rules only to rules that ensure robust and efficient use of the spectrum for broadband delivery devices.

It is our hope that this bill will provide the sparkplug necessary to help jumpstart the broadband market. I look forward to working on this bill with Senator ALLEN and the rest of our colleagues in the 108th Congress.

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. 159

*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 "Jumpstart Broadband Act".

#### SEC. 2. ENCOURAGEMENT OF NEW TECHNOLOGIES.

(a) UNLICENSED NATIONAL INFORMATION INFRASTRUCTURE DEVICES.—

(1) IMMEDIATE ALLOCATION OF SPECTRUM.—Within 180 days after the date of enactment of this Act, the Commission shall allocate not less than an additional 255 megahertz of contiguous spectrum in the 5 gigahertz band for unlicensed use by wireless broadband devices while ensuring that Department of Defense devices and systems are not compromised.

(2) INTERFERENCE PROTECTION.—Within 180 days after the date of enactment of this Act, the National Telecommunications and Information Administration shall, after consultation with all interested agencies and parties, including the Department of Defense, establish standards for interference protection that is reasonably required to enable incumbent Federal government agency users of spectrum allocated under paragraph (1) to continue to use that spectrum, and advise the Commission of those standards.

(3) DEVICE REQUIREMENTS.—Within 360 days after the date of enactment of this Act, the Commission shall—

(A) with respect to spectrum allocation under paragraph (1), adopt minimal technical and device rules to facilitate robust and efficient use for wireless broadband devices; and

(B) amend its rules to require that all wireless broadband devices manufactured after the effective date of those rules that operate in the spectrum allocated under paragraph (1)—

(i) be capable of 2-way digital communications;

(ii) meet the interference protection standards established under paragraph (2).

#### SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) BROADBAND SERVICE.—The term "broadband service" means high rate digital transmission service—

(A) via cable modem, digital subscriber line, wireless, satellite, or other telecommunications technology; and

(B) capable of reliably transmitting voice, data, and/or video simultaneously between and among digital devices and between these devices and the Internet, on a consistent basis, at data transfer rates no slower than those defined from time to time by the Commission.

(3) WIRELESS BROADBAND DEVICE.—The term "wireless broadband device" includes—

(A) U-NII devices (as defined in section 15.403(i) of title 47, Code of Federal Regulations); and

(B) other devices used to access wireless broadband services.

(b) TERMS DEFINED IN THE COMMUNICATIONS ACT OF 1934.—Except as provided in subsection (a), any term used in this Act that is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153) has the meaning given that term in that section.

Mr. ALLEN. Mr. President, today I rise to introduce and present to my colleagues the Jumpstart Broadband Act of 2003. I am happy to be the lead Republican sponsor of this legislation and I want to thank my colleague from across the aisle, Senator BOXER, for working with me on this positive important issue.

The goal of the Jumpstart Broadband Act is to create an environment that embraces innovation and encourages the adoption of next-generation wireless broadband Internet devices. Most important, our legislation will build confidence among consumers, investors and innovators in the telecommunications and technology industries to eventually make the broadband dream a reality.

Unfortunately, we are all too familiar with the recession in the telecom sector. Analysts estimate that over the last 24 months approximately 500,000 jobs have been lost. Debt loads in the telecommunications sector range from anywhere between \$500 billion to \$1 trillion dollars. Since 1999 approximately \$2 trillion dollars in market value has been lost in the telecom sector.

We know that promises of the Internet doubling every 100 days were never realized. Fanciful expectations like these have left this country with Internet bandwidth capacities that no levels of demand can sustain. Unfortunately for investors and the industry the "if you build it, they will come" business model did not materialize and is the primary reason the telecom and technology sectors are in a weak economic state.

Over this past few years Congress, and specifically the Senate, have been locked in debate over the best approach

to promote and encourage widespread broadband adoption. There is no doubt that consumers, businesses and government officials fully recognize the importance of broadband to our communications capabilities and the economy. Indeed, the proliferation of next-generation broadband Internet connections will reinvigorate growth in the technology and telecommunications industries and improve our lives.

Economists at the Brookings Institution estimate that widespread, high-speed broadband access would increase the national GDP by \$500 billion annually by 2006. Full deployment of broadband will substantially change and significantly impact every aspect of our society. Whether in education, healthcare, commerce, entertainment or government services; broadband deployment is a key aspect to improving this nation's overall economy and competitiveness.

However, the current debate over broadband has focused only on two platforms, Digital Subscriber Line, DSL, and cable and the regulatory treatment of those services. This perspective fails to consider that alternative modes or other technologies are available that can jumpstart consumer driven investment and demand in broadband services. I think it is beneficial to shift the policy discussion away from this debate and focus on something positive Congress can do that fosters innovation, stimulates the technology and telecom sectors, and encourages the adoption of broadband services.

The Jumpstart Broadband Act seeks to create an environment where alternative modes of broadband communications can be created and deployed into homes, schools, public places and businesses by making more spectrum available for exciting, new unlicensed wireless technologies. In doing so, the legislation directs the Federal Communications Commission, FCC, to set aside an additional 255 megahertz of spectrum in the 5 gigahertz band for unlicensed broadband devices. This allocation will harmonize wireless devices in the United States with the international allocation in countries like Japan, Brazil, Canada and Europe. The 5 gigahertz band also contains favorable propagation and power levels to provide reliable wireless service. Our legislation also directs the FCC to establish minimum rules of interference protection for devices in that spectrum and to ensure that Department of Defense systems operating in that spectrum are not compromised.

Our legislation complements and encourages the exciting work being done in the area of Wireless Local Area Networks, WLANs. Also known as Wireless Fidelity or WiFi, this technology provides wireless broadband service operating in the unlicensed spectrum bank with up to 10 megabits of capacity and an always-on connection. WiFi is a technology driven platform, viewed by many as a possible answer to wire-line

limitations and obstacles that exist in the current marketplace. WiFi however is only the beginning and this legislation will create an environment where cognitive radios and dynamic frequency selection of technologies can grow and innovate to offer services that are unimaginable today.

While I support a competitive telecommunications environment and have been an advocate for federal deregulation, the Jumpstart Broadband Act of 2003 moves the policy discussion away from this stagnant maginot line battle and offers an alternative invigorating approach that encourages innovation and creates confidence in the market.

Providing a way to jump start high speed broadband Internet access through the adoption of wireless broadband devices is vital to helping us keep pace with the new global economy. The benefits to Americans would include more jobs, increased productivity, improved health care delivery, and more accessible education. Our economy needs it, our technology sector needs it, and the American people will benefit from these new and innovative technologies.

I have been working together in a bipartisan fashion with Senator BOXER, and I am hopeful by also working with technologists, the Federal Communications Commission and the Department of Defense, we can move forward to create an alternative that promotes broadband adoption using advances in technology and spectrum efficiency.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. HATCH, Mr. BUNNING, Mr. KENNEDY, Mrs. CLINTON, Mr. SCHUMER, and Mr. GRAHAM of South Carolina).

S. 160. A bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

Mr. BURNS. Mr. President, I come to the floor today with my colleague from Montana to introduce legislation to provide tax incentives to accelerate the deployment of "broadband" high-speed Internet access across the country. Broadband is an issue about which I feel very strongly, and upon which I will be very focused this year as chairman of the telecommunications subcommittee of the Commerce, Science and Transportation Committee.

Although many urban and suburban areas now have access to a broadband connection, many rural areas still do not. And that places rural areas at a disadvantage in a number of ways in terms of economic development, educational opportunities, health care and numerous other applications. By creating a financial incentive to encourage broadband providers to extend their networks into rural and other underserved areas, we can help overcome that disadvantage.

The bill will create a temporary tax incentive for providers in the form of "expensing," allowing an immediate

deduction of a capital expenditure in the first year of service rather than depreciating that investment over time. In the case of "current generation" broadband investments in rural and underserved areas, the bill will allow 50 percent expensing of the investment, with the rest to be depreciated according to normal depreciation schedules. And where providers build out "next generation" broadband networks, which are typically more expensive, the bill will provide for 100 percent expensing.

This legislation generally mirrors the broadband tax credit legislation introduced by my friend from West Virginia, Senator ROCKEFELLER, in the last Congress. I want to thank the Senator from West Virginia for his leadership on this issue. The only difference in that bill and the one we are introducing today is the form of the incentive, expensing rather than tax credits.

I am proud to tell you that the first broadband tax incentive in the Nation occurred in great State of Montana. In 1999, Montana enacted a broadband tax credit, which was in effect for 2 years. In those 2 years it had very positive results. Here is a quote from one of our public utility commissioners, Bob Rowe, in one of our State newspapers, *The Missoulian*, in June 2001, describing the effect of the Montana broadband credit:

The results are impressive. Dozens of projects were awarded tax credits, most of them in rural Montana, places like Circle, Crow Agency, Superior and Big Timber. Projects included DSL, cable modems, and wireless. They also included projects to provide "redundant" access that is critical to many technology businesses in case service goes out.

That is the kind of effect which a broadband tax incentive can have. Circle, Crow Agency, Superior and Big Timber are not large metropolitan areas. They are small communities of a few hundred people. If a broadband incentive can have that kind of effect in those places, it can have that kind of effect anywhere.

Now, what has happened to the Montana broadband credit? Like many other State tax breaks all across the Nation, it has been suspended, not repealed, but suspended, because of the current budget shortfall which the state is facing, which is exactly why we should consider a Federal broadband incentive at this time, when we are beginning the process of crafting a package of growth measures to put our economy back on a solid footing.

And I firmly believe that broadband can have a positive effect on our economy. A number of very solid studies lead me to this conclusion. A study conducted by economists at the Federal Reserve Board concluded that information technology accounted for over 60 percent of the productivity growth occurring from 1995 to 1999.

During the first half of the 1990s, the average productivity increase was only 1.5 percent per year. Then, when the Internet began to be widely used, aver-

age annual productivity jumped to 2.8 percent in the second half of the decade. That is a very significant increase, and it occurred largely from the "network effect" of linking our computers. Now, what broadband will do is allow us to use those linked computers for much more advanced applications, video conferencing, real-time collaboration on large computer files, telemedicine, distance learning, etc.

And, for those of us from agricultural States, we should be aware of the applications that our farmers and ranchers might use: Remote livestock sales, remote monitoring of irrigation facilities, tele-veterinary, etc. Anyone who thinks farmers don't care about technology should spend some time on today's modern farm, and they will learn that American agriculture is one of the most innovative industries in the world.

Let me give you an example. Deere and Company, the farm equipment maker, has supported legislation of this type. Others may dismiss this company as they just make tractors. However, if you were to talk to them, you would learn that the tractor of tomorrow, indeed of today, has a lot of high-tech equipment on board that, as it drives through the fields, gathers information on plant conditions and soil conditions and moisture content and so forth.

And that is incredibly valuable information to a farming operation. But to really use that information, you need a broadband connection to send it from the tractor to, say, a plant specialist a hundred miles away. Without that broadband connection, it will take a very long time to transmit the data, which makes it a lot less useful.

One economist, Robert Crandall of the Brookings Institute, has estimated that accelerated deployment of broadband will generate up to \$500 billion in economic growth annually. Talk about an economic stimulus. I think we would all be delighted to have that happen, and I believe we should take steps to allow it to do so. This legislation is an important step in that direction.

And one important reason for us to encourage more broadband investment is international competitiveness. A number of other countries, like Japan and China, are now making much greater investments than the United States in optical fiber and other advanced telecommunications infrastructure. Japan is now the world's largest purchaser of fiber, much of which is going to deploy fiber-to-the-home. In 1 month last year, they wired more homes with fiber than we did in the entire year.

And although China has been playing catch up on building out their Internet backbone, they are doing so at a very fast pace and could soon overtake Japan as the world's biggest fiber market.

It is also happening in Europe. The Government of Sweden has dedicated

\$800 million for broadband deployment in rural areas of the country, while they have already wired much of Stockholm with fiber-to-the-home. Last year, France announced that it would invest \$1.5 billion on broadband infrastructure over the next 5 years.

I believe it is extremely important that the United States not fall behind in telecom and Internet technology, and a financial incentive of the type provided by this legislation will help ensure that we do not.

Let me briefly describe the specifics of the bill. As I said earlier, it provides 50 percent expensing for investments in rural and underserved areas of "current generation" broadband technologies, which are defined as those delivering at least 1.0 megabits per second of information downstream to the subscriber, and at least 128 kilobits per second upstream from the subscriber.

It provides 100 percent expensing for investments in "next generation" broadband technologies, which are defined as those delivering at least 22 megabits per second of information downstream to the subscriber, and at least 5 megabits per second upstream from the subscriber. It is technology neutral, it makes no difference if you are using as your medium copper wire, coaxial cable, optical fiber, terrestrial wireless, satellite or something else. If you deliver the threshold speeds, you are eligible for the benefit. And it sunsets in 5 years. The intent is not to provide a permanent benefit to the telecom sector, but rather to provide incentive to build out new infrastructure within a short time period.

And so that my colleagues and the public can read the specifics themselves, I ask unanimous consent that a copy of the bill be printed in the RECORD.

Let me just conclude by saying that I believe this is important legislation, and I hope that my colleagues will join in supporting it. I look forward to working with my home State colleague, Senator BAUCUS, and also Senator ROCKEFELLER and others to ensure that we push it through the Congress this year and send it to the President for signature.

Mr. BAUCUS. Mr. President, I am pleased to join my friend and fellow Montanan, Senator BURNS, in introducing the Broadband Expensing Act. Montana has led the way in the innovation of a tax incentive to promote broadband deployment to rural and underserved areas. And today, Senator BURNS and I are continuing to work together to provide Montana and the Nation with the tools it needs to stay on the cutting edge of communication technology.

My top goal for my State and the country is to help boost our economy and create more good paying jobs. This bill will help to do that.

The Broadband Expensing Act will allow businesses to depreciate their capital investment quicker, allowing them to deploy next generation net-

works at a faster pace. In short, the benefits are two-fold: businesses will benefit by receiving an incentive to roll out their network into rural areas. And customers will benefit by being able to send and receive massive amounts of data much faster than before.

The ability to communicate clearly, quickly and effectively is vital to a healthy economy. The Internet has been an incredible innovation, but its abilities are limited by an outdated infrastructure. Much of the network still relies on the same copper wire that Alexander Graham Bell used when he first designed our telephone system.

It is time to update that infrastructure to soup up the copper wire, to soup up coaxial cable, to move to optical technologies, and to develop new wireless products.

As many in the industry have told me, our communications network is slowly being upgraded all across the country—but often not in rural America. The main reason is cost. Companies are in business to make money, and if their costs are too high, they are reluctant to make the investment. But rural Americans deserve the same kind of high-speed service that urban Americans have access to.

Long ago we determined that rural Americans deserved the same basic services electricity, telephone and transportation—and we found creative ways to provide them with those services. Now it is time to ensure they have access to broadband as well.

In addition to helping us bring "current generation" broadband to rural and underserved areas, this bill that Senator BURNS and I have introduced will help us move to the "next generation" of broadband state-of-the-art systems that carry much greater amounts of data than copper wire and coaxial cable.

It is fitting that we introduce this bill today, as we are beginning discussions about an economic stimulus package. Boosting broadband service across the country is one more way to boost the economy and bring more jobs to our rural areas. Broadband will help ensure that our productivity remains high and that our citizens receive the best services modern telecommunications have to offer.

The potentials of broadband are limitless. From telemedicine to distance learning to video conferencing. In rural areas, we will find even more ways to use broadband, such as tele-veterinary services, remote monitoring of crops or on-line livestock auctions.

And I want to echo Senator BURNS concerns about international competitiveness. A recent study by the Organization for Economic Cooperation and Development found that the United States is now sixth in the world in broadband penetration. Two years ago, we were third. Last year, we were fourth. Now we are sixth, behind South Korea, Canada, Sweden, the Netherlands and Belgium.

We need to move back up the ladder. The United States invented the Internet. We invented the computer. We invented optical fiber. We invented many of the devices upon which the Internet depends. So we can't allow ourselves to fall behind in high-speed Internet service.

I also want to thank my colleague from West Virginia, Senator ROCKEFELLER, for his important work on the broadband tax credit legislation. I look forward to his reintroduction of that important bill and working together to provide Americans with broadband incentives.

Let me conclude by asking my Senate colleagues for their support of this bill that will stimulate broadband investment around the country. Every single American, urban or rural, rich or poor, young or old, deserve access to this new and exciting technology. I look forward to working with Senator BURNS and others to get this legislation enacted this year.

Mr. HATCH. Mr. President, I am pleased to rise today to join my colleagues from Montana in introducing the Broadband Expensing Act. If enacted, this legislation would bring economic growth to rural America, and it would help bring community benefits to rural and underserved areas of the Nation, including many in my home State of Utah.

I think it is striking that most Americans still rely on very outdated telecommunications infrastructure, the same copper wire we have used for decades, for their connection to one of the most important communications innovations in history, the Internet.

This is true in my home State of Utah, where the telecommunications infrastructure has not kept pace with the growing number of high-tech firms, manufacturing companies, and very sophisticated workers. Our major metropolitan areas, of course, have access to high-speed Internet services. But the connections to most homes and many businesses have not been upgraded, meaning that data signals hit a bottleneck there and slow down dramatically.

Consequently, many wonderful Internet applications, such as video conferencing, large file sharing, telemedicine, and distance learning, are ineffective or unavailable. And this is certainly true outside the metropolitan areas of Utah, in the rural communities that are found all over the State.

One way to help overcome this situation is to offer a financial incentive to encourage broadband providers to extend their networks to underserved areas of the Nation. That is what this legislation would do. It would help broadband providers reduce the cost of new infrastructure. But it is important to note that they will only receive the benefit of this incentive if they actually build new infrastructure and actually provide broadband service. No new broadband network, no tax benefit. That is eminently fair and reasonable, and it is good tax and public policy.

This is a two-tiered tax incentive. Companies that bring new "current generation broadband" to rural and underserved areas would be able to expense, or write-off, half of their investment immediately. Companies that bring new "next generation broadband" to those rural or underserved areas, or to other residential areas, would get to write off immediately 100 percent of their investment.

What is "current generation" broadband? It is essentially cable modem, digital subscriber line, DSL, or wireless broadband service, and is generally five to ten times faster than a dial-up connection. Current generation broadband brings photo images to a computer screen very quickly, and allows the use of simple video applications. "Next generation" broadband, on the other hand, is hundreds of times faster than dial-up and allows television-quality images to flow from one computer to another.

In many rural areas of the Nation, dial-up service is all that is available. Current generation broadband is available in many urban and suburban communities, but still generally unavailable in rural areas. And next-generation broadband is only in its infant stages, available to fewer than 100,000 homes in the United States.

This legislation is well crafted to meet the broadband needs of the Nation. It would help spur current generation broadband deployment in areas of the Nation still relying on dial-up, but it would not provide tax incentives to areas that already have a broadband connection. And it would help spur the deployment of next generation broadband everywhere, since that level of service is available to very few people in the country today.

I look forward to taking a leading role in helping move this bill through the Finance Committee and the Senate. I am confident that this legislation will make an important contribution to the construction of a 21st century telecommunications network that will serve the Nation well.

By Mr. HOLLINGS (for himself, Mr. INOUE, Mr. DORGAN, and Mrs. HUTCHISON):

S. 161. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today to introduce the Children's Protection from Violent Programming Act. This legislation is of vital importance to our young children and their families.

The purpose of the bill is to require the Federal Communications Commis-

sion to consider whether to institute a "Safe Harbor" during which gratuitously violent television programming could not be televised to America's children. Today, I am joined in this effort by several of my colleagues, Senators HUTCHISON, INOUE, and DORGAN, who are all original cosponsors of the legislation. I have sponsored similar legislation in each of the last five Congresses and this same legislation was reported out of the Senate Commerce Committee during the 106th Congress by a vote of 17 to 1. I feel compelled to reintroduce this bill again to stem the tide of violent programming that is becoming more and more prevalent in our society. Unfortunately, violence in the media begets violence by our youths and we have an obligation to address this societal problem head on. We know commercial interests will not, so we must act.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S.J. Res. 3. A joint resolution expressing the sense of Congress with respect to human rights in Central Asia; to the Committee on Foreign Relations.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the text of the Joint Resolution expressing the sense of the Congress with respect to human rights in Central Asia, be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

#### S.J. RES. 3

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan provided the United States with important assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas America's victory over the Taliban in turn provided important benefits to the Central Asian nations, removing a regime that threatened their security, and significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas, the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe, both of which confer a range of human rights obligations on their members;

Whereas, according to the State Department Country Reports on Human Rights Practices, the Government of Kazakhstan harasses and monitors independent media and human rights activists, restricts freedom of association and opposition political activity, and allows security forces to commit extrajudicial executions, torture, and arbitrary detention with impunity;

Whereas, according to the Department of State, the Government of the Kyrgyz Republic engages in arbitrary arrest and detention, restricts the activities of political opposition figures, religious organizations deemed "extremist," human rights activists, and non-

governmental organizations, and discriminates against ethnic minorities;

Whereas, according to the Department of State, the Government of Tajikistan remains authoritarian, curtailing freedoms of speech, assembly, and association, with security forces committing extrajudicial executions, kidnappings, disappearances, and torture;

Whereas, according to the Department of State, Turkmenistan is a Soviet-style one-party state centered around the glorification of its president, which engages in serious human rights abuses, including arbitrary arrest and detention, severe restrictions of personal privacy, repression of political opposition, and restrictions on freedom of speech and nongovernmental activity;

Whereas, according to the Department of State, the government of Uzbekistan continues to commit serious human rights abuses, including arbitrary arrest, detention and torture in custody, particularly of Muslims who practice their religion outside state controls, the severe restriction of freedom of speech, the press, religion, independent political activity and nongovernmental organizations, and detains over 7,000 people for political or religious reasons;

Whereas the United States Commission on International Religious Freedom has expressed concern about religious persecution in the region, recommending that Turkmenistan be named a Country of Particular Concern under the International Religious Freedom Act of 1998, and that Uzbekistan be placed on a special "Watch List";

Whereas, by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President Bush has made the defense of "human dignity, the rule of law, limits on the power of the state, respect for women and private property and free speech and equal justice and religious tolerance" strategic goals of United States foreign policy in the Islamic world, arguing that "a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence"; and

Whereas the Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and other legislation, most recently conditioning assistance to Uzbekistan on its progress in meeting human rights and democracy commitments to the United States: Now, therefore, be it

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled*, That it is the sense of the Congress that—

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations including, where appropriate, by—

(A) releasing from prison all those jailed for peaceful political activism or the non-violent expression of their political or religious beliefs;

(B) fully investigating any credible allegations of torture and prosecuting those responsible;

(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and nongovernmental organizations, whether officially registered or not;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations not registered with the state;

(E) holding free, competitive, and fair elections; and



(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals outlined in paragraph (1) into account when determining the level and frequency of United States diplomatic engagement with the governments of the Central Asian nations, the allocation of United States assistance, and the nature of United States military engagement with the countries of the region;

(C) ensure that the provisions of the foreign operations appropriations Acts are fully implemented to ensure that no United States assistance benefits security forces in Central Asia implicated in violations of human rights;

(D) follow the recommendations of the United States Commission on International Religious Freedom by designating Turkmenistan a Country of Particular Concern under the International Religious Freedom Act of 1998 and by making clear that Uzbekistan risks designation if conditions there do not improve;

(E) press the Government of Turkmenistan to respect the right of imprisoned opposition leader Boris Shikmuradov to due process and a fair trial and to release democratic activists and their family members from prison, and urge the Government of Russia not to extradite to Turkmenistan members of that country's political opposition;

(F) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, most notably Akezan Kazegeldin, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing Department of Justice investigation; and

(G) support through United States assistance programs those individuals, nongovernmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human rights abuses, and to expose official corruption; and

(3) increased levels of United States assistance to the governments of the Central Asian nations made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals outlined in paragraph (1).

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 19—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD INCREASE THE MAXIMUM INDIVIDUAL FEDERAL PELL GRANT AWARD TO \$9,000 BY 2010.

Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 19

Whereas public investment in higher education yields a return of several dollars for each dollar invested;

Whereas higher education promotes economic opportunity and recipients of bachelor's degrees earn an average 75 percent per year more than those with high school diplomas and are also half as likely to be unemployed;

Whereas access to a college education has become a hallmark of American society, and is vital to upholding our belief in equality of opportunity;

Whereas for a generation, the Federal Pell Grant has served as an established and effective means of providing access to higher education;

Whereas over the past decade, the Federal Pell Grant has decreased by 20 percent in value and is now worth only 70 percent of what a Federal Pell Grant was worth in 1975;

Whereas grant aid as a portion of student aid has fallen significantly in the past 5 years;

Whereas in the past, grant aid constituted 55 percent of total aid awarded to college students and loans constituted just over 40 percent, but now grant aid constitutes 40 percent of total aid awarded and loans constitute nearly 60 percent;

Whereas the percentage of freshman attending public and private 4-year institutions of higher education from families with income below the national medium has fallen since 1981; and

Whereas in 2001, eligible Federal Pell Grant applicants grew by 8.3 percent in comparison with the projected growth rate of 2.5 percent, representing an increase in low-income students who now have access to college and causing a shortfall in funding for the Federal Pell Grant program: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that Congress should increase the maximum individual Federal Pell Grant award to \$9,000 by fiscal year 2010.

#### SENATE RESOLUTION 18—MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 108TH CONGRESS

Mr. FRIST submitted the following resolution; which was submitted and read:

S. RES. 18

*Resolved*, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 108th Congress, or until their successors are chosen:

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY: Mr. COCHRAN (Chairman), Mr. LUGAR, Mr. MCCONNELL, Mr. ROBERTS, Mr. FITZGERALD, Mr. CHAMBLISS, Mr. COLEMAN, Mr. CRAPO, Mr. TALENT, Mrs. DOLE, and Mr. GRASSLEY.

COMMITTEE ON APPROPRIATIONS: Mr. STEVENS (Chairman), Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, and Mr. BROWNBACK.

COMMITTEE ON ARMED SERVICES: Mr. WARNER (Chairman), Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, and Mr. CORNYN.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS: Mr. SHELBY (Chairman), Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. HAGEL, Mr. SANTORUM, Mr. BUNNING, Mr. CRAPO, Mr. SUNUNU, Mrs. DOLE, and Mr. CHAFEE.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. MCCAIN (Chairman), Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mrs. HUTCHISON, Ms. SNOWE, Mr. BROWNBACK, Mr. SMITH, Mr. FITZGERALD, Mr. ENSIGN, Mr. ALLEN, and Mr. SUNUNU.

COMMITTEE ON ENERGY AND NATURAL RESOURCES: Mr. DOMENICI (Chairman), Ms. MURKOWSKI, Mr. TALENT, Mr. BURNS, Mr. SMITH, Mr. BUNNING, and Mr. KYL.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. INHOFE (Chairman), Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CRAPO, Mr. CHAFEE, Mr. CORNYN, Ms. MURKOWSKI, Mr. THOMAS, and Mr. ALLARD.

COMMITTEE ON FINANCE: Mr. GRASSLEY (Chairman), Mr. HATCH, Mr. NICKLES, Mr. LOTT, Ms. SNOWE, Mr. KYL, Mr. THOMAS, Mr. SANTORUM, Mr. FRIST, Mr. SMITH, and Mr. BUNNING.

COMMITTEE ON FOREIGN RELATIONS: Mr. LUGAR (Chairman), Mr. HAGEL, Mr. CHAFEE, Mr. ALLEN, Mr. BROWNBACK, Mr. ENZI, Mr. VOINOVICH, Mr. ALEXANDER, Mr. COLEMAN, and Mr. SUNUNU.

COMMITTEE ON GOVERNMENTAL AFFAIRS: Ms. COLLINS (Chairman), Mr. STEVENS, Mr. VOINOVICH, Mr. COLEMAN, Mr. SPECTER, Mr. BENNETT, Mr. FITZGERALD, Mr. SUNUNU, and Mr. SHELBY.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. GREGG (Chairman), Mr. FRIST, Mr. ENZI, Mr. ALEXANDER, Mr. BOND, Mr. DEWINE, Mr. ROBERTS, Mr. SESSIONS, Mr. ENSIGN, Mr. GRAHAM of South Carolina, and Mr. WARNER.

COMMITTEE ON THE JUDICIARY: Mr. HATCH (Chairman), Mr. GRASSLEY, Mr. SPECTER, Mr. KYL, Mr. DEWINE, Mr. SESSIONS, Mr. GRAHAM of South Carolina, Mr. CRAIG, Mr. CHAMBLISS, and Mr. CORNYN.

COMMITTEE ON RULES AND ADMINISTRATION: Mr. LOTT (Chairman), Mr. STEVENS, Mr. MCCONNELL, Mr. COCHRAN, Mr. SANTORUM, Mr. NICKLES, Mrs. HUTCHISON, Mr. FRIST, Mr. SMITH, and Mr. CHAMBLISS.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP: Ms. SNOWE (Chairman), Mr. BOND, Mr. BURNS, Mr. BENNETT, Mr. ENZI, Mr. FITZGERALD, Mr. CRAPO, Mr. ALLEN, Mr. ENSIGN, and Mr. COLEMAN.

COMMITTEE ON VETERANS' AFFAIRS: Mr. SPECTER (Chairman), Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. BUNNING, Mr. ENSIGN, Mr. GRAHAM of South Carolina, and Ms. MURKOWSKI.

SPECIAL COMMITTEE ON AGING: Mr. CRAIG (Chairman), Mr. SHELBY, Ms. COLLINS, Mr. ENZI, Mr. SMITH, Mr. TALENT, Mr. FITZGERALD, Mr. HATCH, Mrs. DOLE, Mr. STEVENS, and Mr. SANTORUM.

COMMITTEE ON THE BUDGET: Mr. NICKLES (Chairman), Mr. DOMENICI, Mr. GRASSLEY, Mr. GREGG, Mr. ALLARD, Mr. BURNS, Mr. ENZI, Mr. SESSIONS, Mr. BUNNING, Mr. CRAPO, Mr. ENSIGN, and Mr. CORNYN.

SELECT COMMITTEE ON ETHICS: Mr. VOINOVICH (Chairman), Mr. ROBERTS, and Mr. THOMAS.

COMMITTEE ON INDIAN AFFAIRS: Mr. CAMPBELL (Chairman), Mr. MCCAIN, Mr. DOMENICI, Mr. THOMAS, Mr. HATCH, Mr. INHOFE, Mr. SMITH, and Ms. MURKOWSKI.

SELECT COMMITTEE ON INTELLIGENCE: Mr. ROBERTS (Chairman), Mr. HATCH, Mr. DEWINE, Mr. BOND, Mr. LOTT, Ms. SNOWE, Mr. HAGEL, Mr. CHAMBLISS, and Mr. WARNER.

JOINT ECONOMIC COMMITTEE: Mr. BENNETT (Chairman), Mr. BROWNBACK, Mr. SESSIONS, Mr. SUNUNU, Mr. ALEXANDER, and Ms. COLLINS.

ORDERS FOR WEDNESDAY,  
JANUARY 15, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, January 15. I further ask that following the prayer and 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 there then be a period of morning business until 10:30 a.m., with the time equally divided and Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Again, the hope is that on Wednesday we will pass the committee resolutions and begin the appropriations bill. Once we are able to begin the appropriations bill, all Senators should expect busy sessions, with votes each day. We will remain in session in order to complete that measure.

I thank all Members for their cooperation.

ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:08 p.m., adjourned until Wednesday, January 15, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 14, 2003:

DEPARTMENT OF JUSTICE

EARL CRUZ AGUIGUI, OF GUAM, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF GUAM AND CONCURRENTLY UNITED STATES MARSHAL FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS FOR THE TERM OF FOUR YEARS, VICE JOAQUIN L.G. SALAS, TERM EXPIRED.

EUGENE JAMES CORCORAN, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE DANIEL C. BYRNE, TERM EXPIRED.

ALLEN GARBER, OF MINNESOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS, VICE CHARLES LESTER ZACHARIAS, TERM EXPIRED.

DEPARTMENT OF AGRICULTURE

VERNON BERNARD PARKER, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE. (NEW POSITION)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. GEORGE W. CASEY JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOHN P. ABIZAID, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. THOMAS F. METZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. WILLIAM M. JACOBS, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. CORNELL A. WILSON JR., 0000

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S249–S306*

**Measures Introduced:** Ten bills and three resolutions were introduced, as follows: S. 152–161, S.J. Res. 3, and S. Res. 18–19. **Page S288**

**Majority Committee Appointments:** Senate began consideration of S. Res. 18, making majority party appointments to certain Senate committees for the 108th Congress. **Pages S267–75, S276–83, S286**

A motion was entered to close further debate on the resolution and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Thursday, January 16, 2003. **Page S286**

**Nominations Received:** Senate received the following nominations:

Earl Cruz Aguigui, of Guam, to be United States Marshal for the District of Guam and concurrently United States Marshal for the District of the Northern Mariana Islands for the term of four years.

Eugene James Corcoran, of New York, to be United States Marshal for the Eastern District of New York for the term of four years.

Allen Garber, of Minnesota, to be United States Marshal for the District of Minnesota for the term of four years.

Vernon Bernard Parker, of Arizona, to be an Assistant Secretary of Agriculture. (New Position)

4 Army nominations in the rank of general.

1 Marine Corps nomination in the rank of general.

**Page S306**

**Additional Cosponsors:** **Pages S288–89**

**Statements on Introduced Bills/Resolutions:** **Pages S289–S305**

**Additional Statements:** **Pages S287–88**

**Adjournment:** Senate met at 9:30 a.m., and adjourned at 8:08 p.m., until 9:30 a.m., on Wednesday,

January 15, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S306.)

### Committee Meetings

*(Committees not listed did not meet)*

#### U.S. AIRWAYS

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, and Education concluded hearings to examine issues relative to the restructuring of U.S. Airways' employee pension plans, including a related proposal, S. 119, to provide special minimum funding requirements for certain pension plans maintained pursuant to collective bargaining agreements, after receiving testimony from Steven A. Kandarian, Executive Director, and James J. Keightley, General Counsel, both of the Pension Benefit Guaranty Corporation; James C. Roddey, Allegheny County, Pennsylvania; David N. Siegel, U.S. Airways, Inc., Arlington, Virginia; Duane E. Woerth, Air Line Pilots Association International, and Bill Pollock, U.S. Airways Master Executive Council, on behalf of Air Line Pilots Association, both of Washington, D.C.

#### TELECOMMUNICATIONS INDUSTRY

*Committee on Commerce, Science, and Transportation:* Subcommittee on Communications held hearings on competition issues in the telecommunications industry, including issues of digital migration, the role for regulators, and the deployment of broadband and other advanced services, receiving testimony from Michael K. Powell, Chairman, and Kathleen Q. Abernathy, Michael J. Copps, Kevin J. Martin, Jonathan S. Adelstein, each a Commissioner, all of the Federal Communications Commission.

Hearings recessed subject to call.

# House of Representatives

## *Chamber Action*

The House was not in session today. Pursuant to the provisions of H. Con. Res. 8, the House stands adjourned until 2 p.m. on Monday, January 27, 2003.

## *Committee Meetings*

No Committee meetings were held.

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### NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D21)

H.R. 11, to extend the national flood insurance program. Signed on January 13, 2003. (Public Law 108-3)

## COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 15, 2003

(Committee meetings are open unless otherwise indicated)

### Senate

*Committee on Armed Services:* to hold closed hearings to examine current and potential military operations; to be followed by a closed briefing on the Iraqi weapons inspection process by representatives of the Central Intelligence Agency and the Defense Intelligence Agency, 10:15 a.m., S-407, Capitol.

*Special Committee on Aging:* to hold hearings to examine certain Social Security issues, 9:30 a.m., SD-562.

### House

No Committee meetings are scheduled.

*Next Meeting of the SENATE*

9:30 a.m., Wednesday, January 15

*Next Meeting of the HOUSE OF REPRESENTATIVES*

2 p.m., Monday, January 27

## Senate Chamber

**Program for Wednesday:** Senate will be in a period of morning business until 10:30 a.m. Senate expects to resume consideration of S. Res. 18, Majority Party Committee Appointments, and may consider any other cleared legislative and executive business.

## House Chamber

**Program for Monday:** To be announced.



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