and without that manufacturing base. So we have to do what is necessary to push Detroit toward a stronger, more efficient future. It may be that at some point in the future, that industry will have a different look to it. Maybe it will have a different look to it. We do not know that. But what we do know now is that what has hit Detroit is far more than making the wrong choices about what cars they produce. I think they made those wrong choices, but it is far bigger than that because every company in America and outside of America that is making cars is suffering today because of the terrible recession we are in, because of a lack of consumer confidence, because of a loss of equity in the stock market, because of home foreclosures, because of all of these things.

So I say you never know what could happen in the future. I am not able to predict it because I cannot. But I know what I have to do now. I have to think about those three things: jobs, jobs, and jobs. When I think about that, and I recognize that just today we had more filings for unemployment insurance than we have had in 26 years, I say for us to walk away from this without this scaled-down bridge loan would be playing Russian roulette with this recession. I love my country too much to do that. With all of the problems I have with Detroit, I will support helping them in this fashion.

EXTENSION OF MORNING BUSINESS

Mrs. BOXER. Madam President, I ask unanimous consent that the period for morning business be extended until 2 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. BARRASSO. Madam President, I also ask unanimous consent that Senator NELSON of Florida be allowed to speak after me.

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

Mr. BARRASSO. Thank you very much, Madam President.

CLEANUP OF NUCLEAR MISSILE SITE IN CHEYENNE, WYOMING

Mr. BARRASSO. Madam President, I stand here today holding a 500-page report, a report that was sent to my office yesterday by the Army Corps of Engineers. I will not read the whole report, I am happy to say, but I want to call attention to the Senate and to the country, as well as to the people of Wyoming, what is contained within this report.

This report, at a cost of who knows how many taxpayer dollars, says something I have known and the people of Wyoming have known to be true. It says the Army Corps of Engineers is responsible for the contamination of the water wells of the city of Cheyenne. Now, let me clarify. The report does not actually say the words ''we are responsible.'' Washington could never admit its faults so directly. No. Instead, the report states that other potential sources of contamination, other potential sources of this trichloroethylene—the contaminant, the chemical that is in our city's wells—it says that other potential sources ''may be limited.'' I guess that is Washington's way of saying: It was us.

The Wyoming Department of Environmental Quality and the city of Cheyenne found evidence of trichloroethylene in the water supply in 1998—10 years ago. The culprit is a dormant Cold War-era nuclear missile area. It is a missile site and has been there for a long time. The Army Corps of Engineers admits that over 1,800 gallons of this contaminant, TCE, was dumped at the Atlas 4 nuclear missile site each year—each year—of the operation of the missile site, beginning in the mid-1960s.

Well, the discharge of TCE the Army Corps admits to is a mere 1 mile—1 mile—from the water wells of the city of Cheyenne. The Wyoming Department of Environmental Quality has claimed there is one giant plume of TCE emanating from the former nuclear missile site, working its way into and then contaminating the city's water wells. The missile site is currently being cleaned up under the Superfund laws by the Army Corps of Engineers. Unfortunately, the Army Corps only admits culpability for TCE contamination directly emanating from the nuclear missile site. They allege that there is actually a gap between the plume they admit to at the nuclear missile site and the one around the city's water wells—1 mile apart.

Now, you might think it odd that the Department of Defense, given the volume of this chemical that has been dumped year after year in rural Wyoming, would not admit that it was the responsible party for contaminating the city's wells. That would just make sense. They would say: Yes, we dumped it here. It is right here, a mile away in the wells. It is our fault. No. It would just make sense to us that they would admit it. But, in fact, the Army Corps over the last few years has looked to blame almost anyone else, has looked to blame others than to say they are responsible for contaminating the city's wells. Well, such claims have included that there might have been a train derailment and the train might have been carrying TCE into the area. They said it might have been from a nearby oil rig, it might have been from a local shooting range. The Army Corps said: Anybody but us.

I became involved in this issue after I felt the city of Cheyenne and the Wyoming Department of Environmental Quality were being ignored by Washington. As ranking member of the Superfund and Environmental Health Subcommittee, I pushed for testing of the ground in that 1-mile area between the nuclear missile site and the water wells of the city of Cheyenne. The Army Corps finally agreed to do the testing and said it would also look into the historical use of this chemical in the Cheyenne area to make sure there was not another responsible party for the contamination.

The final results—all 500 pages—were finally released this week. To no one's surprise who lives in Wyoming, to no one's surprise who is familiar with this issue, to no one's surprise but the Army Corps of Engineers, the contaminating chemical, TCE, was found in the ground between the nuclear missile site and the city's water wells, right where we said it would be. The report also revealed they found no other public records of TCE use in the Cheyenne area for any other reason. It just makes sense to us, and the cause is clear. Given these findings, it is time for the Army Corps to provide the funding the city needs to manage and to complete the current cleanup efforts.

Now, let me be clear. The city of Cheyenne's water is safe. Untold thousands of taxpayer dollars have gone to keep TCE out of the water supply. The city of Cheyenne and the State of Wyoming have implemented the effective procedures to protect the folks in Cheyenne. Those efforts have been completely successful. But the Army Corps of Engineers and the U.S. Government have the responsibility to fund the cleanup. They have responsibility to fix the problem, and this report says it is so. It is time to do so.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

TRIBUTE TO SENATORS

JOHN WARNER

Mr. NELSON of Florida. Madam President, I wish to take this opportunity to pay tribute to a true patriot and a dear friend, Senator JOHN WARNER of Virginia.

It has been an extraordinary experience for me to serve with Senator WARNER on the Armed Services Committee and the Intelligence Committee.

In the capacity of his service on the Armed Services Committee, which has been upwards of three decades, serving as its chairman, the insight and guidance he has provided has been invaluable. Over and over, you will hear the

members of that committee speak as I, as if with one voice, how we appreciate his public service. He has great knowledge. He has great wisdom. It is tempered with a wonderful personality that is most studious and deliberative. Few have done as much to champion the cause of our men and women in the Armed Forces of the United States as JOHN WARNER.

This Senator admires him for his sense of fairness, for his mutual respect of all the Members of the Senate. We know there has to be civility in the Senate for it to function. There has to be mutual respect. There has to be respect for the truth. There has to be respect for the dignity of individuals and those Senators' families. All of that is certainly apropos of the senior Senator from Virginia. Over and over, I have been in situations with him that could have been adversarial. Yet his calm judgment and reason have brought people together. Of course, that is the admonition of the Good Book: ''Come let us reason together.''

Over and over, as I have sought his counsel on matters of some of the Nation's highest secrets, JOHN WARNER has provided the leadership and the clarity, as we have made those decisions, sometimes making those decisions together.

So it is with a great reluctance on my part that I see our colleague, Senator WARNER, retire after a very distinguished and long career. It has been a privilege to serve with JOHN. I will miss him as a colleague. I will miss his leadership, his fairness, and his great capacity as a gentleman of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

AUTOMOBILE INDUSTRY CRISIS

Mr. WHITEHOUSE. Madam President, I rise today to address what I feel is an unfortunate omission from our economic rescue strategy to date. This week, we are considering another bailout which would give $15 billion in so-called bridge loans to America's struggling automakers.

Now, when we debated a bailout program to protect our Nation's financial system back in September, we created legislative branch roles and executive branch roles. We ultimately passed legislation that empowered the Department of the Treasury to invest up to $700 billion. Debate was rushed. The Treasury Secretary came to us on a Friday in September and told leaders of both parties in both Houses that our economy would collapse if we did not take immediate action. With the threat of immediate financial calamity and the apparent good faith of Secretary Paulson, Congress moved quickly to pass the best bill we could. Senator CHRIS DODD of Connecticut and my colleague from Rhode Island, Senator JACK REED, worked heroically, almost around the clock, to negotiate for taxpayer protections and several levels of oversight. In the end, we created a program of congressional and executive roles but no judicial role. We ignored the role that courts can play here or, more correctly, that executive agencies can play when supported by judicial or even quasi-judicial due process. We are about to ignore that role again in the auto bailout.

Why is this point important? This is important because under our American system of government, there are important powers of government that can only be exercised after due process opportunity for a hearing. The famous Supreme Court case of Fuentes v. Shevin is on point. I quote:

> The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

That is citation 407 U.S. 67 at 82.

In other words, some means of restructuring require due process if they involve adjusting people's financial rights and claims. When we fail to provide that process, we unilaterally disarm government's response, taking away its ability to restructure using those means.

The price of this repeated omission has been high. Going back before we even got into this current mess, when there was only a subprime mortgage problem, Senator DURBIN of Illinois proposed a bill that would have empowered bankruptcy judges to modify the terms of a mortgage on a person's primary residence. One needed a due process hearing such as that in order to adjust the rights within that mortgage of the banks and the myriad investors who bought strips of that mortgage when it was carved up and sold to the four winds. Our Republican colleagues stymied this provision which we now see could have kept tens of thousands of families in their homes. Because the clarity and finality of a court decision on a troubled mortgage was not available, there was little alternative to foreclosure, and troubled mortgages, by the tens of thousands, cascaded into foreclosure—numbers never before seen in our history. Our fault. Bad design. And every day we don't get it right, every day we don't pass Senator DURBIN's bill, that foreclosure problem worsens.

Similarly, as part of the $700 billion Wall Street bailout, we could have addressed lavish and indefensible executive compensation by providing for some judicial power to restructure these packages. Because we didn't, these grotesque liabilities remain on the books of the bailed out entities as obligations to their disgraced management. According to an analysis by the Wall Street Journal, the executive deferred compensation obligations of bailed out Wall Street firms amount to more than $40 billion. Banks participating in the bailout program carried these obligations on their books, and the cash from our bailout is being used to pay them—or will be used to pay them. Taxpayer dollars will end up in the pockets of the scoundrels who tanked those firms. I contend we have to find ways in which the court system, due process, can be brought to bear on this problem. But again, the inaction on that so far is our fault. Bad design. Unilateral disarmament in the face of the Wall Street meltdown.

Now we have the auto bailout plan with its provision for a ''car czar,'' but once again, lacks a role for those due process powers of government. Once we are committed to this deal—once we are in—the only tool we will have at that negotiating table is Uncle Sam's checkbook—that, and the somewhat improbable threat to walk away and tank the auto companies after having put $15 billion into them. So now we will have to negotiate about the companies' continuing lavish executive and board compensation packages and other obligations impeding a fair and rational recovery. As for looking backwards at preexisting obligations, as we say in Rhode Island, forget about it. That requires due process. We have created no process to even invoke government's power to review those. So the effect of all of this is to encourage special interests to play the holdout in the auto negotiations and dare us to tank the companies. It is going to be a high stakes game of chicken and, no matter who wins, the taxpayers lose.

We created this ''hold out'' problem by not providing a judicial role in the restructuring. We could, for example, give the car czar the powers of a judicially appointed conservator or receiver—those are roles I have held—and the power to go to court for an order approving his plan or her plan over the objections of any holdouts. If we did that, it would change the bargaining position of the holdouts. This judicial due process would allow the strong powers of government that require due process to be brought to bear on this mess. We do this in a lot of different contexts.

Bankruptcy courts oversee restructuring all the time and so do other quasi-judicial bodies. For example, the FDIC has the power under current law to place a troubled bank into receivership and wind it down as if in chapter 7, or put it under conservatorship to restructure it as if in chapter 11. The bankruptcy courts and the FDIC possess the tools necessary to cut through whatever Gordian knots may snarl restructuring plans absent that power.