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Senate

The Senate met at 9:15 a.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

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

Almighty God, all power and authority belong to You. You hold universes in Your hands and focus Your attention on the planet Earth. We humble ourselves before You. You alone are Lord of all nations and have called our Nation to be a leader in the family of nations. By Your providence You have brought to this Senate the men and women through whom You can rule wisely in the soul-sized matters that affect the destiny of humankind. With awe and wonder at Your trust in them, the Senators soon will vote on the resolution on Iraq as part of our Nation's ongoing battle against terrorism.

Grip their minds with three assurances to sustain them: You are Sovereign of this land and they are accountable to You; You are able to guide their thinking, speaking, and decisions if they will but ask You; and You will bring them to unity so that they may lead our Nation in its strategic role against terrorism and assist the free nations of the world in their shared obligation.

O God, hear our prayer. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 10, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, debate will commence shortly on the Byrd amendment, with a vote expected in 20 minutes. Following that, there will be debate with respect to the motion to invoke cloture on the Lieberman substitute amendment for the Iraq resolution. The two leaders will control the last 30 minutes prior to the cloture vote. Following that vote, debate will occur on another Byrd amendment, with 60 minutes of debate, and then a vote will occur.

Following the vote on the second Byrd amendment, Senator LEVIN's amendment will be debated for a period of 95 minutes, to be followed by a vote. After disposition of the Levin amendment, the Durbin amendment will be considered for 40 minutes, and then there will be a vote.

Therefore, Senators should be alerted that votes will be occurring throughout the day, and the votes will end within the specified time of rollcall votes. The point is, we are going to try to stick closely to the time.

Other amendments are expected to be debated and voted on today in order to complete action on this legislation, which the leader wants to complete tonight.

RESERVATION OF LEADER TIME

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

AUTHORIZATION OF THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ

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

The legislative clerk read as follows:

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

Pending:

Lieberman/Warner modified amendment No. 4856, in the nature of a substitute;

Byrd amendment No. 4868 (to amendment No. 4856, as modified), to provide statutory construction that constitutional authorities remain unaffected and that no additional grant of authority is made to the President not directly related to the existing threat posed by Iraq;

Levin amendment No. 4862 (to amendment No. 4856), in the nature of a substitute.

Mr. MCCAIN. Mr. President, what is the parliamentary situation?

AMENDMENT NO. 4869, AS MODIFIED

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the amendment of the Senator from West Virginia.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 4869, as modified.

The amendment, as modified, is as follows:

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

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(Purpose: To provide a termination date for the authorization of the use of the Armed Forces of the United States, together with procedures for the extension of such date unless Congress disapproves the extension)

At the appropriate place, insert the following:

SEC. 5. TERMINATION OF THE AUTHORIZATION FOR THE USE OF THE UNITED STATES ARMED FORCES.

(a) IN GENERAL.—The authorization in section 4(a) shall terminate 12 months after the date of enactment of this joint resolution, except that the President may extend, for a period or periods of 12 months each, such authorization if—

(1) the President determines and certifies to Congress for each such period, not later that 60 days before the date of termination of the authorization, that the extension is necessary for ongoing or impending military operations against Iraq under section 4(a); and

(2) the Congress does not enact into law, before the extension of the authorization, a joint resolution disapproving the extension of the authorization for the additional 12-month period.

(b) CONGRESSIONAL REVIEW PROCEDURES.—

(1) IN GENERAL.—For purposes of subsection (a)(2), a joint resolution described in paragraph (2) shall be considered in the Senate and the House of Representatives in accordance with the procedures applicable to joint resolutions under paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473; 98 Stat. 1936–1937), except that—

(A) references in those provisions to the Committee on Appropriations of the House of Representatives shall be deemed to be references to the Committee on International Relations of the House of Representatives; and

(B) references in those provisions to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate.

(2) JOINT RESOLUTION DEFINED.—For purposes of paragraph (1), the term ''joint resolution'' means only a joint resolution introduced after the date on which the certification of the President under subsection (a)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That, pursuant to section 5 of the Authorization for the Use of Military Force Against Iraq, the Congress disapproves the extension of the authorization under section 4(a) of that joint resolution for the additional 12-month period specified in the certification of the President to the Congress dated ____.'', with the blank filled in with the appropriate date.

Mr. MCCAIN. And the time is running; is that correct?

The ACTING PRESIDENT pro tempore. There are 20 minutes overall—15 minutes to the sponsor of the amendment and 5 minutes in opposition. If nobody yields time, time will be deducted proportionately.

The Senator from West Virginia.

Mr. BYRD. Mr. President, does the distinguished Senator from Arizona wish to use any time at this point?

Mr. MCCAIN. No.

Mr. BYRD. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. Fifteen minutes.

Mr. BYRD. Mr. President, how much time does the distinguished Senator from Massachusetts wish?

Mr. KENNEDY. Four and a half minutes.

Mr. BYRD. I yield 5 minutes to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, for the past few days we have debated the details of a resolution but not the implication of war with Iraq. We were into the debate on the resolutions for 2 days, and then a cloture motion was filed. I am reminded of the excellent statements made by my friend from West Virginia that this subject about war and peace deserves a longer period of time for discussion.

Earlier in the session, we debated for 21 days the Elementary and Secondary Education Act; 23 days on the energy bill; 19 days on trade promotion; 18 days on the farm bill—all extremely important, but this issue is far more so.

In facing the global challenges of these times, we defend American values and interests best when war is our last resort, not our first impulse. I commend President Bush for deciding in the end to take America's case to the United Nations. Make no mistake about it, this resolution lets the President go it alone. Iraq should have no doubt of the unity of the American purpose and the seriousness of our intent. Having suffered the tragedy of September 11, we will leave no stone unturned in the defense of innocent Americans.

The question is not whether we will disarm Saddam Hussein of his weapons of mass destruction but how. And it is wrong for Congress to declare war against Iraq now before we have exhausted the alternatives. It is wrong for the President to demand a declaration of war from Congress when he says he has not decided whether to go to war. It is wrong to avert our attention now from the greater and far more immediate threat of Osama bin Laden and al-Qaida terrorism.

Pick up the paper and see the different headlines: ''Attacks Put Troops on Alert''; ''They fear contact with al-Qaida''; ''Tape, Assaults Stir Worry About Resurgent Al Qaeda''; and the list goes on about the al-Qaida activities all over the world.

We cannot go it alone on Iraq and expect our allies to support us.

We cannot go it alone and expect the world to stand with us in the urgent and ongoing war against terrorism and al-Qaida.

We cannot go it alone in attacking Iraq and expect Saddam to keep his weapons of mass destruction at bay against us or our ally Israel.

We cannot go it alone while urging unprincipled regimes to resist invasions of their adversaries.

The better course for our Nation and for our goal of disarming Saddam Hussein is a two-step policy. We should approve a strong resolution today calling on the United Nations to require Iraq to submit to unfettered U.N. weapons inspections or face U.N.-backed international force. If such option fails, and Saddam refuses to cooperate, the President could then come to the Congress and request Congress to provide him with authorization to wage war against Iraq.

By pursuing this course, we maximize the chance that the world can disarm Saddam without our going to war or, if war was necessary, we would be joined by allied troops in the cause. In the end, having tried these options and failed, our allies are far more likely to support our intervention should we elect to attack alone.

The world looks to America not just because of our superior might or economic weight; they admire us and emulate us because we are a friend and ally that defends freedom and promotes our values around the globe. Those same traits that are the envy of the world should guide us today as we conclude this important debate.

I thank the Senator from West Virginia, and I yield back to him the remainder of my time.

Mr. BYRD. Mr. President, I thank the Senator. How much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 11 minutes.

Mr. BYRD. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I understand we have 5 minutes. I yield that 5 minutes to the Senator from Connecticut however he chooses to use it.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I thank my colleague from Arizona.

The amendment of the Senator from West Virginia which is before us would terminate, 12 months after the date of enactment of the underlying joint resolution, the authorization given in that resolution. In other words, it would put a time limit of a year subject to extension, but, nonetheless, a time limit for a year on the authorization provided in the underlying resolution.

I say to my colleagues respectfully, this amendment is unprecedented and unwise. It is unprecedented in the sense that in brief research overnight, I have not been able to find an occasion in which Congress has exercised authority with regard to military action under article I of the Constitution when Congress has attached a time limit to it.

There was one occasion when time limits were discussed with regard to the deployment of American forces in Bosnia, the Balkans, during the nineties, but I think we saw there why congressional imposition of time limits on authorization of military action is unwise.

Why is it unwise? It is unwise because it gives notice to our enemies that there is a limit to the authority we are giving the President as Commander in Chief of our military forces.

It allows them to calculate their actions based on that limited duration.

In Bosnia, when that deadline was articulated by the administration, it created expectations which were quite naturally frustrated and therein created a credibility gap.

There is a deadline in the underlying resolution, and the deadline is what it ought to be and always has been for military actions in which the Armed Forces of the United States have been involved. The authorization ends when the mission is accomplished, and in this case the authorization would end when the two missions stated were accomplished: When the President as Commander in Chief concluded that America was adequately protected, our national security was adequately protected from threats from Iraq, and that the relevant United Nations resolutions were adequately being enforced. That is the deadline.

If the mood of Congress should change, if the attitude of the public should change, Congress always reserves, as it has shown in the past, the power of the purse and the power to change its opinion. But this amendment at this time, as we try to gather our strength and unity of purpose to convince the international community to join with us, as they surely will, is to finally get Saddam Hussein to keep his promise to disarm at the end of the gulf war.

We need no limitations on authority. We need to speak with a clear voice. As it says in the Bible, if the sound of the trumpet be uncertain, who shall follow? And if we put a 12-month time limit on the authority of the underlying resolution, I fear that fewer will follow and the result will be much less than we want it to be.

I reserve the remainder of my time.

Mr. McCAIN. Mr. President, I oppose the amendment offered by the Senator from West Virginia, which would sunset the authority Congress would grant to the President in this resolution to defend American security against the threat posed by Iraq.

As the Senator has pointed out, the 12-month limit on congressional authorization for the use of force his amendment would set could be extended by presidential or congressional action. However, these requirements are onerous and infringe upon the authority of the Commander in Chief to meet his obligations to protect American security.

The concept of imposing a deadline after which the President loses his authority to achieve the goals set out in the Iraq resolution strikes me as losing sight of the objective of a congressional authorization of the use of force: ending the threat to the United States and the world posed by Saddam Hussein's regime, so long as it possesses weapons of mass destruction and defies its obligations to the world.

So long as that threat persists, and with Congress and the President having agreed that Saddam Hussein's regime endangers America, congressional authority for the President to use force must remain in force until he has met our common objective of disarming Saddam Hussein.

To place a limit on the amount of time the President possesses this authority, once Congress has granted it to him, would only encourage Saddam Hussein to stall and temporize on his commitments, knowing that the clock is working in his favor. Such an incentive would make us less secure, not more secure.

If the vast majority of Members of Congress and the American people agree upon the threat posed by Saddam Hussein's Iraq, and if we accept that the President will confront this danger within the parameters we have laid out in this congressional resolution, what about that threat would change in 12 months, assuming we have not acted against it by that time, that would somehow negate the President's need for the authority to meet it?

If anything, the threat posed by Saddam Hussein's regime will only grow with time. Private and public estimates are that Saddam Hussein could possess nuclear weapons within six months to a year were he to acquire weapons-grade plutonium on the international market.

That's why the President has requested the authority to act now. Saddam Hussein represents a grave and gathering danger. I hope he is no longer in power 1 year from now. But there is certainly a chance he could be.

Congress cannot foresee the entire course of this conflict. Acting now to deprive the President 12 months from now of the authority we would grant him in this resolution would be an infringement on the authority of the Commander in Chief and a strange way to respond to the grave threat to American national security posed by Saddam Hussein's regime.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. I yield 2 minutes to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Connecticut is right that article 1 of the Constitution does not provide for this, but article 1 of the Constitution also does not provide for a declaration of war before the President is asked to go to war. So this is a very different circumstance. The President has not asked us to go to war. He has said he wants the power to be able to go to war. It seems completely consistent with that request that we say: Yes, Mr. President, you have that power to go to war; you can do that within 1 year. If, in fact, you go to war in 1 year, you can extend that 1 year.

Let me put it this way. If we are 2 years down the road still fooling around with Iraq, then my friends from Connecticut and other places have been so dead wrong about what we are supposed to do that it would be amazing.

I point out that this is nothing like Bosnia and nothing like the Balkans. In that case, we were in the Balkans. There were forces there, and there were people on the floor who were attempting to put a time on how long they could stay after we had gone in, after we had already prevailed, after we were in place.

The third point I make in the 2 minutes I have is, we learned from Vietnam the power of the purse is useless. The power of the purse is useless because it presents us with a Hobson's choice. We have our fighting men and women in place and we are told, by the way, the President will not take them home so let's cut off the support for them so they have no guns, no bullets, no ability to fight a war. And no one is willing to do that. This is a prudent way to do this, totally consistent with what the President is asking. I think it makes absolute eminent sense. I congratulate the Senator. Even though I disagree with him on his underlying notion, I do think he is right on this point and I support him.

Mr. BYRD. How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 9 minutes 20 seconds.

Mr. BYRD. I ask to be notified when I have 2 minutes left.

Mr. President, 38 years ago I, ROBERT C. BYRD, voted on the Tonkin Gulf Resolution—the resolution that authorized the President to use military force to ''repel armed attacks'' and ''to prevent further Communist aggression'' in Southeast Asia.

It was this resolution that provided the basis for American involvement in the war in Vietnam.

It was the resolution that lead to the longest war in American history.

It led to the deaths of 58,000 Americans, and 150,000 Americans being wounded in action.

It led to massive protests, a deeply divided country, and the deaths of more Americans at Kent State.

It was a war that destroyed the Presidency of Lyndon Johnson and wrecked the administration of Richard Nixon.

After all that carnage, we began to learn that, in voting for the Tonkin Gulf Resolution, we were basing our votes on bad information. We learned that the claims the administration made on the need for the Tonkin Gulf Resolution were simply not true, and history is repeating itself.

We tragically and belatedly learned that we had not taken enough time to consider the resolution. We had not asked the right questions, nor enough questions. We learned that we should have been demanding more hard evidence from the administration rather than accepting the administration at its word.

But it was too late.

For all those spouting jingoes about going to war with Iraq, about the urgent need for regime change no matter what the cost, about the need to take out the evil dictator—and make no mistakes, I know and understand that

Saddam Hussein is an evil dictator—I urge Senators to go down on The Capital Mall and look at the Vietnam memorial. Nearly every day you will find someone at that wall weeping for a loved one, a father, a son, a brother, a friend, whose name is on that wall.

If we are fortunate, a war with Iraq will be a short one with few American deaths, as in the Persian Gulf war, and we can go around again waving flags and singing patriotic songs.

Or, maybe we will find ourselves building another wall on the mall.

I will always remember the words of Senator Wayne Morse, one of the two Senators who opposed the Tonkin Gulf Resolution. During the debate on the Tonkin Gulf Resolution, he stated: ''The resolution will pass, and Senators who vote for it will live to regret it.''

Many Senators did live to regret it.

The Tonkin Gulf Resolution contained a sunset provision to end military action. S.J. Res. 46 will allow the President to continue war for as long as he wants, against anyone he wants as long he feels it will help eliminate the threat posed by Iraq.

With the Tonkin Gulf Resolution, Congress could ''terminate'' military action. With S.J. Res. 46 , only the President can terminate military action.

I should point out that the Tonkin Gulf Resolution and S.J. Res. 46 do have several things in common. Congress is again being asked to vote on the use of force without hard evidence that the country poses an immediate threat to the national security of the United States. We are being asked to vote on a resolution authorizing the use of force in a hyped up, politically charged atmosphere in an election year. Congress is again being rushed into a judgment.

This is why I stand here today, before this Chamber, and before this Nation, urging, pleading for some sanity, for more time to consider this resolution, for more hard evidence on the need for this resolution.

Before we put this great Nation on the track to war, I want to see more evidence, hard evidence, not more Presidential rhetoric. In support of this resolution, several people have pointed out that President Kennedy acted unilaterally in the Cuban missile crisis. That is true. I remember that. I was here. I also remember President Kennedy going on national television and showing proof of the threat we faced. I remember him sending our UN ambassador, Adlai Stevenson, to the United Nations, to provide proof to the world that there was a threat to the national security of the United States.

All we get from this administration is rhetoric. In fact, in an address to our NATO colleagues, Defense Secretary Donald Rumsfeld, according to the Chicago Tribune, urged our allies to resist the idea for the need of absolute proof about terrorists intent before they took action.

Before we unleash what Thomas Jefferson called the ''dogs of war,'' I want to know, have we exhausted every avenue of peace? My favorite book does not say, blessed are the war makers. It says: ''Blessed are the peacemakers.'' Have we truly pursued peace?

If the need for taking military action against Iraq is so obvious and so needed and so urgent, then why are nearly every one of our allies opposed to it? Why is the President on the phone nearly every day trying to convince our allies to join us?

So many people, so many nations in the Arab world already hate and fear us. Why do we want them to hate and fear us even more?

People are correct to point out that September 11 changed everything. We need to be more careful. We need to build up our intelligence efforts and our homeland security. But do we go around pounding everybody, anybody, who might pose a threat to our security? If we clobber Iraq today, do we clobber Iran tomorrow?

When do we attack China? When do we attack North Korea? When do we attack Syria?

Unless I can be shown proof that these distant nations do pose an immediate, serious threat to the national interests and security of the United States, I think we should finish our war on terrorism. I think we should destroy those who destroyed the Trade Towers and attacked the Pentagon. I think we should get thug No. 1 before we worry about thug No. 2.

Yes, September 11 changed many aspects of our lives, but people still bleed. America's mothers will still weep for their sons and their daughters who will not come home.

September 11 should have made us more aware of the pain that comes from being attacked. We, more than ever, are aware of the damage, the deaths, and the suffering that comes from violent attacks.

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. BYRD. I thank the Chair.

This is what we are about to do to other countries. We are about to inflict this horrible suffering upon other people.

Of course, we do not talk about this. We talk about taking out Saddam Hussein. We are talking about taking out Iraq, about ''regime change.''

I do not want history to remember my country as being on the side of evil.

During the Civil War, a minister expressed his hope to President Lincoln that the Lord was on the side of the North. The Great Emancipator reportedly rebuked the minister stating:

> It is my constant anxiety and prayer that I and this nation are on the Lord's side.

Before I vote for this resolution for war, a war in which thousands, perhaps tens of thousands or hundred of thousands of people may die, I want to make sure that I and this Nation are on God's side.

I want more time. I want more evidence. I want to know that I am right, that our Nation is right, and not just powerful.

And I want the language that is in this amendment so that Congress can oversee this power grab and act to terminate it at some point in time—giving the President the opportunity to extend the time but let's keep Congress in the act.

Senators, vote for this amendment. I plead with you.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, I am opposed to the Byrd amendment, for this is a resolution to deter war.

The amendment proposed by Senator BYRD would insert into the joint resolution, language which would state that nothing in that joint resolution: is intended to alter the constitutional authorities of the Congress to declare war, grant letters of marque and reprisal, or other authorities invested in Congress by Article I, Section 8, of the Constitution; or shall be construed as granting any authority to the President to use the U.S. Armed Forces for any purpose not directly related to a clear threat of imminent, sudden, and direct attack upon the U.S. or its armed forces unless the Congress otherwise authorizes.

The amendment of the Senator from West Virginia attempts to do something that the Framers of the Constitution did not attempt—to define, with particularity, the extent of the President's powers as Commander in Chief of the Armed Forces. Specifically, it would limit the authority of the President to use Armed Forces to a narrowly defined set of circumstance—''a clear threat of imminent, sudden and direct attack upon the United States or its Armed Forces.'' Even when the United States enjoyed genuine geographic and political isolation from the Old World, such a limitation could not be maintained. Within a decade of the ratification of the Constitution, the United States engaged in an undeclared naval war with France. Shortly thereafter, we engaged in undeclared war with the Barbary States of North Africa, who had engaged in piratical depredations against American shipping.

In 1861, President Lincoln, faced with an unprecedented situation, imposed a blockade—an act of war normally employed against a foreign enemy—upon the Southern Confederacy. He did this without congressional authorization. The Supreme Court later upheld this action in the famous Prize Cases, stating that the President had a constitutional duty to meet the insurrection as he found it; the determination that a state of war existed was for him to make.

This is not a Republican or Democratic issue. Since 1945, Presidents of both parties have repeatedly committed American troops abroad without formal congressional approval. Whether in Korea, Grenada, Panama,

Kosovo, or numerous other areas of the world, our Presidents have used their powers as Commander in Chief to protect the Nation and American interests whenever they, in their considered judgment, thought it best to do so. The Clinton administration, which committed American troops to military operations abroad on an unprecedented scale in situations not involving imminent danger of attack to the United States, did not request formal congressional approval for any of those oeprations—believing that the President possessed the constitutional authority to do so. Indeed, the Secretary of State in 1998 publicly stated that the 1991 congressional resolution authorizing the use of force against Iraq, together with existing Security Council resolutions, constituted sufficient authority for the use of force against Iraq.

On September 11th of last year the American people awoke to the realization that they were in imminent danger, had been for some time, and this danger gives no warning. It is a different type of danger, but no less real and no less threatening to the Nation than more traditional ones. As the President reminded us in his speech to the Nation on Monday evening:

> Iraq could decide on any given day to provide a biological or chemical weapon to a terrorist group or individual terrorists. Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints . . . confronting the threat posed by Iraq is crucial to winning the war on terror.

On the Today Show this week, Richard Butler, former head of UNSCOM, was asked how easy it would be for the Iraqis to arm a terrorist group or an individual terrorist with weapons of mass destruction. His response was ''Extremely easy. If they decided to do it, piece of cake!''

They may already have done it. The danger is clear, present, and imminent. We must grant the President the authority to use armed force to protect the Nation, and the flexibility to employ that force as seems best to him. Our enemies are cunning and flexible; we cannot defeat them with anything less.

The Byrd amendment regarding preservation of Congress's constitutional authorities is unnecessary. The portion of the amendment that would limit the authority of the President to wage war is, arguably unconstitutional. The Congress can declare war, but it cannot dictate to the President how to wage war. No law passed by Congress could alter the constitutional separation of powers.

I urge my colleagues to defeat this amendment.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield the remaining time on our side to my friend from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Connecticut for his thoughtful statement. I want to say in the few remaining seconds that to view the cause of the tragedy of the Vietnam war as being the Tonkin Gulf resolution is a somewhat, in my view, simplistic view.

There were a lot of factors that entered into the beginning and the continuation of the Vietnam war. The Tonkin Gulf resolution was simply window dressing. At any time the Congress of the United States could have reversed that resolution and chose not to.

The ACTING PRESIDENT pro tempore. The time in opposition has expired.

The sponsor has 37 seconds.

Mr. BYRD. Mr. President, this is a Tonkin Gulf resolution all over again. Let us stop, look, and listen. Let us not give this President, or any President, unchecked power. Remember the Constitution. Remember the Constitution.

Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. They have not.

Mr. LIEBERMAN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to Byrd amendment No. 4869, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Maryland (Ms. MIKULSKI), are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. MILLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 66, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—31

Akaka	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Rockefeller
Boxer	Feingold	Sarbanes
Byrd	Harkin	Schumer
Cantwell	Hollings	Stabenow
Chafee	Inouye	Torricelli
Clinton	Jeffords	Wellstone
Conrad	Kennedy	Wyden
Corzine	Kerry	
Dayton	Kohl	

NAYS—66

Allard	Carper	Feinstein
Allen	Cleland	Fitzgerald
Baucus	Cochran	Frist
Bayh	Collins	Graham
Bennett	Craig	Gramm
Bond	Crapo	Grassley
Breaux	Daschle	Gregg
Brownback	DeWine	Hagel
Bunning	Domenici	Hatch
Burns	Edwards	Hutchinson
Campbell	Ensign	Hutchison
Carnahan	Enzi	Inhofe
Johnson	Murray	Smith (NH)
Kyl	Nelson (FL)	Smith (OR)
Landrieu	Nelson (NE)	Snowe
Lieberman	Nickles	Specter
Lott	Reed	Stevens
Lugar	Reid	Thomas
McCain	Roberts	Thompson
McConnell	Santorum	Thurmond
Miller	Sessions	Voinovich
Murkowski	Shelby	Warner

NOT VOTING—3

Helms	Lincoln	Mikulski

The amendment (No. 4869), as modified, was rejected.

The PRESIDING OFFICER. Under the previous order, there will now be 45 minutes prior to the cloture vote on amendment No. 4856, as modified. Under the previous order, the first 15 minutes shall be under the control of the Senator from West Virginia, Mr. BYRD, the second 15 minutes shall be under the control of the Republican leader, and the third 15 minutes shall be under the control of the majority leader.

Mr. BYRD. Mr. President, I yield 5 minutes of my 15 minutes to the distinguish Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished President pro tempore and the Chair.

Mr. President, I have sought this time to register my very strong objection to cloture on this resolution authorizing the use of force, which is the equivalent of a declaration of war. In my 22 years in the Senate, the only issue which has been of equal importance was the authorization for the use of force in 1991. The motion to invoke cloture, which is to cut off debate, is supposed to be done when there is a filibuster. However, there is no filibuster present on this issue.

I came to the floor yesterday in an effort to participate in a colloquy with Senator LIEBERMAN, the lead proponent of the bill, and found that all the time was allotted and all the time was taken. When no one appeared, we had about 3 minutes to discuss an issue which really required 30 minutes or an hour. I then sought time later in the afternoon, and all the time was taken. I then sought time this morning and find that the only time which is available is some time after 5 p.m. this afternoon.

It is customary in the Senate to see two lights on for a quorum call, but there have been very few quorum calls on this resolution—really none—except when Senators are on their way to the floor or when there are discussions. So there has certainly not been any effort to filibuster. Those who sought time to come over and discuss important issues have found that there is no time to do so.

We now have a series of amendments lined up with time allocations which are very brief. To discuss the cloture resolution itself in 45 minutes is very limited. To discuss the amendments which are pending is very difficult.

There is in the bill a change from the 1991 resolution which has an objective test for the President to use force to carry out U.N. resolutions, whereas in the current resolution, it is subjective as the President sees fit. That is a matter of great moment which has not been debated in the Senate.

The resolution has numerous whereas clauses so that one can read the resolution to justify the use of force if the Iraqi Government continues to abuse its citizens. I would not want to say the Iraqi Government has not abused its citizens, but I do not believe anyone is seriously contending that is the basis for the President to take the United States to war. To stop Saddam Hussein from having weapons of mass destruction which pose a threat to the United States, is a reason.

Then there is the issue of regime change, which is in the whereas clause. The resolution contains a provision for U.S. national security interests. I posed questions to the Senator from Connecticut yesterday as to whether regime change was comprehended in our national security interest. That has yet to be answered.

The point I am making is that this is a matter which requires discussion and analysis. I do not believe it helps the President of the United States to have the Senate rush to judgment. It is not quite a blank check. It is not quite a knee-jerk reaction, but it is not the kind of deliberation that ought to characterize the work of this body. It would be unfortunate if the Senate votes for a resolution authorizing the use of force notwithstanding the questions which I have raised, although I said on the floor before that I may well support the President. However, if we do so in a context of deliberation and thoughtfulness when people like Senator LIEBERMAN, Senator MCCAIN, Senator WARNER, Senator BIDEN, Senator JEFFORDS, and other Members, put our imprimatur on it, it has some significance in the international arena, providing it is debated, and providing there is some lucid discussion on all of the issues we are confronting.

I noted in the ''Philadelphia Inquirer'' this week the comment of a House member: The President has handcuffed us. I am voting yes on this resolution because I think ultimately the box the President has put us in has forced us to vote in the interests of national security.

I do not think we ought to vote for this resolution because we are being handcuffed. I do not think anyone anywhere ought to vote for a resolution for being handcuffed or for being put in a box.

These are matters which require a lot of analysis and a lot of debate. The cloture motion will cut off nongermane amendments. That is a very tight restriction. Other amendments ought to be offered which are very important to the discussion on this critical matter. I thank the Senator from West Virginia, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator for a very courageous statement.

The Polycraticus of John of Salisbury, completed in 1159, says that Nero, the sixth in line from Julius, having heard the Senate had condemned him to death, begged that someone would give him courage to die by dying with him as an example. When he perceived the horseman drawing near, he upbraided his own cowardice by saying: ''I die shamefully.'' So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole House of the Caesars.

Mr. President, here in this pernicious resolution on which the Senate will vote soon, we find the dagger that is being held at the throat of the Senate of the United States. I say to my friends, we ought to pause and wonder if Captain John Parker and his minutemen fought on the green of Lexington for this piece of rag, this so-called resolution. When Parker lost 8 or 10 of his men with that first shot, is this what they died for, this resolution? Is that what they died for?

How about John Paul Jones, when he was fighting the *Serapis*. He was the captain of the *Bon Homme Richard* when he said, I have not yet begun to fight. What he was fighting for? Was he fighting for this piece of cowardice here in this resolution that gives to the President—lock, stock and barrel—the authority to use the military forces of this country however he will, whenever he will, and wherever he will, and for as long as he will?

We are handing this over to the President of the United States. When we do that, we can put a sign on the top of this Capitol, and we can say: ''Gone home.'' ''Gone fishing.'' ''Out of business.''

I don't believe our forebears died for that kind of a piece of paper. How about Nathan Hale? He, too, was from Connecticut, may I say to the chief sponsor of this resolution. Nathan Hale volunteered to go into the British lines when he was called upon to do so by George Washington. He volunteered. He went behind the British lines to draw the gun emplacements, the breastwork of the British. And on the night of September 21, 1776, he was prepared to return to his own lines. He had on his person the pictures that he had drawn, the notes he had made, and he was discovered as a spy on the night of September 21, 1776. Nathan Hale.

The next morning he was hauled up before a wooden coffin in which he knew that his body would soon lie and grow cold. And the captain of the British, Captain Cunningham, said to Nathan Hale: Do you have anything that you would like to say? He had already been refused a Bible. He was asked, did he have anything further.

He said: I only regret that I have but one life to lose for my country.

Nathan Hale gave his own life, one life. It was all he had. Can we give one vote for our country today? Each of us took an oath under this Constitution. You took it in the chair, Mr. President. Mr. Senator from Virginia, you took it. This is the Constitution that James Madison from the State of Virginia helped to write; that George Washington helped to write. We take an oath to support and defend that Constitution. Are we defending it here today? Are we defending the role of the Senate as set forth in this Constitution which says Congress shall declare war?

Here we are about to hand off that role, that responsibility, to a President of the United States without limitation. He can go on and on. We are out of it. Once we pass this resolution and it is signed by the President, Senators are out of it. You can complain, but it won't help.

I say that we are denying the American people their right to be heard. Here we are being shut off on a cloture vote. I know the rules of the Senate. I have used the cloture vote myself. But in a situation such as this, I have pleaded for time, more time. I have been turned down.

The American people out there are going to render a judgment. They are going to render a judgment on every Senator in this body before it is over. I pray to God that if we go to war with Iraq, we will be lucky. I pray to God we will be lucky.

Nobody will support this country in war any more strongly than will I. But here today we are being tested. I didn't swear to support and defend the President of the United States when I came here. I pledged on the Bible up there on the desk to support and defend the Constitution of the United States, so help me God. That was no light prayer. That was no light oath.

I think we ought to look inside of ourselves. Look at our children and grandchildren. Look in the mirror and see if you can say: Old buddy, I voted for what I thought was right. I voted with the Constitution.

They say: Well, support our Commander in Chief. He is Commander in Chief of the Army and Navy and the militia when called into service. He is not Commander in Chief of industry. He is not Commander in Chief of the Senate of the United States. So where are the Nathan Hales today who would give their life, their own life for their country? Give one vote for this Constitution. After all, if it were not for this Constitution, I wouldn't be here. You would not be here. You would not be here. You would not be here. None of us would be here. But because of this Constitution, we are here today.

The people want us to ask questions. They want us to take a stand. They want us to take a stand against this stampede. Where are Senators today? Where are the backbones that stand up for the people? How many mothers, how many fathers will see their sons and their daughters die possibly in a war in a foreign land?

I say, my friends, I am sorry to see this day. This is my 50th year in Congress. I never would have thought I would find a Senate which would lack the backbone to stand up against the stampede, this rush to war, this rush to give to the President of the United States, whatever President he is, whatever party, this rush to give a President, to put it in his hands alone, to let him determine alone when he will send the sons and daughters of the American people into war, let him have control of the military forces. He will not only make war, but he will declare war.

That flies in the face of this Constitution. This Constitution does not give to a President of the United States the right to determine when, where, how, and for how long he will use the military forces of the United States.

I plead to Senators in the name of this Constitution: We need people who will stand up for the American people. We need Senators who will take a stand. I hope Senators will take what I am saying in the best of spirit. I think we are making one horrible mistake.

Remember: I only regret that I have but one life to lose for my country. Nathan Hale.

The PRESIDING OFFICER. Under the previous order, the next 15 minutes will be controlled by the Republican Party.

The Republican leader is recognized.

Mr. LOTT. Mr. President, I believe under the agreement, I have 15 minutes of this time.

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I will use approximately 5 minutes of the time and yield the remainder of my time to Senator WARNER.

I would like to begin by saying how much I appreciate the work that has been done here in handling this legislation, having a full debate. Senator WARNER has been here joining in the discussion, Senator REID, Senator MCCAIN. There has been a serious effort to make sure we had an orderly process where Senators could make their feelings known. There has been thoughtful discussion on both sides of the issue, and there might have been one or two quorum calls the whole time because Senators have known, when you come to the floor, this will be your opportunity to speak on this issue.

And there will be more time today. As I look at the schedule that was lined up through the diligent efforts of Senator WARNER, Senator MCCAIN, and Senator REID, we are going to have votes on amendments—even amendments that would not be germaine postcloture. There has been a real effort to make sure Senator BYRD and Senators LEVIN, DURBIN, BOXER, and others have an opportunity to offer amendments and make their case. We will have five votes between now and approximately 4 o'clock this afternoon.

Mr. President, I remember the discussion back in 1991 on the Persian Gulf resolution. I think we had about 2 days of debate previously, and 2 ½ days when we actually took up the debate—when it passed. It was a very important debate. I thought it was an occasion when the Senate proved it is the world's greatest deliberative body. It was very serious. Every Senator spoke, we had the vote, and it passed. I thought it was one of the high-water marks since I have served in the Senate. It was only 2 ½ days and every Senator got a chance to speak.

In 1998, at the request of President Clinton, I moved aggressively, in a bipartisan way, to pass the Iraqi Liberation Act. As I recall, at that time, Senator KYL worked with me on that issue, Senator WARNER was involved, as were Senators KERRY and LIEBERMAN, and we passed that resolution, which also called for a regime change unanimously, with very short debate—as I recall, maybe even a half day, or a day at the most. But it was important debate and an important vote.

So when we have been called on by Presidents of both parties to address this very serious issue in this very serious area of the world, we have handled it in the right way. I think that is the case here. Senators were told in my conference, and I know Senator DASCHLE told his side's conference, you will be able to speak on Friday and, again, on Monday. We will stay as long as you need. We had all day yesterday. A great effort was made to make sure Senators had a chance to speak. Now Senators have a chance to offer amendments and speak on them. After the vote between 3 and 4 o'clock, there will be more time because Senators do feel strongly about this and want an opportunity to be heard. They are going to have that opportunity.

I believe this issue has been aired fully. It is not new. We have been worrying about this, talking about this, and debating the seriousness of the threat from Saddam Hussein and his weapons of mass destruction for years—really, for 11 years. There is new information that is available. We have had our classified briefings. I have made sure Senators on our side—and I know the administration has made sure Senators on both sides of the aisle—have had a chance to get briefings at multiple opportunities. So Senators know what the issue is. We have seen, yesterday, Senators from both parties moving toward giving the President the authority to do this job.

I hope we can get inspectors in there, that they can find the weapons of mass destruction, and they are destroyed. But I don't trust Saddam Hussein. His record is clear. I think, once again, he will resist, he will agree, he will dissemble. In the end, he will try to block this. You can always hope and pray we will find a solution here.

The President of the United States has listened to the American people, to the Congress, to the U.N, and our allies. The President came to the Congress and said, yes, I want your input. He sent up some suggested language on this resolution, and it was changed once and then twice; significant changes were made at the recommendation of Senators on both sides of the aisle. So he has worked with us in this effort. He encouraged our involvement and our debate. He has gone to the U.N. and called on them to stand up to their commitment and do their job, and quit passing resolutions that are not backed or demanded to be complied with, with force if necessary. He did the job. He and his administration, including the Secretary of State, Colin Powell, have worked with allies at the U.N. and with our allies around the world. This President has made it clear he is not going to act precipitously, but he is prepared to act.

This President has led with commitment and has shown leadership. He is prepared to try to find a peaceful solution here. But unless we make it clear he is committed, we are committed, and the U.N. is committed, this problem will not go away. It is serious and it is imminent. It takes but one person with a small container to bring very dangerous weapons of mass destruction into this country.

Some people say, why now? Well, because the threat is not going to lessen. It has been 4 years since we passed the Iraqi Liberation Act in 1998. I suspect matters have gotten much worse. Besides that, the U.N. is going to be leaving soon for the year and won't be back until next August. We want to see action from the U.N. We need to act to show our commitment, and we need to show our determination to get them to act in a way that has real force.

I think we have had a full debate and we will have more debate. To try to delay it another day, another week, is not going to be helpful. We need to stand up now, show we mean what we say, and we are going to get the results and, by doing that, perhaps something can be worked out without the use of force. But this President has asked for this. This Senate is committed to this. I believe the vote will be overwhelming.

I urge my colleagues to vote for cloture. There will be times for postcloture debate. We have bent over backward to make sure everybody had an opportunity and will still have an opportunity to speak and even offer amendments.

With that, I yield the remainder of my time to the Senator from Virginia, who has done a magnificent job in fairly managing this legislation.

Mr. WARNER. I thank the leader. I appreciate very much the calm tone with which he addresses this issue of a rush to judgment. Regrettably, our colleague from Pennsylvania used those terms. I was reminded of being here last Friday afternoon for 5 ½ hours. What a memorable opportunity it was with my distinguished colleague from West Virginia. Senator KENNEDY and Senator DODD joined in. I think we went about a very constructive debate

and exchanged our views. Senator BYRD and I debated again on Monday, Tuesday, and Wednesday. Here we are on the fifth day.

Mr. President, this is not a rush to judgment. This is the Senate working diligently. Most of us were here close to 11 o'clock last night. In parallel, as the distinguished leader said—I remember it so well—the period of January 10 through 12, when a resolution, again drawn up by my colleague from Connecticut, the principal sponsor this time, at that time I was the principal sponsor. It was carefully debated. The Senate is doing its job and doing it well. We have had a very good debate and we will complete that debate here today, tomorrow, or whatever the case may be.

I wish to draw the attention of the Senate to the last vote—a very strong vote, not against our colleague from West Virginia. But I thought, as he mentioned the Gulf of Tonkin, how appropriate it was that in the leader's chair, Senator MCCAIN, my partner who is working diligently with me on this side, spoke very softly of his experience. I don't know of anyone in this Chamber more qualified than he to speak to that period, and the relevance of that resolution. I was Secretary of the Navy for 5 years, and Under Secretary during that period of time, and we remember well that period.

I wish to talk about the President of the United States. As I look upon this situation and listen to the debate, I think we are of a mind, all 100 of us, of the seriousness of these weapons of mass destruction. We may have a difference of conscience as to the level of threat posed perhaps today, tomorrow, in the future, but it is there. This is no question.

I stop to think that the United Nations has done nothing for 4 years. They have not sought to enforce the resolutions, 16 in number. It has been this President, President George Bush, who has taken the initiative to go not only to the American people, but to the whole world, and very carefully and methodically tell the world we should be on alert; we cannot do nothing. We should join as a community of nations to address it. He said that at the United Nations very brilliantly. I think everyone in this body respects him.

As we are debating today, another debate is taking place in the U.N. To the extent this resolution remains strong as it is now is the extent to which we can expect an equal and perhaps even stronger statement of resolve by the United Nations to fulfill its mandate, to fulfill its charter.

The League of Nations failed to act at a critical time in the history of this Nation, and it went into the dustbin of history. The United Nations will not go into the dustbin of history. I am confident that this time they will stand up, that they will devise a 17th resolution.

I look upon the action by the Senate today in voting a strong bipartisan vote for this resolution as not an act of war. It is an act to deter war, to put in place the tools for our President and our Secretary of State to get the strongest possible resolution in the United Nations. It is an act seen to force, I repeat, the last option as our President has said ever so clearly time and again. It is an act to deter war to make the last option the use of force.

I yield the floor.

Mr. DASCHLE. Mr. President, I yield 5 minutes of my time to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the majority leader for his gracious yielding of time. I thank him for more than that. I thank him for his leadership in this matter of how the Senate should proceed with regard to Iraq, and I thank him specifically for the work that he and his staff did in negotiations with the White House and with Members of the House to get this resolution to where it is where I am confident it can and will enjoy broad bipartisan support.

There will be time for debate later in the day about the relevance of this resolution, about the extent to which I am confident it is clearly within our constitutional authority under article I. I have comparisons to other declarations of war and authorizations of military action, that is, if anything, more specific than most.

I am inspired by Senator BYRD's reference to Nathan Hale. Nathan Hale was not only a son of Connecticut, but a Yale man. For my entire freshman year, I walked by an inspiring statue of Nathan Hale. I read about him. I studied him. I cannot say I knew him personally, but I feel as if I knew Nathan Hale, who was remembered for saying: ''I regret I have only one life to give for my country.''

Nathan Hale was a patriot, and he was prepared to give his life for the security and freedom of his country. I am absolutely confident that if Nathan Hale were in the Senate of the United States today, he would not only be cosponsoring this resolution, he would be impatient to have the talking stop and the action begin.

Is it time? Are we ready? Time is what it is about.

It is 12 years since Iraq invaded Kuwait and threatened to invade Saudi Arabia and thereby showed that all that Saddam Hussein had been saying about wanting to make Baghdad the capital of the Arab world and dominate the Arab world was not just talk; he was prepared to act on it.

It is 12 years since U.N. Resolution 678 authorizing the use of force against Iraq.

It is 11 years since the congressional authorization for Desert Storm and the triumphant brilliant effort of our military in Desert Storm.

It is 11 years since Saddam asked for a cease-fire and accepted the inspection regime as part of that cease-fire on which he has never followed through and complied.

It is 11 years since the no-fly zones were first adopted and began to be enforced by American military personnel.

It is 9 years since the U.N. found Saddam in ''material breach of his international obligations.''

It is 9 years since Iraq under Saddam Hussein attempted to assassinate former President Bush.

It is 6 years since Saddam crushed Kurdish and Shi'a resistance to his regime.

It is 4 years since Saddam ejected inspectors and President Clinton ordered Operation Desert Fox, an air campaign against Iraq in response to this act.

It is 4 years since this Senate called for the indictment of Saddam as a war criminal.

It is 4 years since the Senate found Iraq in breach of international obligations and authorized the President to take ''appropriate action in accordance with the Constitution and relevant laws of the United States to bring Iraq into compliance with its international obligation.''

It is 4 years since Congress passed and President Clinton signed the Iraq Liberation Act.

It is more than 1 year since we were attacked by terrorists on September 11, 2001, showing us the risks of inaction against those who would arm and threaten us.

It is 1 month since the President of the United States challenged the United Nations to act against this international lawbreaker.

It is 8 days since we started the debate on this resolution in the Senate; excluding the Sabbath, 6 days. The Lord made Heaven and Earth in 6 days. It is time now for us to come to a conclusion.

Is it time? Are we ready to act? I think the record shows we are ready to act.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, if I need additional time, I will take it from my Senate leader allocation for the day.

The Senate is now engaged in one of the most consequential debates addressed in this Chamber for many years. We are confronting the grave issues of war and peace. We are considering how the United States should respond to a murderous dictator who has shown he will be bound neither by conscience nor by the laws or principles of civilized nations. And we are contemplating whether and under what conditions the Congress should authorize the preemptive use of American military power to remove the threat that he poses.

These questions go directly to who we are as a nation. How we answer them will have a profound consequence for our Nation, for our allies, for the war on terror, and perhaps most importantly, for the men and women in our Armed Forces who could be called to

risk their lives because of our decisions.

There is no question that Saddam Hussein is a dangerous man who has done barbaric things. He has invaded neighbors, supported terrorists, repressed and murdered his own people.

Over the last several months, as the world has sought to calm the violence between Israelis and Palestinians, Iraq has tried to inflame the situation by speaking against the very existence of Israel and encouraging suicide bombers in Gaza and the West Bank.

Saddam Hussein has stockpiled, weaponized and used chemical and biological weapons, and he has made no secret of his desire to acquire nuclear weapons. He has ignored international agreements and frustrated the efforts of international inspectors, and his ambitions today are as unrelenting as they have ever been.

As a condition of the truce that ended the gulf war, Saddam Hussein agreed to eliminate Iraq's nuclear, biological, and chemical weapons and to abandon all efforts to develop or deliver such weapons. That agreement is spelled out in U.N. Security Council Resolution 687. Iraq has never complied with the resolution.

For the first 7 years after the gulf war, it tried to deceive U.N. weapons inspectors, block their access to key sites, and make it impossible for them to do their jobs.

Finally, in October of 1998, the U.N. was left with no choice but to withdraw its inspectors from Iraq. As a result, we do not know exactly what is now in Iraq's arsenal. We do know Iraq has weaponized thousands of gallons of anthrax and other deadly biological agents. We know Iraq maintains stockpiles of some of the world's deadliest chemical weapons, including VX, sarin, and mustard gas. We know Iraq is developing deadlier ways to deliver these horrible weapons, including unmanned drones and long-range ballistic missiles. And we know Saddam Hussein is committed to one day possessing nuclear weapons.

If that should happen, instead of simply bullying the gulf region, he could dominate it. Instead of threatening only his neighbors, he could become a grave threat to U.S. security and to global security.

The threat posed by Saddam Hussein may not be imminent, but it is real, it is growing, and it cannot be ignored. Despite that, like many Americans, I was concerned by the way the administration first proposed to deal with that threat. The President's desire to wage war alone, without the support of our allies and without authorization from Congress, was wrong. Many of us, Democrats and Republicans, made it clear that such unilateralism was not in our Nation's best interest. I now commend the administration for changing its approach and acknowledging the importance of working with our allies. I also commend it for recognizing that under our Constitution, it is Congress that authorizes the use of force, and for requesting a resolution providing such authority.

I applaud my colleagues, Democrats and Republicans in the House and in the Senate, for the improvements they have made to the administration's original resolution. Four changes were especially critical.

First, instead of giving the President broad and unfocused authorization to take action in the region, as the administration originally sought, this resolution focuses specifically on the threat posed by Iraq. It no longer authorizes, nor should it be used to justify, the use of force against other nations, organizations, or individuals that the President may believe threaten peace and stability in the Persian Gulf region. It is a strong and focused response to a specific threat. It is not a template or model for any other situation.

Second, the resolution expresses the deep conviction of this Congress and of the American people that President Bush should continue to work through the United Nations Security Council in order to secure Iraqi compliance with U.N. resolutions. Unfettered inspections may or may not lead to Iraqi disarmament, but whether they succeed or fail, the effort we expend in seeking inspections will make it easier for the President to assemble a global coalition against Saddam should military action eventually be needed.

Third, this resolution makes it clear that before the President can use force in Iraq, he must certify to the Congress that diplomacy has failed, that further diplomatic efforts alone cannot protect America's national security interests, nor can they lead to enforcement of the U.N. Security Council resolutions.

Fourth, this resolution protects the balance of power by requiring the President to comply with the War Powers Act and to report to Congress at least every 60 days on matters relevant to this resolution.

This resolution gives the President the authority he needs to confront the threat posed by Iraq. It is fundamentally different and a better resolution than the one the President sent to us. It is neither a Democratic resolution nor a Republican resolution. It is now a statement of American resolve and values. It is more respectful of our Constitution, more reflective of our understanding that we need to work with our allies in this effort, and more in keeping with our strong belief that force must be a last resort, not a first response.

Because this resolution is improved, because I believe Saddam Hussein represents a real threat, and because I believe it is important for America to speak with one voice at this critical moment, I will vote to give the President the authority he needs, but I respect those who reach different conclusions. For me, the deciding factor is my belief that a united Congress will help the President unite the world, and by uniting the world we can increase the world's chances of succeeding in this effort and reduce both the risks and the costs America may have to bear. With this resolution, we are giving the President extraordinary authority. How he exercises that authority will determine how successful any action in Iraq might be.

In 1991, by the time the President's father sought congressional support to use force against Iraq, he had secured pledges of military cooperation from nearly 40 nations and statements of support from scores of others. He had already secured the backing of the United Nations, and he had already developed a clear plan of action. In assembling that coalition, the legitimacy of our cause was affirmed, regional stability was maintained, the risks to our soldiers were lessened, America's burden was reduced, and perhaps most importantly, Iraq was isolated.

At this point, we have done none of those things. That is why, unlike in 1991, our vote on this resolution should be seen as the beginning of a process, not the end. For our efforts in Iraq to succeed, the President must continue to consult with Congress and work hard to build a global coalition. That is not capitulation, it is leadership. And it is essential.

In my view, there are five other crucial steps the administration must take before any final decision on the use of force in Iraq is made. First and foremost, the President needs to be honest with the American people, not only about the benefits of action against Iraq but also about the risks and the costs of such action. We are no longer talking about driving Saddam Hussein back to within his borders, we are talking about driving him from power. That is a much more difficult and complicated goal.

There was a story in this past Sunday's Philadelphia Inquirer that top officials in the administration ''have exaggerated the degree of allied support for a war in Iraq.'' The story goes on to say that others in the administration ''are rankled by what they charge is a tendency'' by some in the administration ''to gloss over the unpleasant realities'' of a potential war with Iraq.

A report in yesterday's Washington Post suggests ''an increasing number of intelligence officials, including former and current intelligence agency employees, are concerned the agency is tailoring its public stance to fit the administration's views.''

I do not know whether these reports are accurate. We do know from our own national experience, however, that public support for military action can evaporate quickly if the American people come to believe they have not been given all of the facts. If that should happen, no resolution Congress might pass will be able to unify our Nation. The American people expect, and success demands, that they be told both the benefits and the risks involved in any action against Iraq.

Second, we need to make clear to the world that the reason we would use force in Iraq is to remove Saddam Hussein's weapons of mass destruction. I would have preferred if this goal had been made explicit in this resolution. However, it is clear from this debate that Saddam's weapons of mass destruction are the principal threat to the United States and the only threat that would justify the use of the United States military force against Iraq. It is the threat that the President cited repeatedly in his speech to the American people on Monday night. It may also be the only threat that can rally the world to support our efforts. Therefore, we expect, and success demands, that the administration not lose sight of this essential mission.

Third, we need to prepare for what might happen in Iraq after Saddam Hussein. Regime change is an easy expression for a difficult job. One thing we have learned from our action in Afghanistan is that it is easier to topple illegitimate regimes than it is to build legitimate democracies. We will need to do much better in post-Saddam Iraq than the administration has done so far in post-Taliban Afghanistan. Iraq is driven by religious and ethnic differences and demoralized by a repressive government and crushing poverty. It has no experience with democracy. History tells us it is not enough merely to hope that well-intentioned leaders will rise to fill the void that the departure of Saddam Hussein would leave. We must help create the conditions under which such a leader can arise and govern. Unless we want to risk seeing Iraq go from bad to worse, we must help the Iraqi people build their political and economic institutions after Saddam. That could take many years and many billions of dollars, which is another reason we must build a global coalition. The American people expect, and success demands, that we plan for stability and for economic and political progress in Iraq after Saddam.

Fourth, we need to minimize the chances that any action we may take in Iraq will destabilize the region. Throughout the Persian Gulf, there are extremists who would like nothing more than to transform a confrontation with Iraq into a wider war between the Arab world and Israel or the Arab world and the West. What happens if, by acting in Iraq, we undermine the government in Jordan, a critical ally and a strategic buffer between Iraq and Israel? What happens if we destabilize Pakistan and empower Islamic fundamentalists? Unlike Iraq, Pakistan already has nuclear weapons and the means to deliver. What happens if that arsenal falls into the hands of al-Qaida or other extremists?

We can tell the Arab world this is not a fight between their nations and ours. But a far better way to maintain stability in the gulf is to demonstrate that by building a global coalition to confront Saddam Hussein. That is why the administration must make every reasonable effort to secure a U.N. resolution just as we did in 1991. With U.N. support, we can count a number of Arab countries as full allies. Without U.N. support, we cannot even count on their airspace. We expect, and success demands, that any action we take in Iraq will make the region more stable, not less.

Fifth, and finally, we cannot allow a war in Iraq to jeopardize the war on terrorism. We are fighting terrorist organizations with global networks, and we need partners around the globe. Some, including the chairman of the President's own Foreign Intelligence Advisory Board, doubt we can count on this continued cooperation in the war on terror if we go to war against Iraq. I do not know if that is true. I do know, however, that the military intelligence and political cooperation we receive from nations throughout the world are critical to the war on terrorism.

Saddam Hussein may yet target America. Al-Qaida already has. The American people expect, and our national security demands, that the administration make plans to ensure that any action we take in Iraq does not distract or detract from the war on terror. If they fail to do so, any victory we win in Iraq will come at a terrible cost.

On Monday night in his speech to the Nation, the President said: The situation could hardly get worse for world security and the people of Iraq.

Yes, it can. If the administration attempts to use the authority in this resolution without doing the work that is required before and after military action in Iraq, the situation there and elsewhere can indeed get worse. We could see more turmoil in the Persian Gulf, not less. We could see more bloodshed in the Middle East, not less. Americans could find themselves more vulnerable to terrorist attacks, not less.

So I stress again, this resolution represents a beginning, not an end. If we are going to make America and the world safer, much more work needs to be done before the force authorized in this document is used.

Some people think it is wrong to ask questions or raise concerns when the President says our national security is at risk. They believe it is an act of disloyalty. I disagree. In America, asking questions is an act of patriotism. For those of us who have been entrusted by our fellow citizens to serve in this Senate, asking questions is more than a privilege, it is a constitutional responsibility.

The American people have serious questions about the course of action on which this resolution could set us. Given the gravity of the issues involved and the far-reaching consequences of this course, it is essential that their questions are answered. I support this resolution. And for the sake of the American people, especially those who will be called to defend our Nation, we must continue to ask questions.

On one point, however, I have no question. I believe deeply and absolutely in the courage, the skill, and the devotion of our men and women in uniform. I know that if it becomes necessary for them to stand in harm's way to protect America, they will do so with pride and without hesitation and they will succeed. They are the finest fighting force the world has ever known. For their sake, for the sake of all Americans, for the world's sake, we must confront Saddam Hussein. But we must do so in a way that avoids making a dangerous situation even worse.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Virginia.

Mr. WARNER. Mr. President, I congratulate the distinguished majority leader for a very powerful and very clear statement. I, too, join you in saying that it is our responsibility to ask questions. Questions have been asked throughout this debate. As best we can, we answered them.

But I think the distinguished leader has provided very helpful guidance in the uncertain days, months, and perhaps years to come. I commend you. As one of the cosponsors, I welcome your strong support.

Mr. DASCHLE. I thank the Senator from Virginia for his kind words.

Mr. BYRD. Will the Senator yield to me?

Mr. DASCHLE. I am happy to yield.

Mr. BYRD. Mr. President, I congratulate our leader. I congratulate him not only for his statement today, but I congratulate him on refusing to stand with other leaders of my party on the White House lawn. He has shown leadership. He has kept himself apart, kept himself in a position to make decisions. He hasn't rushed, pell-mell, to shake this piece of rag. He has done what leaders should do. He has stood aside and waited, helped to advise us and counsel with us. He is the one leader on this Hill in my party who didn't rush to judgment on this blank check that we are giving the President of the United States. I thank him. I congratulate him. I shall always praise him for that.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from West Virginia for his kind words and for his understanding and appreciation for the difficulties we face in this body as we make these momentous decisions.

Mr. WARNER. Mr. President, regular order.

Mr. LEAHY addressed the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. The regular order has been called for.

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move

to bring to a close debate on the Lieberman-Warner amendment to S.J. Res. 45:

Thomas Daschle, Bill Nelson, Joseph Lieberman, Evan Bayh, Harry Reid, Pete Domenici, Joseph Biden, Patty Murray, Jay Rockefeller, Larry E. Craig, Trent Lott, John Warner, John McCain, Jesse Helms, Craig Thomas, Don Nickles, Frank H. Murkowski.

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

The question is, Is it the sense of the Senate that debate on amendment No. 4856, as modified, to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The yeas and nays resulted—yeas 75, nays, 25, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—75

Allard	Ensign	McConnell
Allen	Enzi	Mikulski
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Nelson (FL)
Biden	Graham	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Helms	Schumer
Carnahan	Hutchinson	Sessions
Cleland	Hutchison	Shelby
Clinton	Inhofe	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kerry	Snowe
Craig	Kyl	Stevens
Crapo	Landrieu	Thomas
Daschle	Lieberman	Thompson
DeWine	Lincoln	Thurmond
Domenici	Lott	Torricelli
Dorgan	Lugar	Voinovich
Edwards	McCain	Warner

NAYS—25

Akaka	Dodd	Levin
Bingaman	Durbin	Murray
Boxer	Feingold	Sarbanes
Byrd	Hollings	Specter
Carper	Inouye	Stabenow
Chafee	Jeffords	Wellstone
Conrad	Kennedy	Wyden
Corzine	Kohl	
Dayton	Leahy	

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENT NO. 4868

Under the previous order, there will now be 60 minutes of debate on the Byrd amendment No. 4868.

Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally during the quorum call.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I did not see the Senator from Minnesota in the Chamber. It is my understanding he now wants to proceed with his 15 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that I be added as an original cosponsor of Senator BYRD's amendment.

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

Mr. DAYTON. Mr. President, I rise to support this amendment by the great senior Senator from West Virginia. It closely parallels an amendment which I filed and which, unfortunately, now that the Senate has made its determination to limit the amount of time and debate on this historic decision, I will not be bringing to the Senate for a vote.

A decision to rush to judgment on this matter has now been made by the Senate. I won't belabor the point except to say that in January of 1998, after Saddam Hussein had bounced U.N. inspectors out of Iraq, the Senate took 5 months to consider and finally approve a resolution which did not even authorize President Clinton to use force. In October, 1998, the Senate passes another resolution which again did not authorize the President of the United States to use force.

In 1990, the Senate took 5 months after Saddam Hussein invaded Kuwait, and that resolution was passed just days before President Bush committed this Nation to its first military engagement in the Persian Gulf war.

We have had a number of very valuable hearings in the Senate Armed Services Committee in the last weeks. I asked one panel of recently retired generals, three of whom were directly involved in the Persian Gulf war, whether the absence of a Congressional resolution or declaration of war had in any way prevented or impeded that military buildup preparatory to the engagement in January of 1991. They said, no, it did not. So I don't understand why, from any consideration—military, diplomatic, or constitutional—we should be voting and rushing to this judgment this weekend, but we will.

We will be voting on what? What is it, S.J. Res. 46, that we are actually voting upon? It is a preapproval of whatever the President of the United States decides to do whenever. It is a vote for euphemisms such as ''to use force'' or ''as he determines to be necessary.'' Why? Why are we rushing to this judgment at this time? So we can adjourn in the next few days and go home until next January, or until we decide whether the outcome of the November election will aid or impair our own political agendas?

Some of those concerns might seem justified, particularly as they relate to our own domestic concerns. But for decisions of war or peace, decisions about what is right for our national security, decisions about the life or death of Americans fighting on our behalf, decisions about the survival of the existing world order and even possibly the survival of our world as we know it, there are no justifications for political calculation or personal convenience. There should be only one consideration, and that is to do what is right for the country, as God gives each of us to see that right.

Yet S.J. Res. 46 preapproves any decision by the President of the United States to commit this Nation to war at some time in the future, with U.N. support or without it—unilaterally, bilaterally, multilaterally, preventatively, preemptively. Even other amendments that I will support, which have the best of intentions, fall into this trap: What do you do when you are preapproving a war? Put a limit on this but not for that; if this; if that. However, it is very hard to forecast events of this magnitude.

There is no need for us to try to do so. There are no good reasons for us to do so, except the need to preapprove something and then go home.

If we don't vote for the final resolution, we will be accused of not supporting the President, of not speaking with one voice to Saddam Hussein, to the United Nations, and to the world. Those are very serious accusations, that you don't support the President of the United States. I do support the President. He is my President. He is our President. I pray he will make the right decisions and get the credit. I pray he won't make the wrong decisions and get the blame.

But when I am asked to support this President, or any President, I need to understand what it is exactly that he wants us to do, what he intends for us to support. This President, as I understood his speech last Monday, is certainly not asking the Congress to declare war on Iraq today. He is wisely reserving that judgment. Why wouldn't we exercise the same wisdom?

The situation, as we have seen in the last weeks, is inherently fluid. New facts become known; old facts even change. I support the President's reserving judgment until after the United Nations decision, until it attempts to force Saddam Hussein's compliance, until we can determine the outcome of those efforts. During those critical days or weeks ahead, I will be around. I will be available at any time, day or night, whenever, to participate back here on the Senate floor in this momentous decision. All of us in this Chamber and in the House could be here within hours, should be, and would be if we were called upon to do so, whenever the President or this Congress believed that a decision to commit this Nation to war must be made.

As the President said Monday night, the time before that decision is limited. But the time for that decision is not now.

Another reason to follow this protocol, the reason for my amendment,

the reason I support Senator BYRD's amendment, is that it is what the Constitution of the United States requires Congress to do—either declare war or not. It says right in that book—I don't carry it with me quite as faithfully as the great Senator from West Virginia, but I do happen to have my copy today—Congress shall declare war. That is about as clear and unambiguous a statement as could be made.

There are important reasons that Congress was given, and only Congress was given, that authority and that responsibility. Because it was considered by our Founders to be essential to the system of checks and balances upon which this Republic depends.

James Madison wrote a letter to Thomas Jefferson in 1798, less than a decade after the Constitution's ratification, in which he said:

> The Constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, & most prone to it. It has, accordingly, with studied care, vested the question of war in the Legislature. But the Doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the Country in that Department which the Constitution distrusts as most ready without cause to renounce it. For if the opinion of the President, not the facts & proofs themselves, are to sway the judgment of Congress in declaring war, and if the President in the recess of Congress create a foreign mission, appoint the minister, & negociate [sic] a War Treaty, without the possibility of a check even from the Senate, . . . it is evident that the people are cheated out of the best ingredients of their Government, the safeguards of peace which is the greatest of their blessings.

The subsequent 204 years have demonstrated many times the wisdom and foresight of our Constitution. Its principles should give special pause to this body when being admonished by the President, by any President, not to ''tie my hands.'' Those words indicate a regrettable lack of regard for Congress and for our constitutional standing as a coequal branch of Government. Our Nation's Founders darn well wanted to tie a President's hands.

Thomas Jefferson wrote:

> In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Those words are meant to apply to this President, to any President. Except in matters of war and peace? Especially in matters of war and peace. I would say this, the Constitution's wisdom has a very valuable perspective on the pressures and perils we face in this body today. Not only the perils in confronting a dangerous dictator, as we must, but also the perils in how we decide to do so.

Some might prefer to avoid the momentous decision the Constitution assigns us whether or not to declare war. Whether or not to send Americans into battle halfway around the world, where they would likely encounter the chemical or biological weapons we rightfully seek to spare this country. Some of those Americans will die too young, and others will suffer horrible wounds lasting for lifetimes. Iraqi children and their families will be destroyed in their own homes, schools, and mosques. The rest of the world will judge that decision and its consequences, which they could not escape.

We will read about it in the newspapers. We will watch its manifestations on television. We will probably attempt to share the credit if it turns out well, and avoid the blame if, God forbid, it doesn't. We will talk about that decision. We might even hold hearings on it, but we won't assemble in this Chamber where previous Senates once voted declarations of war, but not since World War II.

Mr. President, these decisions are ones we will live with for our lifetimes. They should not be made in these circumstances. We should follow the guidance we have seen evident from the changes in the administration's views over the last weeks. I support and applaud those changing perspectives. I respect a leader who can listen and learn, then adjust his views and decisions accordingly. I believe the wise counsel from Members of this body—Republicans, Democrats, and Independents—has been an important part of that process. I believe the American people, the collective wisdom of our fellow citizens, who overwhelmingly support the President, who overwhelmingly believe the President should consult with this body, who overwhelmingly believe the U.S. should act in concert with the U.N. and other nations of the world, and not alone, unilaterally, preemptively. I believe those public judgments, as we all manage to view them, probably daily in polling documents, have had enormous influence on the decisions that are going to be made.

We owe it to our responsibilities to what is best for this country; we owe it to the brave men and women who will have to carry out those decisions, to make them when they must be made, on the basis of the best, most current, and most complete information possible—knowing, even then, that we will still not have the certainty, clarity, foresight we would wish to have.

That is the wisdom of the Constitution. That is the wisdom of Senator BYRD's amendment. That is, I believe, the wisdom of the amendment I would have brought forth, which says simply the Congress shall go back to following the Constitution of the United States. The reasons for that document's decisions are as valid today as they were 213 years ago, and maybe some day—it will not be this week but soon, this body will review the decision not to follow its dictates and return to it. I look forward to that and, hopefully, Senator BYRD will be on the floor that day, as he deserves to be when that decision is made.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield myself 5 minutes. Mr. President, I wish to respond to a couple of the statements made by the junior Senator from Minnesota. I don't think they are actually correct in categorizing what happened in 1998. I believe I heard him say then we were very deliberative and the resolution we passed did not authorize the use of force. Well, I will show you what we did in 1998.

In 1998, Saddam Hussein had continued his defiance of the U.N. He had not complied with any of the 16 resolutions. So the U.S. passed a resolution saying he should comply, Public Law 105–235, on August 14th. But the deliberative portion was introduced before the Senate on July 31, 1998—placed on the calendar July 27, measure laid before the Senate on July 31—and it passed the Senate with an amendment by unanimous consent. So it passed in one day. I don't remember the number of hours spent in debate, but it wasn't a lot. To say we spent months deliberating it is not accurate. The fact is we passed it in one day. And then to say it had no authorization for force, I don't believe is actually correct either. If you look at the resolved section—I put the 1998 resolution in the calendar because I think it is important. It goes through several items of noncompliance by Iraq. Basically, we are saying we should force or compel Iraq to comply. The resolved section says:

> . . . the United States of America and Congress assembled, find the government of Iraq in a material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action in accordance with the Constitution and relevant laws of the United States to bring Iraq into compliance with international obligations.

I believe in the appropriate action Congress was saying with a united voice: Take military action, if necessary, to get Saddam Hussein to comply with the U.N. resolution. That is what this resolution stated. We passed it unanimously. We also passed, in 1998, the Iraqi Liberation Act. This act did not authorize any additional military force. That is correct with this act, but not with Public Law 105–235.

When someone says we didn't authorize force in 1998—yes, we did. The Iraqi Liberation Act didn't have an authorization of force, but it did include a change of regime. It said Saddam Hussein should go. Again, we spoke with a united voice. We passed that by a voice vote. I might mention this to my colleagues. In the House, it passed by 360–38. In the Senate, we received it from the House on October 6 and passed it in the Senate on October 7. We passed it by unanimous consent. We passed it without objection.

This resolution says it should be the policy of the U.S. to have a regime change. That became the law of the land. It passed unanimously in the Senate with an overwhelming vote in the House. Then, the earlier resolution that passed on August 14 said the President is urged to take appropriate action to compel compliance with existing U.N. resolutions. That was a

strong, united voice. Congress spoke together, overwhelmingly. It was not unanimous in the House, but it was unanimous in the Senate. Both of these resolutions passed in one day.

So for people who are saying we haven't been deliberative enough, and what is the consequence of this—what has changed? This Congress, Democrats and Republicans, this Senate unanimously told President Clinton to compel compliance. Also, we stated it was the public policy of Congress to have a regime change in Iraq. I want to clarify the RECORD and make sure we are factually accurate.

Congress spoke in a united fashion in 1998. It was proud to be part of that then, and I am proud to be part of the sponsorship of this resolution, which I believe will also pass with a very strong voice—after much more extensive debate than we had in 1998. I thank my friend for yielding me the time.

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

Mr. MCCAIN. Not on our time. If the Senator from West Virginia would like to yield the Senator time, I would be more than happy.

The PRESIDING OFFICER. The Chair advises the Senator from Minnesota that he has 1½ minutes remaining.

Mr. DAYTON. I will use that 1½ minutes to respond. I was not here when those events occurred. I rely on the authorities and information available to me. I will note Senator LOTT was quoted in several publications. On February 12, the then-majority leader said:

> I had hoped that we could get to the point where we can pass a resolution this week on Iraq. But we really developed some physical problems, if nothing else. . . . So we have decided that the most important thing is not to move so quickly, but to make sure that we have had all the right questions asked and answered and that we have available to us the latest information about what is . . . happening with our allies in the world.

He went on to say:

> The Senate is known for its deliberative actions. And the longer I stay in the Senate, the more I have learned to appreciate it. It does help to give us time to think about the potential problems and the risks and ramifications and to, frankly, press the administration.

The majority leader made that statement on the Senate floor on February 12. The resolution was passed and signed by President Clinton August 14, 1998, 6 months later.

Also, I am not a legal scholar, but in making my comments I cited the opinion of counsel at the Library of Congress and its Congressional Research Services. They opined—I realize lawyers and others can disagree——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DAYTON. I ask for unanimous consent that I have 30 seconds more to finish my remarks.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I yield the Senator 2 minutes or whatever he needs.

Mr. President, I ask unanimous consent that Senator DAYTON's name be added as a cosponsor of my amendment.

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

Mr. DAYTON. I thank the Senator from West Virginia.

Mr. President, the opinion stated its judgment that since the document in 1998 urged the President to follow the actions which the Senator from Oklahoma has accurately described, it did not constitute an authorization under the War Powers Act. Furthermore, in the absence of any reference to authorization under the War Powers Act, which the resolution before us today contains, it did not provide that authority. I thank the Chair. I yield back time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 29 minutes 20 seconds.

Mr. BYRD. How many minutes?

The PRESIDING OFFICER. Twenty-nine.

Mr. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that my time on this amendment not count against my hour under cloture.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. This shows the patience of a Senator. This clearly demonstrates that the train is coming down on us like a Mack truck, and we are not even going to consider a few extra minutes for this Senator.

Mr. BYRD. Mr. President, I yield 5 minutes to my friend from Pennsylvania.

Mr. MCCAIN. Mr. President, in deference——

Mr. BYRD. On the Senator's time.

Mr. MCCAIN. On my time. In deference to the Senator from West Virginia, on this one occasion, given all the circumstances, I will not object to it not counting against the Senator's hour.

Mr. BYRD. Mr. President, I thank my friend.

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

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. Mr. President, I thank the distinguished President pro tempore for yielding me 5 minutes.

I do support his amendment which has two provisions. First:

> Nothing . . . is intended to alter the constitutional authorities of the Congress to declare war, grant letters of Marque and Reprisal, or other authorities invested in Congress by Section 8, Article I of the Constitution.

I think this provision is necessary, although customarily you would not think that you would need a statute to say the Constitution governs. However, I have expressed on the floor of the Senate my concern of the constitutionality of the delegation of authority to the President here.

Congress has the authority to declare war. The authorization for the use of force is a practical equivalent. What we are doing is saying the President may decide when to use that force and, in effect, decide when the war will start, or really to make a determination as to when war is declared. So I think that it is important to have this sort of provision, although its importance is hard to evaluate historically.

The second part of the pending amendment of the Senator from West Virginia is:

> . . . shall be construed as granting any authority to the President to use the United States Armed Forces for any purpose not directly related to a clear threat of imminent, sudden, and direct attack upon the United States, its possessions, or territories, or the Armed Forces of the United States, unless the Congress of the United States otherwise authorizes.

The language of ''clear threat of imminent, sudden, and direct attack'' has been inserted in place of the language ''the existing threat posed by Iraq.'' This does call for a more precise determination of the need for preemptive action, and I think is sound. Ultimately, it is not going to detract from the authority of the President because the resolution allows the President to ''use all means that he deems to be appropriate,'' which is very broad authority.

The language of the pending Byrd amendment is consistent with one of the earliest articulations of the concept of self-defense. Secretary of State Daniel Webster in 1842, referring to self-defense in an anticipatory sense, stated that its use be ''confined to cases in which the necessity of that self-defense is instant, overwhelming, and leaving no choice of means and no moment of deliberation.''

Hugo Grotius, considered the father of international law, said in his 1925 treatise that a nation may use self-defense in anticipation of attack when there is ''present danger,'' which is a broader definition. Grotius further said:

> It is lawful to kill him who is preparing to kill.

Elihu Root, a distinguished scholar on international law, said in 1914 that international law did not require a nation to wait to use force in self-defense ''until it is too late to protect itself.''

I think the language of the pending amendment offered by the Senator from West Virginia is helpful in providing assurance that preemptive force is really necessary. We know President Bush said he does not intend to use this military force unless absolutely necessary and has already made a determination that he thinks there is an imminent threat from Iraq. Some of the information which has been presented,

partly in closed session, supports the President's concern along that line, but I do think this language is helpful. Therefore, I support it.

I thank the Chair and yield the floor.

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

Mr. MCCAIN. Madam President, I wish to say very briefly that I understand people have a desire to speak. We have a number of Senators who have not spoken on this issue. It is already looking as if we may be here well into this evening. From now on, I will be adhering strictly to the rules according to postcloture. I hope my colleagues will be understanding because we have to resolve this issue.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Madam President, I believe the distinguished Democratic whip was able to get unanimous consent last night for my amendment No. 4868 to be modified to remove paragraph 2. It so states in the CONGRESSIONAL RECORD on page S10217; am I correct?

The PRESIDING OFFICER. The Chair believes the RECORD is in error and that only amendment No. 4869 was modified.

Mr. BYRD. On what basis—Madam President, I hope this time is not being charged. We are trying to clarify something.

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

Mr. BYRD. On what basis does the Chair maintain that the RECORD is in error in that portion of the RECORD from which I read on page S10217? What is the basis for the Chair stating that RECORD portion is in error?

I do not question the integrity of the Chair. I am only asking why does the Chair state—I know the Chair is being advised to that effect—why are we to say that this RECORD, as it is clearly written, is in error?

The PRESIDING OFFICER. The Chair is relying on the Journal of proceedings.

Mr. BYRD. And what does the Journal say?

The PRESIDING OFFICER. The Journal indicates that only amendment No. 4869 was modified.

Mr. BYRD. May I ask the distinguished majority whip, is that statement by the Chair in accordance with his understanding?

Mr. REID. I say to my friend from West Virginia, I read directly from the paper that the Senator gave me. There were two unanimous consent requests on it. The one was not acceptable. The other was, and I read that into the RECORD. As I recall, it was changing section 4 to 3, or 3 to 4. That is what I submitted.

Mr. BYRD. There were two requests, one changing the section numbers, and I am sure that one was agreed to.

Mr. REID. Yes.

Mr. BYRD. The other one, according to this RECORD, was also agreed to.

Mr. REID. No. That is the only one that—in fact, I said on the RECORD the other was not agreed to.

Mr. BYRD. May I read the RECORD. It is very short.

Mr. REID. Mr. President, this has been cleared with the minority. Mr. President, on behalf of Senator BYRD, I ask unanimous consent to modify his amendment No. 4868 to remove paragraph 2, and further I ask consent to modify amendment No. 4869 to change references to section 3(a) to 4(a).

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

Mr. REID. I say to my friend from West Virginia, I had the paper here and the clerk took that paper. Maybe they made a mistake. But there is no question in my mind whatsoever—as I told the Senator this morning when he came in—that the one had been approved, the other had not.

Mr. BYRD. Yes. The whip did tell me that, but when I looked at the RECORD, I saw, by the RECORD at least, it said that both requests were agreed to. I am not going to argue this point. I am going to take the distinguished whip's word, which is good for me at all times.

Mr. REID. I say to my friend from West Virginia, I appreciate that very much. In fact, there are a lot of things going on I may not be quite certain on, but I am absolutely, unqualifiedly certain of what I did last night.

Mr. BYRD. Madam President, I have absolute and complete faith in the integrity of the distinguished Senator from Nevada, and I thank the Chair, with the greatest of respect. I thank the Assistant Parliamentarian as well, for whom I have the greatest respect.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. BYRD. On this amendment?

The PRESIDING OFFICER. On this amendment, that is correct.

Mr. BYRD. Madam President, a point I want to make about this discussion that ensued after the statement was made by the distinguished Senator from Minnesota: There were references made to Public Law 105–235, August 14, 1998. Here is the resolving clause which has been quoted by the distinguished Republican whip:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, ...

That the government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations. Approved August 14, 1998.

Well, so what? What does that prove? What does that prove? Somebody tell me. Let's read it again. The resolving clause says that the Government of Iraq is in material and unacceptable breach of its international obligations. That is okay. But get this: And therefore the President is urged to take appropriate action.

What does that mean? There is nothing definitive about that. That is ambiguous. It is not contemporaneous with today's question. It is ambiguous. It is vague. What would that prove in a court if the Supreme Court of the United States were to take this up? What would those who read this piece of junk maintain that this says? It is plain. The President is urged—well, what does that mean, ''urged''?—to take appropriate action. What is that? That is not a declaration of war. What is that? What does that mean, ''to take appropriate action''? Well, you can guess, I can guess, he can guess, he can guess. Anybody can guess.

''Urges the President to take appropriate action in accordance with the Constitution . . . .'' Now, that is fine. It is in accordance with the Constitution. Then that would say that Congress has the power to declare war.

''In accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.'' What is he supposed to do? What is the President being urged to do to bring Iraq into compliance with its international obligations? Anybody's guess. Why, surely this great country of ours is not going to be able to launch a war on the basis of that ambiguous and vague language.

I wish those who are continuing to refer to this Public Law 105–235 and the so-called relevant U.N. resolutions would explain what they mean. I hear that over and over again. In connection with the resolution that is before this Senate today, it refers to all relevant U.N. Security Council resolutions. ''All relevant . . . .'' What does that mean? And they keep referring to 660 and 678 and 687. I would like to discuss those resolutions with those who will do so. I hope they come on the floor. Where are they? Where are these men of great strength? Let them come to the floor. I want to debate with them these so-called resolutions.

In this resolution that is before the Senate, S.J. Res. 46, it refers to relevant resolutions. They keep talking about the relevant resolutions. What resolutions are they talking about enforcing? Are they talking about 660? Are they talking about 678? No. 678 was adopted on November 29, 1990. Is that what they are talking about? U.N. Resolution 687 was the enforcement resolution. That was the resolution that authorized the member states to act to uphold Resolution No. 660. But that conferring of authorization was wiped out. No. 678 was wiped out by 687 when Iraq contacted the Security Council and accepted 687. It was wiped out. So I am prepared to argue that. I do not want to do it on my flimsy 1 hour, but I am prepared.

I have heard the Senator from Connecticut—he is not in the Chamber right now, but he will be back. I have heard him and others refer to the so-called relevant resolutions. They have been wiped out. They are gone, and no single member state can revive them. They were extinguished on April 6,

1991, when Iraq signified to the Security Council that it accepted the terms of 687.

Now we can talk about that at a later time. I would love to get into it. I would like to get into a discussion on that, but for now, suffice it to say, what I am saying is this resolution we are talking about would accept as fact certain things that are not facts—this blank check we have been talking about that we are going to turn over to this President of the United States, the power to determine when, where, how, and for how long he will use the military forces of the United States. It is flimsy. That resolution is full of holes. The whereas clauses are full of holes. Now they have been wiped out by unanimous consent so they are no longer ''whereas'' but ''since.'' It is flimsy. Full of holes. Ambiguities. Statements of facts that are not facts. I am ready to debate that at any time.

Mr. DURBIN. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. DURBIN. I hope Members will carefully read this amendment by Senator BYRD. This amendment says two things. One of these things should not even be controversial. It asserts the constitutional authority of this Chamber and the U.S. Congress to declare war. The Senator and I have stood together on this floor.

Mr. BYRD. Here it is, my Constitution.

Mr. DURBIN. I thought you might have your Constitution with you.

The Senator and I have stood on the floor and argued this point. Sometimes we did not fare so well. Keep in mind there was a question at the beginning of this debate about Iraq as to whether or not Congress would be engaged. Some argued that the President had the authority of his father's resolutions.

The second point made by Senator BYRD in this resolution is one I hope you will read carefully because I address part of this in an amendment I will offer later. He establishes a standard by which we would declare war. A standard is stated clearly: A clear threat of imminent, sudden, direct attack upon the United States, its possessions or territories, or the Armed Forces.

I hope Members of the Senate will read that. If that is not a standard by which we will measure whether this Nation will dedicate its Armed Forces and risk the lives of Americans in combat and the lives of innocent victims, I cannot imagine what we are going to debate. To take any other standard is to take the power away from Congress to declare war. This is a constitutional resolution. I applaud the Senator from West Virginia for offering it.

Mr. BYRD. I thank the distinguished Senator. How much time remains?

The PRESIDING OFFICER. Thirteen minutes.

Mr. BYRD. I hope Senators will show an abundance of mercy before the day is over and perhaps give me some more time.

Mr. President, this week the Senate is considering a very important resolution. The language of this resolution has been touted as a bipartisan compromise that addresses the concerns of both the White House and the Democratic leadership in Congress. But the only thing that I see being compromised in this resolution is this Constitution of the United States, which I hold in my hand, and the power that Constitution gives to Congress to declare war. This resolution we are considering is a dangerous step toward a government in which one man at the other end of this avenue holds in his hand the power to use the world's most powerful military force in whatever manner he chooses, whenever he chooses, wherever he chooses, and wherever he perceives a threat against national security.

The Bush administration has announced a new security doctrine that advocates acting preemptively to head off threats to U.S. national security. Much has been said about the diplomatic problem with this doctrine. But we should also recognize that the administration's new approach to war may also pose serious problems for our own constitutional system.

In the proposed use-of-force resolution, the White House lawyers claim ''the President has authority under the Constitution to use force in order to defend the national security interests of the United States.''

It says no such thing. I dare them to go to the Constitution and point out where that Constitution says what they say it said. They cannot do it. I know the job of any good lawyer—I have never been a practicing lawyer, but I know the job of a good lawyer is to craft legal interpretations that are most beneficial to the client. But for the life of me, I cannot find any basis for such a broad, expansive interpretation in the interpretation of the Constitution of the United States. Find it. Show it to me. You can't do it.

Where in the Constitution is it written that the title of Commander in Chief carries with it the power to decide unilaterally whether to commit the resources of the United States to war? Show it to me, lawyers, lawyers of the White House, or lawyers in this body. Show it.

There is a dangerous agenda, believe me, underlying these broad claims by this White House. The President is hoping to secure power under the Constitution that no President has ever claimed before. Never. He wants the power—the Bush administration wants that President to have power to launch this Nation into war without provocation and without clear evidence of an imminent attack on the United States. And we are going to be foolish enough to give it to him. I never thought I would see the day in these 44 years I have been in this body, never did I think I would see the day when we would cede this kind of power to any President. The White House lawyers have redefined the President's power under the Constitution to repel sudden acts against the United States. And he has that power, to repel sudden, unforeseen attacks against the United States, against its possessions, its territories, and its Armed Forces.

But they suggest he could also justify military action whenever there is a high risk of a surprise attack. That Constitution, how they would love to stretch it to give this President that power which he does not have. Those White House lawyers would have us believe that the President has independent authority not only to repel attacks but to prevent them. How silly. You cannot find it in that Constitution.

The White House wants to redefine the President's implied power under the Constitution to repel sudden attacks, suggesting that the realities of the modern world justify preemptive military action whenever there is a high risk of a surprise attack. What in the world are they teaching in law school these days? What are they teaching? I never heard of such as that when I was in law school. Of course I had to go at night. I had to go 10 years to get my law degree. In the national security strategy released last week, a few days ago, the President argued—let me tell you what the President argued—we must adapt the concept of imminent threat to the capabilities of today's adversary. Get that.

Defense Secretary Rumsfeld echoed this sentiment when he told the Senate Armed Services Committee: I suggest that any who insist on perfect evidence are back in the 20th century and still thinking in pre-9/11 years.

What a profound statement that was. How profound. Perhaps the Secretary of Defense ought to go back to law school, too. I don't believe he was taught that in law school.

The President does not want to shackle his new doctrine of 20th century ideas of war and security, much less any outdated notion from the 18th century about how this Republic should go to war. The Bush administration thinks the Constitution, with its inefficient separation of powers and its cumbersome checks and balances—they are cumbersome—has become an anachronism in a world of international terrorism and weapons of mass destruction.

They say it is too old. This Constitution, which I hold in my hand, is an anachronism. It is too old. It was all right back in the 19th century. It was all right in the 20th century. But we are living in a new time, a new age. There it is, right up there, inscribed, ''Novus ordo seclorum.'' A new order of the ages. New order of the ages.

This modern President does not have time for old-fashioned political ideas that complicate his job of going after the bad guys single-handedly.

And make no mistake, the resolution we are considering will allow the President to go it alone at every stage of the

process. It will be President Bush, by himself, who defines the national security interests of the United States. It will be President Bush, by himself, who identifies threats to our national security. It will be President Bush, by himself, who decides when those threats justify a bloody and costly war. And it will be President Bush, by himself, who determines what the objectives of such a war should be, and when it should begin and when it should end.

The most dangerous part of this modernized approach to war is the wide latitude the President will have to identify which threats present a ''high risk'' to national security. The administration's National Security Strategy briefly outlines a few common attributes shared by dangerous ''rogue states,'' but the administration is careful not to confine its doctrine to any fixed set of objective criteria for determining when the threat posed by any one of these states is sufficient to warrant preemptive action.

The President's doctrine—and we are about to put our stamp on it, the stamp of this Senate. The President's doctrine, get this, gives him—Him? Who is he? He puts his britches on just the same way I do. He is a man. I respect his office. But look what we are turning over to this man, one man.

The President's doctrine gives him a free hand to justify almost any military action with unsubstantiated allegations and arbitrary risk assessments.

Even if Senators accept the argument that the United States does not have to wait until it has been attacked before acting to protect its citizens, the President does not have the power to decide when and where such action is justified, especially when his decision is supported only by fear and speculation. The power to make that decision belongs here in Congress. That is where it belongs. That is where this Constitution vests it. The power to make this decision belongs to Congress and Congress alone.

Ultimately, Congress must decide whether the threat posed by Iraq is compelling enough to mobilize this Nation to war. Deciding questions of war is a heavy burden for every Member of Congress. It is the most serious responsibility imposed on us by the Constitution. We should not shrink from our duty to provide authority to the President where action is needed. But just as importantly, we should not shrink from our constitutional duty to decide for ourselves whether launching this Nation into war is an appropriate response to the threats facing our people—those people looking, watching this debate through that electronic lens there. They are the ones who will have to suffer. It is their sons and daughters whose blood will be spilled. Our ultimate duty is not to the President. They say: Give the President the benefit of the doubt. Why, how sickening that idea is. Our ultimate duty is not to the President of the United States. I don't give a darn whether he is a Democrat or Republican or an Independent—whatever. It makes no difference. I don't believe that our ultimate duty is to him. Our ultimate duty is to the people out there who elected us.

Our duty is not to rubber-stamp the language of the President's resolution, but to honor the text of the Constitution. Our duty is not to give the President a blank check to enforce his foreign policy doctrine, but to exercise our legislative power to protect the national security interests of this Republic.

Our constitutional system was designed to prevent the executive from plunging the Nation into war in the name of contrived ideals and political ambitions. The nature of the threats posed by a sudden attack on the United States may have changed dramatically since the time when Constitution was drafted, but the reasons for limiting the war powers of the President have not changed at all. In fact, the concerns of the Framers are even more relevant. Talk about this being old fashioned. The concerns of the Framers are even more relevant to the dangerous global environment in which our military must now operate, because the consequences of unchecked military action may be more severe for our citizens than ever before.

Congress has the sole power under the Constitution to decide whether the threat posed by Iraq is compelling enough to mobilize this nation to war, and no Presidential doctrine can change that. If President Bush wants our foreign policy to include any military action, whether for preemption, containment, or any other objective, he must first convince Congress that such a policy is in the best interest of the American people.

The amendment I am offering reaffirms the obligation of the Congress to decide whether this country should go to war. It makes clear that Congress retains this power, even in the event that we pass this broad language, which I believe gives the President a blank check to initiate war whenever he wants, wherever he wants, and against any perceived enemy he can link to Iraq. My amendment makes clear that the President has the power to respond to the threat of an imminent, sudden, and direct attack by Iraq against the United States, and that any military action that does not serve this purpose must be specifically authorized by the Congress.

Other Senators have said on the floor that the language of this resolution does not give the President a blank check, and they have said that this resolution is narrowly tailored to Iraq. I do not read the resolution that way, but I hope that the President does. I hope the President reads this resolution as a narrowly crafted authorization to deal with Iraq's weapons of mass destruction, and not as an open-ended endorsement of his doctrine of preemptive military action.

We should all hope that the President does not fully exercise his authority under this resolution, and that he does not abuse the imprecise language Congress may ultimately adopt. But I believe that Congress must do more than give the President a blank check and then stand aside and hope for the best. Congress must make clear that this resolution does not affect its constitutional power to declare war under Article I, section 8 of the Constitution; otherwise, this resolution may appear to delegate this important legislative function to the executive

My amendment also clarifies the intent of this resolution is limited to authorizing a military response to the threat of an Iraqi attack upon the United States. Congress must ensure that the broad language of this resolution does not allow the President to use this authority to act outside the boundaries of his constitutional powers. This amendment affirms the constitutional requirement that the President must have congressional authorization before initiating military action for any purpose other than defending the United States against an imminent, sudden, and direct attack. We must not provide the temptation to this President, or any president, to unleash the dogs of war for reasons beyond those anticipated by the Congress.

The power of Congress to declare war is a political check on the President's ability to arbitrarily commit the United States to changing military doctrines, and the evolving nature of war and security threats does not change the language of the Constitution. The President cannot use the uncertainty of terrorist threats to confuse the clearly defined political processes required by the Constitution, and Congress should not rush to endorse a doctrine that will commit untold American resources to unknown military objectives.

The President admits in his National Security Strategy that ''America's constitution has served us well.'' But his actions suggest that he feels this service is no longer needed. Congress should ensure that the Constitution continues to serve our national security interests by preventing the United States from plunging headlong into an ever-growing war in the Middle East. I urge my colleagues to support this amendment in order to preserve the constitutional system of checks and balances that the founders of this republic valued so highly.

Mr. REID. Madam President, I would like to be recognized on a unanimous consent request.

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

Mr. REID. Madam President, based on the conversation I had earlier today, with everybody—Senator BYRD—about what is not in the RECORD, one of the things we did not do is dispose of the other amendments. Reciting from the RECORD, I said we

will dispose—they will offer no other amendments tomorrow.

That is today, speaking for Senator DURBIN, Senator BOXER, and Senator LEVIN. So I ask unanimous consent that their other amendments at the desk be withdrawn from the desk.

Mr. BYRD. What is the request?

Mr. REID. I was reading from the RECORD that the amendments of DURBIN, BOXER, and LEVIN are not going to be offered. They are being withdrawn from the desk.

The PRESIDING OFFICER. Is the Senator asking the amendments be recalled?

Mr. REID. Yes.

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

Mr. REID. Senator DAYTON would also ask his be recalled. I ask unanimous consent that be the case.

The PRESIDING OFFICER. Without objection, the amendment is recalled.

The Senator from Arizona.

Mr. MCCAIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes 40 seconds.

Mr. MCCAIN. I would like to yield 3 minutes to the Senator from Delaware.

Mr. BIDEN. Madam President, the case that the Senator from West Virginia makes is a good case on the merits of whether or not we should, in fact, delegate this authority, but I am confused by the argument that constitutionally we are unable to delegate that authority.

Historically, the way in which the delegation of the authority under the constitutional separation of powers doctrine functions is there have to be some parameters to the delegation. For example, we could not delegate to the President the authority to pick and confirm any Supreme Court Justice he wanted to confirm.

The essence of the constitutional argument which my friend from West Virginia makes is, I assume, that there are no parameters to this delegation; therefore, the delegation per se is unconstitutional. I assume that is the rationale. But as I read this grant of authority, it is not so broad as to make it unconstitutional for us, under the war clause of the Constitution, to delegate to the President the power to use force if certain conditions exist. My time is about up, but I would argue that in section 4(a), subsections (1) and (2), the conjunctive ''and'' instead of ''or'' exists, which means that as a practical matter in reading this, the only circumstance the President could find, in my view, that the national security was being threatened would be as it relates to the resolutions relating to weapons of mass destruction. But I will speak to that later. I appreciate my friend yielding me the time.

But, again, constitutionally, this resolution meets the test of our ability to delegate. It is not an overly broad delegation which would make it per se unconstitutional, in my view.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, according to the letter of the Byrd amendment, a clear threat of imminent, sudden, and direct attack upon the United States, its possessions or territories, et cetera, clearly would have, would absolutely deprive the President of the United States of what he is seeking today. It would deprive the President of the United States of the authority he has requested to compel Saddam Hussein to disarm, so let's have no doubt about the impact of this amendment.

The President has spoken clearly of the threat Saddam Hussein's regime poses to America and the world today—even though Iraq today clearly does not meet the Byrd amendment's standard of threatening imminent, sudden, and direct attack upon the United States of our Armed Forces. To wait for Saddam Hussein to threaten imminent attack against America would be to acquiesce to his development of nuclear weapons, to ignore his record of aggression against his neighbors, and to disregard his continuing threats to destroy Israel.

Failure now to make the choice to remove Saddam Hussein from power will leave us with choices later, when Saddam's inevitable acquisition of nuclear weapons will make it much more dangerous to defend our friends and interests in the region. It will permit Saddam to control much of the region, and to wield its resources in ways that can only weaken America's position. It will put Israel's very survival at risk, with moral consequences no American can welcome.

Failure to end the danger posed by Saddam Hussein's Iraq makes it more likely that the interaction we believe to have occurred between members of al-Qaida and Saddam's regime may increasingly take the form of active cooperation to target the United States.

We live in a world in which international terrorists continue to this day to plot mass murder in America. Saddam Hussein unquestionably has strong incentives to cooperate with al-Qaida. Whatever they may or may not have in common, their overwhelming hostility to America and rejection of any moral code suggest that collaboration against us would be natural. It is all too imaginable. Whether or not it has yet happened, the odds favor it—and they are not odds the United States can accept.

Standing by while an odious regime with a history of support for terrorism develops weapons whose use by terrorists could literally kill millions of Americans is not a choice. It is an abdication. In this new era, preventive action to target rogue regimes is not only imaginable but necessary.

Who would not have attacked Osama bib Laden's network before September 11th had we realized that his intentions to bring harm to America were matched by the capability to do so? Who would not have heeded Churchill's call to stand up to Adolf Hitler in the 1930's, while Europe slept and appeasement fed the greatest threat to Western civilization the world had ever known? Who would not have supported Israel's bombing of Iraq's nuclear reactor in 1981 had we then known, as Israel knew, that Saddam was on the verge of developing the bomb?

In the new era we entered last September, warning of an attack before it happens is a luxury we cannot expect. Waiting for imminence of attack could be catastrophic. Many fear we will not know of an attack until it happens—and should our enemies use weapons of mass destruction in such an attack, the deaths of thousands or millions of Americans could occur with no warning—as happened last September. In this age, to wait for our enemies to come to us is suicidal.

In 1962, President Kennedy made the point that America cannot wait until we face the threat of open attack without gravely endangering our security. In President Kennedy's words, ''Neither the United States of America, nor the world community of nations can tolerate deliberate deception and offensive threats on the part of any nation, large or small. We no longer live in a world where only the actual firing of weapons represents a sufficient challenge to a nation's security to constitute maximum peril.''

The Byrd amendment would overturn the doctrine announced by the President of the United States to guide his administration's conduct of American national security policy. The Byrd amendment would negate any Congressional resolution authorizing the President to use all means to protect America from the threat posed by Iraq. It would set such a high threshold for the use of military force as to render the Commander in Chief powerless to respond to the clear and present danger Saddam Hussein's regime poses to America and the world.

I urge my colleagues to reject the Byrd amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. MCCAIN. I yield 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, this is one of the confusing aspects of this debate. I find myself supporting this resolution but worried that supporting this resolution will get us into real trouble.

We use Saddam, Hitler, and al-Qaida all in the same verbiage and language. Let me make the real distinction, as I see it, regarding preemption.

If we knew that al-Qaida had particular weapons, knowing, as we did, what their stated objective was, and with the intelligence we had, we would be fully within our rights—not under

any doctrine of preemption—because of the existence of a clear, present, and imminent danger to move against al-Qaida.

Conversely, with Hitler in the 1930s, the rationale for moving against Hitler wasn't a doctrine of preemption because we knew he was a bad guy. It was because his country signed the Treaty of Versailles. He was violating the Treaty of Versailles. The Treaty of Versailles did not have an end date on it. It didn't say you cannot have forces for the first 2 or 3 years, or you cannot do the following things. We were fully within our rights as a world community to go after Hitler in 1934, 1935, 1936, or 1937. It was not based on the doctrine of preemption but a doctrine of enforcement of the Treaty of Versailles, and in a very limited time.

What we have here, I argue, as the rationale for going after Saddam, is that he signed a cease-fire agreement. The condition for his continuing in power was the elimination of his weapons of mass destruction, and the permission to have inspectors in to make sure he had eliminated them. He expelled those inspectors. So he violated the cease-fire; ergo, we have authority—not under a doctrine of preemption. This will not be a preemptive strike, if we go with the rest of the world. It will be an enforcement strike.

I hope we don't walk out of here with my voting for this final document and somebody 6 months from now or 6 years from now will say we have the right now to establish this new doctrine of preemption and go wherever we want anytime.

The part on which I do empathize with my friend from West Virginia is this is not a very clearly written piece of work. That is why I think Senator LUGAR and myself and others had a better way of doing this. But it does incorporate with the President's words the notion that we are operating relative to weapons of mass destruction and U.S. security interests and enforcement—not preemption.

I conclude by saying that the President started his speech explaining the reason why he wanted his resolution on Monday. I guess it was Monday. And he said at the very outset that this is based upon enforcing what was committed to in dealing with weapons of mass destruction.

I know my time is up. I will speak to this more later.

I am opposed to the Byrd amendment, but I hope we don't establish some totally new doctrine in our opposition to it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time do I have remaining?

The PRESIDING OFFICER. Three and one-half minutes.

Mr. MCCAIN. Madam President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, I thank the Senator from Arizona. I appreciate what the Senator from Delaware just said. I think it makes a lot of sense.

I have many concerns about this amendment, but two stick out to me as I read it. My concern is that, under this rationale, if we were told we had good intelligence and we were convinced that within, let us say, 6 months we were going to be attacked, it would still not fit the definition of imminent and sudden.

As I read it, the threat must be an imminent, sudden, and direct attack upon the United States. A sudden attack of 6 months would not qualify. It might be imminent, but it certainly wouldn't be sudden. I don't think we can afford that luxury.

Second, our allies are totally excluded. Do we want to announce to the world that there must be only an imminent, sudden, direct attack upon the United States, its possessions, territories, and our Armed Forces, leaving our allies in that particular part of the world totally undefended by the United States? I don't think that is a message we want to send.

I respectfully oppose the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, in summary, this amendment regarding the preservation of Congress's constitutional authority is unnecessary. A portion of the amendment that would limit the authority of the President to wage war is arguably unconstitutional. The Congress can declare war, but it cannot dictate to the President how to wage war. No law passed by Congress could alter the constitutional separation of powers.

I urge my colleagues to defeat this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4868.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 14, nays 86, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—14

Boxer	Inouye	Murray
Byrd	Jeffords	Sarbanes
Dayton	Kennedy	Specter
Durbin	Leahy	Wellstone
Feingold	Mikulski	

NAYS—86

Akaka	Bond	Carper
Allard	Breaux	Chafee
Allen	Brownback	Cleland
Baucus	Bunning	Clinton
Bayh	Burns	Cochran
Bennett	Campbell	Collins
Biden	Cantwell	Conrad
Bingaman	Carnahan	Corzine
Craig	Hollings	Reed
Crapo	Hutchinson	Reid
Daschle	Hutchison	Roberts
DeWine	Inhofe	Rockefeller
Dodd	Johnson	Santorum
Domenici	Kerry	Schumer
Dorgan	Kohl	Sessions
Edwards	Kyl	Shelby
Ensign	Landrieu	Smith (NH)
Enzi	Levin	Smith (OR)
Feinstein	Lieberman	Snowe
Fitzgerald	Lincoln	Stabenow
Frist	Lott	Stevens
Graham	Lugar	Thomas
Gramm	McCain	Thompson
Grassley	McConnell	Thurmond
Gregg	Miller	Torricelli
Hagel	Murkowski	Voinovich
Harkin	Nelson (FL)	Warner
Hatch	Nelson (NE)	Wyden
Helms	Nickles	

The amendment (No. 4868) was rejected.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, it is the intention of the Senate now to proceed to the Levin amendment No. 4862, with 50 minutes for the Senator from Michigan, 15 minutes for the Senator from Delaware, 15 minutes for the Senator from Arizona, Mr. MCCAIN, and 15 minutes for the Senator from Virginia. It is the intention of the Senator from Virginia to see that time is given to the distinguished Senator from Connecticut, Mr. LIEBERMAN.

We are now awaiting the opening statement of our distinguished chairman of the Armed Services Committee. I advise Senators that at the completion of that time, it is the intention of the Senator from Virginia to move to table the amendment.

Mr. LEVIN. I wonder if the Senator will withhold for a moment.

AMENDMENT NO. 4862

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider amendment No. 4862, the Levin amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, in consultation with my colleagues, I withdraw the comment at this time of the desire of the Senator from Virginia to table.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the short title of our amendment is ''The Multilateral Use of Force Authorization Act of 2002.'' The very title of this alternative to the Lieberman-Warner amendment establishes both its similarity and its difference from the Lieberman amendment.

It is similar because both of our approaches authorize the use of U.S.

Armed Forces. It is different because our resolution authorizes the use of force multilaterally pursuant to a U.N. resolution that the President has asked the Security Council to adopt for the purpose of destroying Saddam Hussein's weapons of mass destruction and prohibited missile delivery systems.

Our resolution also supports the President's call and urges the United Nations Security Council to promptly adopt a resolution that demands Iraq to provide unconditional access, unconditional destruction of all weapons of mass destruction and, in the same resolution, authorize U.N. member states to use military force to enforce that resolution.

Our resolution also affirms that the United States has at all times the inherent right to use military force in self-defense. There is no veto given the United Nations in this resolution of ours. Quite the opposite. We explicitly make it clear we maintain, of course, a right to use self-defense. And we provide that the Congress will not adjourn sine die this year, but will return to session to consider promptly proposals relative to Iraq if, in the judgment of the President, the United Nations fails to adopt or enforce the United Nations resolution for which he and we call.

The Lieberman resolution, like ours, authorizes the use of U.S. military force to enforce the Security Council resolution that is being sought by the President, as well as in the case of the Lieberman resolution, as well as earlier U.N. resolutions. But the Lieberman resolution also would authorize the use of force on a unilateral basis, not requiring that there be an imminent threat, which is essential to using force in self-defense preemptively under international law, but a lower threshold called a continuing threat.

That would be a departure from the requirement in international law that the use of force in self-defense be for imminent threats. That can have significant negative consequences for the world. If other nations adopt that precedent, if India and Pakistan adopt that precedent, two nuclear-armed nations, they can find continuing threats against each other, not imminent, just continuing threats and, using our precedent, if we adopt the Lieberman resolution, say: That is the new standard in international law; it does not have to be an imminent threat; we can preemptively attack a neighbor and anybody else if, in our judgment, it is a continuing threat.

If China decided that Taiwan, which it labels a renegade province, is a threat to its security, then under this precedent it can attack Taiwan under the approach that ''imminent'' is no longer a requirement.

Acting multilaterally—multilaterally—as our alternative resolution does—in other words, with the backing of the United Nations—has a number of advantages. It will garner the most support from other nations and avoid the negative consequences of being deprived of airbases, supply bases, overflight rights, and command-and-control facilities that are needed for military action.

Saudi Arabia has already said explicitly: If you do not get a U.N. resolution, you cannot use our military bases. And other nations have said the same. If they are going to be involved with us in using force against Iraq, they want the authority of a U.N. resolution to do it.

Our resolution has a better chance of success in persuading Saddam Hussein to comply, to capitulate, to cooperate finally with the U.N. weapons inspectors and to disarm because it will have the world community looking at the other end of the barrel down at him.

Our multilateral resolution reduces the chances of losing support from other nations in the war on terrorism, and we need law enforcement, intelligence, and financial cooperation from other nations.

Our multilateral approach reduces the potential for instability in an already volatile region, and that instability can undermine Jordan, Pakistan, and possibly even end up with a radical regime in Pakistan, a nuclear weapon nation.

Our multilateral approach reduces the likelihood of Saddam Hussein or his military commanders using biological or chemical weapons against our forces, as he will be looking, again, down the barrel of a gun with the world at the other end rather than only at the United States.

Both General Shalikashvili and General Clark testified in front of our committee that there is a significant advantage to our troops by going multilaterally in terms of the likely response of Saddam Hussein to a unilateral attack by the United States and the likelier use of weapons of mass destruction by him in response to a unilateral attack.

Our multilateral approach will increase the number of nations that will be willing to participate in the fighting. It will increase the number of nations that will be willing to participate in the long and costly effort in a post-Saddam Iraq, and we would be avoiding setting that precedent of using force preemptively without an imminent threat.

Mr. President, if we are serious about going to the U.N., as the President has said he is, we must focus our efforts there. We should not send an inconsistent message. We should not take the U.N. off the hook. We should not say: We really are interested in the U.N. acting, adopting a resolution, requiring an unconditional opening by Saddam, requiring the destruction of his weapons of mass destruction.

We are saying we really mean that; that is the kind of resolution we want. We are saying that. We also want that resolution to authorize member states to use military force to enforce it. That is what we are saying on the one hand, but if the Lieberman resolution passes, then we will be sending the exact opposite message: If you do not, we will anyway.

That takes the U.N. off the hook. That blurs the focus that we should be placing on the importance of multilateral action authorized by the United Nations.

I believe that Saddam Hussein must be forced to disarm. I think it is going to take force, or the threat of force, to get him to comply.

It seems to me there is a huge advantage if that force is multilateral, and going it alone is a very different calculus with very different risks.

If we fail at the U.N., then under our resolution, the President can come back at any time he determines that the U.N. is not acting to either adopt or enforce its resolution. He can then come back here under our resolution, call us back into session, and then urge us to authorize a going-it-alone, unilateral resolution.

I thank the Chair, and I yield 8 minutes to Senator BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise to speak on the two resolutions that the Senator from Michigan has talked about in his comments because there are two resolutions before the Senate, both of which authorize the President to use force, if necessary, against Iraq.

Before I discuss those, let me just say a few words about the war on terrorism which has engaged the attention of this entire Nation during the last 13 months.

Before I discuss those, I congratulate the President on the way he was able to bring our country together after the attack of September 11 of last year. In cooperation with the President, Congress put aside other matters, put aside partisan issues, and acted quickly to appropriate necessary funds and to enact important legislation to help safeguard our country and its citizens. I think all of us in Congress joined in meeting this challenge, and I am proud we were able to do so.

The President has come to us again, and this time he has focused attention on another threat—that is, the threat that Saddam Hussein, the leader of Iraq, will use weapons of mass destruction against us or our allies or that he will provide such weapons to terrorists for them to use.

The President has indicated his belief that regime change in Iraq is needed to deal with this threat, but he makes the point that at this time he has not made a decision about whether or when to commence any military action.

The United Nations, for many years, has agreed with our country's view that Saddam Hussein should not be permitted to possess weapons of mass destruction. An inspection regime was established by the United Nations in April of 1991, and inspections by UNSCOM continued until August of 1998 to ensure that weapons were not being developed or maintained.

I11In December of 1998, Iraq expelled those weapons inspectors, and since that time it is widely believed the likelihood of such weapons being developed in Iraq has increased.

So in response to this threat, the President has urged Congress to adopt a broadly worded resolution that authorizes him at any time in the future:

To use the Armed Forces of the United States as he determines to be necessary and appropriate, in order to defend the national security of the United States against the continuing threat posed by Iraq; and enforce the United Nations Security Council resolutions regarding Iraq.

Senator LEVIN, who is chairman of the Armed Services Committee, with whom I have been privileged to serve for the last 20 years, has urged us to adopt a different resolution that grants the President the authority to use military power, but Senator LEVIN's proposed resolution differs from the broad grant of authority the President has requested in two very significant ways.

First, it authorizes the use of force at this time only pursuant to a resolution of the U.N. Security Council. In this way, we would be ensuring our actions to eliminate Iraq's weapons of mass destruction continue to be taken in coordination with our allies.

Second, the Levin resolution authorizes the use of:

The Armed Forces of the United States to destroy, remove, or render harmless Iraq's weapons of mass destruction, nuclear weapons-usable material, ballistic missiles with a range greater than 150 kilometers, and related facilities, if Iraq fails to comply with the terms of the Security Council resolution.

There is a specific objective we are saying the President is authorized to use military force to accomplish.

The Levin resolution does not authorize unilateral action at this time to accomplish so-called regime change. Rather, it would leave open the option for the President to come back to seek and obtain that authority from Congress if and when he determines that military action against Iraq is required, even without U.N. sanction.

I strongly support giving the President authority to work with our allies in the United Nations, to inspect for, locate, and destroy weapons of mass destruction in Iraq. It may well prove necessary to use military force to accomplish that objective. In my view, the Levin resolution grants the President that authority. Unless that effort, which is already underway, fails, I believe it would be wrong for us to grant authority to the President to use U.S. Armed Forces in what is essentially a unilateral action to achieve goals that are, at best, vague and broad.

The President has made clear that in his view our goal should be regime change. The argument is Saddam Hussein has shown such a proclivity to lie, cheat, and evade that anything short of regime change will leave us vulnerable to a future attack by Iraq.

Depending on the success of our current efforts to reinstitute an inspection regime, the American people and our allies may well conclude the President is correct. We may have to conclude that finding and destroying weapons of mass destruction in Iraq cannot be achieved as long as Saddam Hussein is in power, and if that is the necessary conclusion we reach, then a major military action will likely be required, with all the casualties and consequences such an action entails.

Our allies have not reached that conclusion yet. They believe a new inspection regime can be made to work and that the threat can be dealt with short of going to war. At least they believe it is worthwhile for us to make that final effort.

The President's proposed resolution authorizes him:

To use the Armed Forces of the United States as he determines to be necessary and appropriate.

This is, in my view, a virtually open-ended grant of authority. It is not a proper action for Congress to take at this time. I do not believe it is wise at this point to be authorizing war without the support of the United Nations and our allies. If war must be waged, other countries should be there with us, sharing the costs, both the financial and human costs, and helping restore stability in what will almost certainly be the tumultuous aftermath of that military action.

I also do not favor an authorization for war unless and until the President is prepared to advise Congress that war is necessary, and he has explicitly said he is not prepared to advise us of that at this time.

For all these reasons, I will support the resolution put forth by Senator LEVIN and not support the much broader grant of authority urged by the President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, will my colleague yield for a question on my time and a response on his time? In other words, I will ask the question on the time allocated to me and the Senator can respond on the time allocated to him.

Mr. LEVIN. I am afraid my time is allocated totally, unless it can be a brief answer. I would be happy to answer briefly.

Mr. WARNER. Then I am going to have to narrow our ability to enter into a colloquy, which you and I have done so many times.

I will ask one question: As I read this amendment, I find it could be interpreted as precluding the ability to enforce the existing resolutions, namely 688, the no-fly zone. If the Senator wants a few minutes to study and reflect on that, I would like to have the Senator think this through. That is one very serious shortcoming. In other words, for 11 years we have been enforcing the no-fly zone, but as I read this, it could be construed as stopping that. I make that point.

Mr. LEVIN. I would be happy to answer that. It would be misconstrued if it were interpreted that way. This does not preclude the President from doing anything. This is an authorization. It is not a prohibition. It is an authorization to the President to use force. It does not preclude the President. It does not say the President may not use force. It says the President is authorized to use force. So there is no prohibition; there is no negative.

The President has sought our authority. This resolution would give the President that authority.

Mr. WARNER. I draw my colleague's attention to the fact it would require the United States to wait for the U.N. Security Council to act on a resolution before the President could take action to protect our national security interests.

Mr. LEVIN. Which is the WMD issue. It is only the WMD issue that is referred to.

Mr. WARNER. I will have to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. I yield 5 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Virginia for yielding me the time.

Mr. SARBANES. Parliamentary inquiry: Will the Chair inform us what the time allocations are and how much time is remaining.

The PRESIDING OFFICER. Senator LEVIN began with 50 minutes and has 33 minutes remaining. Senator BIDEN has 15 minutes, Senator MCCAIN has 15 minutes, and Senator WARNER has used 2 of his 15 minutes.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment offered by my friend, the Senator from Michigan. It seems to me, as I look at this amendment, that the difference we have—those of us who have sponsored the underlying resolution, and the Senator from Michigan and others sponsoring the amendment—is over tactics, not objectives. Perhaps we should acknowledge one to the other. We each have the objective, I believe, to compel Saddam Hussein to comply with the various U.N. Security Council resolutions, and in that sense, particularly, to disarm.

I suggest to my friend from Michigan, noting how he continues to refer to his amendment as the multilateral approach, that those who sponsored the underlying resolution consider ours to be a multilateral international approach as well. We believe our willingness not only to accept and urge and encourage the President to go to the United Nations and hope the United Nations will authorize use of force if

Saddam Hussein does not comply with their resolutions but our willingness after that fact to say if that does not happen, the President has the right to utilize America's Armed Forces for that purpose, is probably the better way to achieve an international action against Iraq under Saddam Hussein. To show our willingness, our seriousness to use military force to lead an international coalition ourselves is the better way to convince the United Nations to take action on its own and therefore to have an international act.

There is a disagreement about tactics. The disagreement is whether we should do all this in one resolution, as we have, or, as the Senator from Michigan proposes in the amendment, to have two steps: First, go to the United Nations, only allow enforcement, particularly of the resolutions concerning Iraq's weapons of mass destruction, to be done by the United States with the permission of the United Nations. If that does not work, the President must come back for a separate resolution.

Last night in a colloquy with the Senator from Michigan, I suggested that his resolution does in fact give the Security Council a veto over the President's determination, the President's capacity, to use the American military to enforce certainly those resolutions having to do with weapons of mass destruction and ballistic missiles and related facilities.

It seems to me, notwithstanding the fact that the Senator's amendment affirms the President's inherent right to use military force in self-defense, section 4(a) also makes clear the President of the United States can only do that if he wants to take action to destroy or remove or render harmless Iraq's weapons of mass destruction, nuclear weapons, fissile material, ballistics, et cetera, pursuant to a resolution of the U.N. Security Council.

That means any member of the Security Council—Russia, China, France, any temporary member—can veto action by the United States, by the Commander in Chief. I don't want that to happen.

The question is, Why assume, if the United Nations does not take action, the United States will have to go it alone? Having gone to the United Nations, having made our case, the fact is if military action is necessary, the United States will never have to go alone. We will have allies in Europe, allies in the Middle East, who see our seriousness of purpose, who share in our desire to protect themselves and the world from Saddam Hussein, who will come to our side. We will have what we called in the case of Kosovo a coalition of the willing.

The Kosovo case is instructive on several points raised in this debate. There was no United Nations resolution authorizing the United States to deploy forces in the case of Kosovo because everyone, including the Clinton administration, the President, determined we would possibly be subject to a Russian veto at the Security Council. The President was unwilling to accept that. There was no congressional resolution then organizing the deployment of our forces because there was controversy about that. There was clearly no imminent threat of a sudden direct attack against the United States, as in other amendments that have been before the Senate, because this was happening in the Balkans. But the President of the United States, President Clinton, clearly understood what was happening there was wrong. He wanted to take action not only to stop the genocide and prevent a wider war in Europe but in the most distant threat, to prevent a potential threat to the security of the United States, so he formed a coalition of willing nations.

Here the threat from Iraq under Saddam Hussein is much more imminent to the United States. So to subject our capacity to defend ourselves against that threat to a veto by the United Nations Security Council is inappropriate and wrong.

Again, I state a great phrase from the Bible: If the sound of the trumpet is uncertain, who will follow into battle?

If we sound a certain trumpet with this resolution, which this amendment would make uncertain, then many other nations will follow us into battle.

I oppose the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I will take a few minutes under my time and give to this Chamber two quotations that frame the entire debate. The first quotation is from 40 years ago. It was the President of the United States, John F. Kennedy, in 1962:

> This Nation is prepared to present its case against the Soviet threat to peace and our own proposals for a peaceful world at any time and in any form, in the Organization of American States, in the United Nations, or in any other meeting that could be useful, without limiting our freedom of action.

This is precisely what this amendment does. It is a total substitute for the work that has been done by the Senator from Connecticut, working with others, the leadership on both sides of the aisle, and the President's staff. That would all come down, and in its place would be this resolution which has provisions that could be interpreted as a veto, questions the authority of the President, and puts too much reliance that the United Nations is going to devise a resolution which would meet the criteria that our President and other nations deem essential for a new inspection regime.

That was a quote by President Kennedy.

Now, 40 years forward, a second quote:

> This resolution gives the President the authority he needs to confront the threat posed by Iraq. It is fundamentally different and a better resolution than the one the President sent to us. It is neither a Democratic resolution nor a Republican resolution. It is now a statement of American resolve and values.

Continuing:

> For me, the deciding factor is my belief that a united Congress will help the President unite the world, and by uniting the world we can increase the world's chances of succeeding in this effort and reduce both the risks and the cost.

That quote was made just over 40 minutes ago by the distinguished majority leader of the Senate.

The House of Representatives debated language identical in both Chambers. To achieve that united Congress, we must maintain the integrity of the amendment that is presently pending. That is the amendment by Senator LIEBERMAN and myself, Senator MCCAIN, and Senator BAYH.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 8 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I thank Senator CARL LEVIN for his amendment. I thank the State of Michigan for sending Senator LEVIN to the Senate. His independence, his courage, his clear thinking, his love of country are evident in the work he has put behind this important amendment. I believe his answer to Iraq's challenge is, indeed, the right course for this country.

To me, the issue of Iraq should be approached in the following way. Iraq must be held to its word that it will submit to thorough inspections and dismantlement of weapons of mass destruction. Let me repeat that: Iraq must be held to its word that it will submit to thorough inspections and dismantlement of weapons of mass destruction.

The United Nations should pass an updated resolution ensuring unfettered inspections and disarmament, and that should take place or there will be dire consequences for Iraq. The weapons they have are a threat to the world. The world must respond. If we handle this matter correctly, the way Senator LEVIN is suggesting, I believe the world will respond. If we handle it wrong—and I think the underlying resolution is the wrong approach—if our allies believe we have not made the case, they believe somehow this is a grudge match, or if they believe they are being manipulated for domestic political reasons, that is going to hurt our Nation and that is going to isolate us.

Indeed, this rush to pass unilateral authority—I have never seen anything quite like what has happened in the Senate. The rush to pass unilateral authority, the rush to say to the President, go it alone, don't worry about anybody else, is hurting this debate, and this debate looks political. It looks political.

If there are those in the administration who believe this debate could hurt Democrats, they may be surprised. Democrats do not walk in lockstep. We are independent thinking. I believe the people want that.

Remember, this administration started out thumbing its nose at the

Constitution and the role of Congress in terms of war and peace. This administration did not want to bring the debate on this war to Congress. We have many quotes I have already put in the RECORD on that subject. They did not want the President to go to the United Nations. Indeed, they said he did not have to go there; he did not have to come here; he did not have to do anything. Also, as the Presiding Officer knows, they wanted a resolution that gave the authority far beyond Iraq. They wanted to give the President authority to go anywhere in the world.

Now that idea is gone from the underlying Lieberman resolution. So checks and balances do work. I think what we ought to do is continue those checks and balances by passing the Levin amendment.

The Levin amendment puts America front and center in a way that will win over the civilized world. This is what it does.

No. 1, it urges the U.N. Security Council to quickly adopt a resolution for inspections of Iraq's weapons of mass destruction and the dismantlement of those weapons.

No. 2, this new U.N. Security Council resolution urges that we will back up the resolution with the use of force, including the United States. And the President gets that authority in Senator LEVIN's resolution.

No. 3, it reaffirms that, under international law and the United Nations Charter, the United States has the inherent right to self-defense. So anybody who says, my God, we are giving everything over to the U.N., has not read the resolution.

Last, it states the Congress will not adjourn sine die so that in a moment's notice we can return if the President believes we need to go it alone.

Some have said that the Levin amendment, again, gives veto power to the U.N. Security Council. That is not true. Again, under the Levin amendment, if the President cannot secure a new U.N. resolution that will ensure disarmament of Iraq, he can come back, he can lay out the case and answer the questions that have not been answered.

I have looked back through history. I never have seen a situation where the President of the United States asked for the ability to go to war alone and yet has not told the American people what that would mean. How many troops would be involved? How many casualties might there be? Would the U.S. have to foot the entire cost of using force against Iraq? If not, which nations are ready to provide financial support? Troop support? What will the cost be to rebuild Iraq? How long would our troops have to stay there? What if our troops become a target for terrorists?

We have seen in Kuwait, a very secure place for our people; we have had terrorist incidents already against our young people there.

Will weapons of mass destruction be launched against our troops? Against Israel? If you read the CIA declassified report—declassified report—they are telling us that the chance that he will use them is greater if he feels his back is up against the wall. Everybody knows the underlying resolution implies regime change. It implies regime change. What I think is important about the Levin resolution is that it goes to the heart, the core of the matter, which is dismantlement of the weapons of mass destruction.

If Saddam knows his back is against the wall, he will use these.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mrs. BOXER. I thank the President.

So let's be careful. Why not take the conservative approach, the two-step approach of the Levin resolution, when it comes to the life and death of our people? There are more questions that have not been answered, and I have put them in the RECORD. Yet the President wants the authority to go it alone and he has not answered even one of those questions to Members of this Senate, let alone to the American people.

I cannot vote for a blank check for unilateral action. I cannot vote for a go-it-alone approach before any of these fundamental questions have been answered. Twice in the past 4 years I voted to use force: once against Milosevic, once after September 11. So it is not that this Senator will never vote for force, but in this case, when the President is proposing to go it alone, I think we have the right on behalf of the people we represent to have the questions answered.

In closing, the Levin resolution gives us that two-step approach. It says to this President: If you want to go as part of a world force and make sure that we get the dismantlement of these weapons, we give you the authority and the blessing. If not, come back and ask us and we will debate then and we will vote then. I hope we will vote for the Levin resolution.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

Mr. MCCAIN. I understand I have 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Mr. President, at the outset, let me state that I agree with the distinguished Chairman of the Armed Services Committee: U.S. policy would be stronger if we received the unequivocal support of the United Nations Security Council. Of that, there is no doubt.

But that does not mean that our country must delegate our national security decisionmaking to the United Nations. It is neither morally necessary nor wise to give the U.N. Security Council veto power over our security.

I am a supporter of the United Nations. I have supported efforts to pay U.S. arrears to the organization. The U.N. does many good deeds around the world.

However, we should not kid ourselves: the Security Council is not a repository of moral goodness. It is not some supranational authority on international law, world peace or transnational justice. It is a collection of nation-states, each of whom makes decisions based on their national interests. Five nations have veto power. Ten more can vote up or down, or abstain on a given matter. Individual states may cloak their decisions in grand rhetoric of global interest, but they are driven by cool calculations of self-interest.

As my friend from Michigan knows, the atmosphere before a Security Council vote often resembles a Middle Eastern bazaar more than it does a somber courtroom. Deals are cut, resolutions are watered down, and statements are made based on the national interests of the five permanent Security Council members. That is as it should be, but we should not fool ourselves that there is some innate moral authority once 15 nations negotiate a deal.

Russia is engaged in vicious human rights abuses in Chechnya. Russia continues to undermine the sovereignty of the Republic of Georgia. Russia is owed billions of dollars from its ill-advised arms deals with Saddam Hussein's Iraq. Russia has long advocated easing and even lifting of sanctions against Iraq. Russia abstained on U.N. Security Council Resolution 1284 in December 1999, creating the current weapons inspections regime in Iraq—apparently because it believed the regime was too tough.

China also abstained from supporting U.N. Security Council Resolution 1284. China has good reason to be concerned about international opinion. China has engaged in serious proliferation activities. China severely represses its own people. Gaining the diplomatic acquiescence of the People's Republic of China may be desirable but it does not add any moral stature to our position.

And then there is France. France has armed Saddam Hussein for years. French President Chirac was Prime Minister when France sold a nuclear reactor to Iraq. In the words of the former head of Iraq's nuclear program, Khidhir Hamza, Saddam ''knew Chirac would eat old tires from the Tigris if it got him our nuclear deal, worth hundreds of millions of dollars, along with the prospect of cheap oil.''

For years, French businessmen have been regular visitors to Baghdad, seeking commercial advantage despite U.N. sanctions. No one in this body should be under any illusions about French motivations.

If President Bush and his team can gain French, Chinese and Russian support for a strong U.N. Security Council resolution, I applaud them. Recent signs are promising. Their support will help in the political and diplomatic realms. But their support will not make our case more just, or more right.

In fact, the U.S. position in making progress at the U.N. precisely because of our determination. If this body were to pass the Levin amendment, we would set our cause back in New York. We would send a signal of indecision that would embolden those who oppose a tough resolution. They would see that the U.S. Senate is deferring judgment to them, virtually inviting them to harden their opposition to the U.S. position.

Let me address some real concerns I have about the amendment offered by my distinguished colleague. It urges the U.N. Security Council to adopt a particular resolution—one limited solely to inspectors' access to Iraq's weapons of mass destruction programs. I don't think we should try to put the U.S. Senate in the role of drafting the parameters of U.N. Security Council resolutions. Such a unilateral position by one legislative body in one U.N. member state seems a little bit out of keeping with his oft-stated desire for multilateralism.

The U.N. Security Council resolution urged by the Levin amendment is silent on the real issues facing the U.S. government in New York right now. Does the amendment accept or reject the U.N. Secretary General's 1998 deal with Saddam Hussein to leave huge swaths of Iraqi territory under separate rules? Does the amendment take a position on the need to interview Iraqi scientists outside of Saddam's control—and with their families so the regime cannot hold them hostage?

The Levin amendment is silent about many issues raised in U.N. Security Council resolutions—issues that the U.N. Security Council may see fit to address in the future as they have in the past: support for terrorism; threatening conventional military moves against Kuwait, and protection of the Iraqi people from Saddam's tyranny. Each of these has been addressed by U.N. Security Council resolutions in the past. Each of these has been addressed by the United States in the past. Why are they ignored in the Levin amendment.

Even more troubling is the narrow authorization for the use of force in the Levin amendment. Right now, American and British pilots are risking their lives enforcing the northern and southern no fly zones in Iraq. They are being shot at. They are defending themselves by attacking Iraqi radar and SAM sites that target them. These zones were erected to prevent Saddam from continuing to slaughter the Iraqi people—not to engage in search and destroy mission for weapons of mass destruction. They are authorized by U.N. Security Council Resolution 688, passed on April 5, 1991. By omitting any reference to the ongoing Operation Northern Watch and Operation Southern Watch, one could construe the Levin amendment to not authorizing no fly zone enforcement. I am sure that is not its intent, but it could be its effect.

The same is true of U.N. Security Council Resolution 949, passed on October 15, 1994, which prohibits Saddam from reinforcing his conventional forces in southern Iraq. This resolution was necessitated by Saddam's massing of thousands of troops—including at least two Republican Guard divisions—near the Iraq-Kuwait border. By limiting the authorization to only weapons of mass destruction, the Levin amendment's silence on the conventional threat to Kuwait could send the wrong signal to Iraq and undermine existing U.N. Security Council resolutions. Again, I am sure that is not its intent but it may be the effect.

Finally, there is the issue of what to do if the U.N. Security Council does not act. It may be, at the end of the day, that the individual nations making decisions in the U.N. Security Council do not agree with the compelling case that President Bush has laid out. It may be that they will decide that U.N. Security Council resolutions are not to be enforced, that the worst violator of U.N. Security Council resolutions should not be confronted. It may be that other nations choose to appease, accommodate, or ignore the clear and present danger posed by Iraq. Under the Levin amendment, what is the United States to do if the U.N. proves to be as unable to deal with Iraq as it was to deal with genocide in Rwanda and mass murder in Bosnia committed under the nose of U.N. peacekeepers?

Under the Levin amendment, Congress would reconvene to ''consider promptly proposals relative to Iraq if in the judgment of the President, the U.N. Security Council fails to adopt or enforce the resolution'' called for in the amendment. It is not sufficient to claim the Levin amendment affirms the U.S. right of self-defense and, therefore, there is not U.N. veto. If the U.N. vetoes action on Iraq, Congress will come back to ''consider proposals.'' Why? Why should we not decide now about the issue? Why should we wait and see?

Does the Senator believe the administration is pursuing the wrong resolution in New York? If he does, he should say so. Does the Senator believe the administration is not seriously committed to pursuing a resolution? If he does he should say so. But if he believes the U.S. is seriously pursuing a serious resolution in New York, there is no need for this amendment. Unless he wants to grant bargaining power to those who oppose the U.S. position in the U.N. or unless he disagrees with the U.S. position, there is not need for his amendment. The diplomatic process will continue. We may succeed. We may fail. But I believe we have enough information to act now. I believe we do not need to wait for the U.N. to act. I believe that even if the U.N. does not act, America should—as we did in Kosovo in 1999.

The case of NATO's preventive attack in Kosovo is instructive. I supported the NATO intervention. It was an intervention designed to stop ethnic cleansing and mass murder by a government against its own people. Milosevic had no weapons of mass destruction. The threat he posed was to citizens in his country, not his neighbors. In Kosovo, the U.N. Security Council could not pass a resolution because of Russian opposition. Yet NATO, under U.S. leadership acted. Indeed, in 1998, Senator LEVIN noted with approval the Administration's position ''that the Security Council's authorization was desirable but not required for NATO action to intervene in Kosovo.'' Remarks on the Senate floor, July 8, 1998. This was 8 months before hostilities began. This was before any serious effort had been made at the U.N. This was before any veto was cast. It seems to me that if my distinguished colleague from Michigan could reach that kind of judgment that far in advance concerning the use of force against a far less threatening adversary, he should be able to do the same today.

In summary, the Levin amendment sends the wrong signal at the wrong time. It could give a green light to Saddam to repress his own people or use conventional forces to Kuwait while giving a red light to our diplomatic efforts at the U.N. This body should allow the executive branch the leeway to conduct diplomacy at the U.N.—not try to micromange it from the Senate floor. I urge the rejection of the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Michigan.

Mr. LEVIN. Madam President, I will yield myself 30 seconds to, first of all, assure my good friend from Arizona that my amendment means what it says, that we reserve the right of self-defense at all times. There is no ceding of our security policy to the United Nations. We are very explicit on that.

If I could also point out to my friend from Arizona, back in the gulf war time—and I will yield myself 30 additional seconds—the exact authorization in the gulf war was: The President is authorized, subject to such and such section, to use the Armed Forces of the United States pursuant to United Nations Security Council resolutions.

And my friend from Arizona said at that time: I think we should get approval from the United Nations to use force, if necessary. And we should then, and if it could be done shortly, get approval from Congress to use force, if necessary.

I am not suggesting—I am not suggesting—nor did I suggest then that the Senator from Arizona was ceding the policy of the United States to the United Nations just because he wanted to go to the United Nations first before we voted to get authority from the United Nations. I never suggested that because it was not true. He would never cede authority over our security policy to the United Nations, nor would I, nor would any Member of this

body, nor does the resolution on which we are going to vote.

I yield 3 minutes to our friend from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I commend again the able Senator from Michigan for this proposal that he has before us. The strength of the proposal, and the care with which it has been crafted, is made manifest by the tortured argument of the Senators from Connecticut and Arizona against his resolution. They are in a convoluted posture to try to misinterpret this in order to try to make an argument against it. It is just incredible what has happened. We need some intellectual integrity here as we deal with this issue.

Let me ask the Senator from Michigan if he would answer a question or two.

The Senator from Connecticut said earlier that you were precluding the use of military force to exercise our inherent right of self-defense because we would have to have a United Nations resolution before, as I understand—before—we could exercise such force.

I read in your resolution a specific affirmation under international law of our inherent right to use military force; is that right?

Mr. LEVIN. The Senator is correct. It specifically ''affirms that . . . the United States has at all times the inherent right to use military force in self-defense.'' It explicitly preserves that right.

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

Mr. SARBANES. On your time.

Mr. LIEBERMAN. Is there time remaining, I ask the Senator from Arizona—the Senator from Virginia?

Mr. WARNER. Yes. Madam President, may I inquire as to the remaining time of the Senator from Arizona?

The PRESIDING OFFICER. The Senator from Arizona has 3 minutes remaining.

Mr. WARNER. Three minutes. And for the Senator from Virginia?

The PRESIDING OFFICER. The Senator from Virginia has 3 ½ minutes.

Mr. BIDEN. Parliamentary inquiry, Madam President: How much time is under my control?

The PRESIDING OFFICER. Fifteen minutes.

Mr. BIDEN. Madam President, I would be happy to yield time for the Senator to respond.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Senator from Delaware very much.

I want to ask my friend from Michigan or my friend from Maryland to explain how you relate two parts of the Levin amendment. One, yes, does say you affirm the right of the U.S. to self-defense, but then, two sections lower, it seems to me, you cut a very big exception, and you say ''pursuant.'' And because you say ''pursuant,'' I assume it means only pursuant to a U.N. Security Council resolution can the President authorize the use of ''the Armed Forces of the United States to destroy, remove, or render harmless Iraq's weapons of mass destruction, nuclear weapons-usable material, ballistics missiles . . . and related facilities. . . .''

So it is one thing to affirm the general right of self-defense, but then the amendment takes it away with regard to what we all acknowledge is the most serious threat that Iraq constitutes to the U.S., which is weapons of mass destruction.

Mr. SARBANES. The Senator did this last night, and he is doing it again today. He has inserted into the authorization to use force pursuant to a U.N. resolution the word ''only.'' The word ''only'' is not there. These are two separate sections. One provides an authority under a U.N. resolution; the other preserves the inherent right of military—I want to say to my good friend from Connecticut, it is painful to me to see a former able and distinguished attorney general of the State of Connecticut twist and turn to try to do this, what he is trying to do, to the very well-crafted amendment of the Senator from Michigan. It is painful. It is painful to see this.

Mr. LIEBERMAN. Well, let me relieve you of your pain.

Mr. SARBANES. Will you withdraw the use of the word ''only''?

Mr. LIEBERMAN. This comes directly from my experience as an attorney and attorney general. If you are saying ''pursuant,'' how else—I ask the Senator from Michigan, do you believe, under your amendment, and if there is no resolution of the United Nations regarding destruction of weapons of mass destruction of Iraq, that the President could authorize the use of force?

Mr. SARBANES. Of course.

Mr. LEVIN. Of course he could. Pursuant to——

Mr. LIEBERMAN. Then why require that the President come back a second time to seek such authorization?

Mr. LEVIN. Because we are explicitly saying, pursuant to the right of self-defense, he may always, at any time, without authority from anybody. But the United Nations——

The PRESIDING OFFICER. The 3 minutes yielded to the Senator from Maryland has expired.

Mr. LEVIN. I wonder if the Senator from Delaware would yield a couple minutes for me to answer.

Mr. BIDEN. I am happy to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. This is a grant of authority. The word ''only'' is not in there. The Senator from Connecticut sought to add it last night.

Mr. SARBANES. And again here.

Mr. LIEBERMAN. And I am adding it——

Mr. LEVIN. If I could finish my answer, when the Senator from Connecticut, in 1991, introduced and supported a resolution, which passed this Congress in a close vote—and the Senator from Connecticut was a leader in that effort; and I commend him for it—the resolution relative to the gulf war said:

> The President is authorized subject to this subsection to use U.S. Armed Forces pursuant to United Nations Security Council Resolution 678.

Did that mean because that grant of authority pursuant to a U.N. resolution was present, that the President could not operate in self-defense? Did you, somehow or other, by granting that right intend to eliminate the right of this Nation to act in self-defense? I know the answer is no. I know the answer is no.

Yet in our resolution, when we explicitly preserve that right, somehow or other the Senator from Connecticut is finding it inconsistent with the pursuant grant.

Mr. LIEBERMAN. Since the Senator from Maryland has questioned my legal capacity, I want to——

Mr. SARBANES. I said it just pained me to see it at work here on the floor.

Mr. LIEBERMAN. I want to assure the Senator from Maryland——

The PRESIDING OFFICER. Who yields time at this point?

Mr. BIDEN. Madam President, how much time is under the control of the Senator from Delaware?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. LIEBERMAN. I will bring this to a close.

Mr. BIDEN. Madam President, I will yield 2 more minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I want to assure the Senator from Maryland this is not a tactic. I am genuinely puzzled, for two reasons.

You give the grant of authority, and then you say ''pursuant.'' It seems to me logical the grant of self-defense, and then you spell out that pursuant to only a U.N. resolution can the President use the Armed Forces. But then here is the second. Only——

Mr. LEVIN. Only?

Mr. SARBANES. Where is the word ''only''?

If the Senator will yield to me, I think the Senator——

Mr. LIEBERMAN. No. I think I will just finish because I am taking Senator BIDEN's time.

I am reassured but still puzzled about why you then have the second part of your amendment, I say to Senator LEVIN. And it is this: If you believe you are not saying the ''only'' way the President can use America's military forces to disarm Iraq, then why do you require a return to the Congress for that authorization later?

It seems to me your affirmation of self-defense is very broad, and in spelling out the pursuant clause, you are limiting it. If you are not, then your language is effectively a nullity.

Mr. LEVIN. It is a very significant section. What it says is, if the President does not get the resolution and if he cannot act in self-defense because the threat is not imminent, then he would come back to this Congress to seek unilateral authority. What the President has done is laid out a course of action which says even though the threat is not imminent, the President wants the authority to use unilateral action.

As a matter of fact, the amendment which will be offered later on today by Senator DURBIN will add the word ''imminent.'' I am quite sure the administration and the sponsors of the underlying amendment are going to fight very hard against adding that word ''imminent'' which has always, under international law, been required in order to attack based on a theory of self-defense.

So all our language does is protect the opportunity for the President, in the absence of a threat which rises to self-defense, an imminent threat which would justify self-defense, in the absence of a U.N. resolution, it specifically says, we are not going to adjourn sine die. This is too important.

If there is no threat that is imminent, if the U.N. does not act pursuant to this resolution, we would say to the President, we will come back to consider a unilateral authority. You don't need it, if it is self-defense. You don't need it, if the U.N. acts. But if it is not an imminent threat and the U.N. does not act, then we will be here to consider that request.

Mr. LIEBERMAN. I thank my friend. This exchange has clarified for me the intentions of the amendment. If I may briefly state it, you are saying the President can only take—forgive me for using the word ''only,'' but I will clarify it—action against, can only use the Armed Forces of the U.S. to take action against the weapons of mass destruction in Iraq without a U.N. resolution if he determines the threat from those weapons is imminent.

Mr. LEVIN. Is not imminent.

Mr. LIEBERMAN. If he determines the threat is not imminent, then he cannot take action against those weapons without the U.N. resolution, unless he returns to the Senate.

Mr. LEVIN. We are not saying what he cannot do here. This is an authority, if I may repeat.

I assume this is coming out of the time of the Senator from Delaware; is that correct?

The PRESIDING OFFICER. Yes.

Mr. BIDEN. Then I will not yield any more time. How much time do I have?

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. If I may, how much time remains under my control?

The PRESIDING OFFICER. The Senator has 9 minutes.

Mr. BIDEN. I yield another 2 minutes to the Senator to finish his answer, but then I would want to speak briefly to this, if I may.

Mr. LEVIN. If I could complete that thought, this is a grant of authority. It is not a limitation of authority. That is a critical difference which, as lawyers, I think we understand. We are not saying what the President cannot do. We are saying nothing in here is in any way affecting the inherent right of self-defense. We are reiterating the inherent right of self-defense to avoid the kind of argument the Senator from Connecticut is now making, to preclude the argument. It has not worked. The Senator from Connecticut is still making the argument. But to make it clear that in no way are we affecting the inherent right of self-defense, we reiterated that right.

Secondly, there is a grant of authority to act pursuant to a U.N. resolution.

The PRESIDING OFFICER. The Senator has used an additional minute.

Mr. LEVIN. Could I have 30 seconds?

Mr. BIDEN. Sure.

Mr. LEVIN. If there is neither an imminent threat, which has been the traditional definition of self-defense, if there is neither a threat which is imminent, which would justify traditionally acting in self-defense, or if there is not a U.N. resolution authorizing member states to use force to go with those weapons of mass destruction, then we are saying we will be in session to consider a Presidential request.

The PRESIDING OFFICER. The additional time has been used.

Mr. SARBANES. Will the Senator yield me 10 seconds?

Mr. BIDEN. Madam President, I yield myself 3 minutes of the remaining 9 minutes I have, and I yield 10 seconds of that to my friend from Maryland.

Mr. SARBANES. I thank the Senator from Delaware.

I strongly commend the Senator from Michigan for how carefully thought-out and reasoned and constructive his amendment is, as was just reflected in the exchange which he had with the Senator from Connecticut.

Obviously, this amendment, which is before us and which I support, has been very carefully thought through to deal with all these eventualities. I commend the Senator from Michigan for it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I rise to explain why three brilliant lawyers can be all right at the same time—because they all started from a different premise, part of the confusion for the debate that listeners will find on the floor.

I join my friend from Arizona and my friend from Virginia in being opposed to this amendment, but for reasons different than theirs. Let me try to explain as briefly as I can.

The point about whether or not there needs to be an imminent threat to justify the President taking action is what is at stake. I am of the school that suggests the President need not, if the underlying amendment passes, have to show there is an imminent threat. He is enforcing a peace agreement in effect. He is enforcing, not preempting. And he is not responding to imminent threat.

I do not believe there is an imminent threat in the next day or two or week or a month. The reason why I oppose my friend from the State of Michigan is because I believe there is an inevitable threat. We are either going to have to react, if not tomorrow, we will have to in the next 5 years. If this man is unfettered, with $2 billion per year in revenues, on the course he is on, I guarantee you, we will be responding. I guarantee you, we will.

Is it imminent now? No. Is al-Qaida involved now? No. Is all this talk about the likelihood of cooperation with terrorist groups a real immediate threat? No. I don't believe any of that now. But I do know we are going to have to address it. So the question is, do we address it now or do we wait a year or two or three.

The reason I oppose the amendment of my friend from Michigan is because the basic premise upon which I began is consistent with where my friend from Connecticut began, and that is the threat need not be imminent for us to take action. That is because we would be enforcing Security Council resolutions. That is authority we are about to delegate to the President.

I can understand why my friend from Maryland is upset about the way it is characterized by the Senator from Connecticut.

The bottom line is I believe if, in fact, we do not get a U.N. resolution, we are in a position we were in with regard to Kosovo. My friend from Arizona and I stood shoulder to shoulder on Kosovo trying to encourage the previous President of the United States to use force against the Serbs in Kosovo. I will submit for the RECORD at the appropriate time, after we had gone through an effort to get the U.N. to support it. The U.N. would not support it. And then we went.

The bottom line was, the Senator from Arizona and I felt strongly we had to go. We had to move. Were the Serbs an imminent threat to the United States of America? No. Was it a threat to our security interests? Yes. The stabilization of southeastern Europe. And so I think part of the thing that confuses people here—anyone listening to the debate, myself included, as part of the debate—is this notion of the place from which you began.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, I rise to briefly comment on Senator LEVIN's alternative proposal relating to Iraq. Some of my colleagues for whom I have tremendous respect have tried to address the fact that the administration's proposal is simply not good enough by emphasizing the desirability of a United Nations resolution, thus transforming this dangerous unilateral proposal into an internationally sanctioned multilateral mission. But while I recognize that international support

is a crucial ingredient in any recipe for addressing the weapons of mass destruction threat in Iraq without undercutting the fight against terrorism, I will not and cannot support any effort to give the United Nations Security Council Congress's proxy in deciding whether or not to send American men and women into combat in Iraq. No Security Council vote can answer my questions about plans for securing WMD or American responsibilities in the wake of an invasion of Iraq. It is for this reason that I must oppose the proposal of the distinguished Senator from Michigan.

Mr. CORZINE. Mr. President, I rise in support of the Levin amendment to the underlying resolution and am proud to be counted as a cosponsor. I believe Senator LEVIN's legislation represents a rational and measured approach to military action against Iraq's tyrannical regime.

The Levin amendment emphasizes the importance of multilateralism and understands that the cooperation of the world community is an important component of American success in disarming Iraq and in Iraq's eventual reconstruction. As I said in my statement last night, if the world community is not with us when we take off, it will be hard to ask for their help when we land.

Although the administration at times appears to believe otherwise, multilateralism is not an unnecessary inconvenience, but an important precondition for success not just for actions to disarm Iraq but more importantly is prosecuting our war on terrorism. We rely on other countries for logistics, intelligence, and overflight rights. We have called on other countries to help cover the costs of previous military engagements. And we rely on other countries to provide peacekeepers to help restore law and order around the globe, including most recently in Afghanistan. And we most certainly depend on the 90-odd countries in our global coalition to combat terrorism at home in the post 9–11 government.

However, if we adopt a unilateral approach, we undermine cooperation of the world community we have so often enjoyed.

Furthermore, the Levin amendment wisely stops short of codifying the Bush preemption doctrine, a dangerous and reckless new development in American foreign policy.

Many countries have adversaries who they believe present continuing threats, maybe even imminent threats, to their security. If we establish a precedent of preemption, how in the future can we criticize Russia for attacking Georgia, stop India from taking action against Pakistan, or oppose a Chinese invasion of Taiwan in the court of world public opinion.

Nothing in the Levin amendment precludes unilateral action by the United States in self-defense where imminent and immediate threats exist. And nothing in the Levin amendment prevents the Congress from authorizing force at a later date if the U.N. does not take action.

I urge my colleagues to support the Levin amendment. I believe that it presents an excellent balance between the desire to contain and eliminate potential threats to American interests while demonstrating leadership in the post-cold-war world, and the value of devising a multilateral approach.

Thank you and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I believe I have 3 minutes remaining. In all due respect to the Senator from Michigan, as Paul Harvey would say, ''Let's hear the rest of the story.'' The reason I said in 1991 that the U.N. Security Council should approve it is because the U.N. Security Council had already acted and approved. Never, at any time in my entire history, would I believe we are dependent upon the good will or the approval or disapproval of the U.N. Security Council. So I resent, slightly, the Senator from Michigan taking me out of context there.

The fact is, in Kosovo, if we took the same course of action the Senator from Michigan is contemplating now, when butchery and genocide was going on there, we would have waited until the Security Council acted, or didn't act, and then we would have gone back into session to determine what we should do about Kosovo.

How many thousands of people would have been murdered, butchered, and ethnically cleansed had we taken the same route that the Senator from Michigan is advocating on this issue, as far as Iraq is concerned?

All I have to say about this amendment is—well, you can just read it:

> . . . will not adjourn sine die and will return to session at any time before the next Congress convenes—

Et cetera, et cetera. If that isn't a dictate by the action of the U.N. Security Council, nothing is.

We have come a long way. John F. Kennedy, on October 22, 1962, said this:

> This Nation is prepared to present its case against the Soviet threat to peace and our own proposals for a peaceful world at any time, and in any forum, in the Organization of American States, in the United Nations, or in any other meeting that could be useful, without limiting our freedom of action.

The Levin amendment limits our freedom of action and contradicts the words of John F. Kennedy at the time of the Cuban missile crisis.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Madam President, I yield 6 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise to express my support for a resolution authorizing the use of force against Iraq. I do so with two cardinal prerequisites: first, that all possible means be exhausted short of war to enforce United Nations resolutions concerning Iraq and, second, that any attack against Iraq take place as part of an international coalition. That is why I am pleased to cosponsor the amendment offered by my colleague from Michigan, Mr. LEVIN, the Chairman of the Armed Services Committee.

Before the United States wages war against Iraq, President Bush and the Congress owe it to the young Americans who face death or injury in that conflict to ensure that every effort has been made to obtain our ends without endangering them. Every ounce of preparation must be taken to ensure a swift and efficient outcome should war become necessary. As another President, Herbert Hoover, once said, ''Older men declare war. But it is youth that must fight and die.'' The burden is on our leaders to justify why young men and women need to risk their future now.

Defense analysts suggest that anywhere from 100,000 to 400,000 troops will be necessary for an attack. There are already approximately 75,000 Reservists and National Guard troops on active duty, and even more may be needed to deal with the conflict in Iraq and Afghanistan while not degrading military missions elsewhere in the world. An occupation force in Iraq might require at least 75,000 troops plus a civilian counterpart to the military presence. The Congressional Budget Office estimates that the war will cost between $6 billion to $9 billion a month on top of an initial deployment cost of $9 billion to $13 billion and that an occupation force would cost $1 billion to $4 billion per month. Remember in the first Persian Gulf War, it was our allies who paid for the war. The cost of the war this time will be borne largely by the American treasury, unless we are supported by an international coalition. With a battered economy, it will be difficult to fund two wars at once for an indefinite period of time. Already our funds are stretched. The head of the U.S. Special Operations Command has indicated that he requires an additional $23 billion over the next 5 years to maintain his global responsibilities.

The need to justify such a course of action is particularly critical in the case of Iraq as President Bush is advocating a preemptive strike against a potential threat to the American homeland. Traditionally, America has never sought war by striking first nor has America eagerly sought foreign entanglements. This would be a preemptive war and one in which we could have few allies. Not since the Spanish-American War would the United States be fighting a war so far from our borders with so few friends.

As we consider this war, we must also consider the implications of what we are doing. Saddam Hussein is not the only dictator who oppresses his people, attacks his neighbors, and is developing weapons of mass destruction (WMD). North Korea's Kim Jong Il,

Libya's Muammar Qadhafi, Iran's Ayatollah Khamenei, Syria's Bashar al-Asad, and others, all pose threats or have posed threats to American interests. All are known for their human rights abuses.

American troops stand eye to eye with North Korean troops on the DMZ. Libyan agents blew up an American commercial aircraft; Iran has imprisoned American diplomats; and Syria has supported terrorist groups who have attacked and murdered Americans. All have or are developing weapons of mass destruction, including nuclear weapons and missiles to deliver them. Some of these countries may already have nuclear weapons. Some have attacked—directly or indirectly through support for terrorist groups—their neighbors. In the case of Iran, recent reports indicate that it is sheltering and assisting al-Qaida leaders.

In the case of other countries, we are working diligently, through bilateral and multilateral diplomacy, to constrain their efforts to develop weapons of mass destruction. However, in regard to Iraq, the President argues that Saddam poses a unique threat. His argument is convincing concerning the extent of devastation that Saddam has wreaked on his own people and his neighbors. He is truly, as the President notes, a ''homicidal dictator,'' but he is not the only dictator addicted to developing weapons of mass destruction. Nor is the policy solely a choice between invading Iraq or standing hopelessly by while Saddam becomes ever stronger. Since the Persian Gulf War, we and our allies have worked to make Saddam weaker and, according to all reports, including that of our own military, Saddam's military capability is much less now than it was in 1991.

Congressional testimony, reports by the intelligence community and outside analysts, state that Iraq's WMD capability is much less now than it was before the Gulf War. A recent CIA public report states that Iraq's chemical weapons capability ''is probably more limited now than it was at the time of the Gulf war . . . '' Although it is probable that Iraq's biological weapons program is more advanced than it was before the war, its delivery capability, according to the respected London-based International Institute for Strategic Studies, ''appears limited.''

I agree that we must neutralize Iraq's WMD threat. The question is how to do that most effectively while minimizing the loss in American lives. The argument that an inspection system cannot guarantee the elimination of Iraq's WMD program is certainly true but misses the point. There are few absolutes in this world. Defense Secretary Rumsfeld insists that we need American troops on the ground, rummaging through every Iraqi nook and cranny for evidence of WMD. Even with our troops doing so, there would be no guarantee that every item would be uncovered or how long it would take. We are still finding traces of chemical weapons left over from World War I in the backyards of homes in Washington, D.C. Nor have our troops in Afghanistan, despite heroic efforts, been able to eradicate every al-Qaida operative.

But what aggressive inspections can do is destabilize the Iraqi WMD program, keep it bottled up, frustrate efforts at gaining new technologies and additional supplies, and force Iraqi technicians to hide and keep moving constantly. It will not be disarmament, but, if implemented effectively, it will be dismemberment of the Iraqi WMD program, splitting it in parts and preventing it from becoming whole.

A new inspection regime has to be very aggressive, receive considerable support from the United States and its allies, have a fixed set of dates for marking compliance, and be backed by the threat of war. Iraq's record of evading inspections is well documented. Benchmarks for compliance will remove wiggle room for countries who argue for a softening of sanctions provisions. Putting in place an aggressive new inspection regime is not an insubstantial achievement, and it does not undermine necessary preparations to develop an effective war-fighting strategy and strengthen international backing for a conflict.

Defense Secretary Rumsfeld and others in the administration tell us that time is not on our side. But we must make the time to ensure that we minimize American casualties. Time is not on Saddam Hussein's side either. Our patience has been exhausted and a new U.N. resolution must be firm in its deadlines. Some in the Administration believe Saddam's hold on those responsible for guarding him is so tenuous that in the event of an attack, they will turn on him and overthrow him.

The current discussion about Iraq has obscured the successes of American policy toward Iraq. A recent Congressional Research Service report by its distinguished Middle East expert, Kenneth Katzman, observes, the United States ''has largely succeeded in preventing Iraq from reemerging as an immediate strategic threat to the region.'' A British Government intelligence report notes that the ''success of U.N. restrictions means the development of new longer-range missiles is likely to be a slow process.''

If war becomes inevitable because Iraq refuses to give inspectors the liberty they need to perform their mission, then the United States must have an effective military strategy for fighting a war.

Great uncertainty surrounds the President's post-war strategy. Remember the day the war ends, Iraq becomes our responsibility, our problem. The United States lacks strategic planning for a post-conflict situation. Retired General George Joulwan recently said that the U.S. needs ''to organize for the peace'' and design now a strategy with ''clear goals, milestones, objectives.'' General Joulwan argues we did not have such a plan for Bosnia and we are late to develop one in Afghanistan. Our objectives in Iraq have not yet been made clear: is it our goal to occupy Baghdad and if so, for how long? A rush to battle without a strategy to win the peace is folly.

General Hoar observed that ''there has been scant discussion about what will take place after a successful military campaign against Iraq. The term ''regime change'' does not adequately describe the concept of what we expect to achieve as a result of a military campaign in Iraq. One would ask the question, ''Are we willing to spend the time and treasure to rebuild Iraq and its institution after fighting, if we go it alone during a military campaign? Who will provide the troops, the policemen, the economists, the politicians, the judicial advisors to start Iraq on the road to democracy? Or are we going to turn the country over to another thug, who swears fealty to the United States?''

As General Shalikashvili stated in testimony before the Armed Services Committee, ''we were very fortunate in Afghanistan that in fact a government, interim government, emerged that seemed to have a modicum of support from its people. . . . We should not count on being lucky twice.'' Nor can we count on Iraq's oil funding reconstruction if wellheads are blown up as they were by retreating Iraqi forces in Kuwait.

Experts indicate that American troops will need to remain inside Iraq for many years in order to ensure stability. Iraq will require extensive economic assistance. As the current situation in Afghanistan indicates, the process of restoring viability to a nation—nation-building—after years of repression is a difficult one and made more difficult by the inability of other nations to sustain their support in the effort. Violent attacks are on the increase in Afghanistan. Afghan officials have received only about half of the $1.8 billion in aid promised last January. A study by the Army's Center of Military History has concluded that we would need to commit 300,000 peacekeeping troops in Afghanistan and 100,000 in Iraq if we are to have an impact comparable to that which we had in reconstructing Japan and Germany after the war.

The consequences of a long-term American occupation of Iraq needs to be carefully weighed. Anthony Cordesman, an analyst with the Center for Strategic and International Studies, has observed, ''there has been a 'deafening silence' from the Administration about how Iraq will be run after Hussein.'' Historically, the United States has had a poor record in the Middle East. We supported Iraq in its war against Iran.

Nor does eliminating Saddam necessarily mean that the Iraqi people will welcome American occupiers or that they will have democratic leaders to govern. Secretary Rumsfeld asserts that he trusts the Iraqi people will be

inspired to form a new government. But can we be assured that it would be a democratic government or a democratic government that is pro-American? Can we be assured that the new regime will be committed to getting rid of Iraq's weapons of mass destruction, especially as Iraq's traditional adversary, Iran, has an even more advanced program of weapons of mass destruction?

Even though our military forces may be equipped to fight a war in Iraq and a war on terrorism in Afghanistan, there is a significant price to be paid. In his testimony before the Senate Armed Services Committee, General Richard Myers, Chairman of the Joint Chiefs, noted that certain unique units, such as intelligence platforms, command and control assets, and Special Operations Forces would need to be prioritized if the war on terrorism expanded. Richard Solomon, former Assistant Secretary of State in the first Bush Administration, refers to the ''danger of over-stretch'' in which the United States assets are deployed in multiple nation-building enterprises and are not able to respond if another crisis erupts.

All of these concerns point to the importance of international support as a critical ingredient of both our war-fighting and our peace-making strategy. Without the imprimatur of the international community, the President's war will be seen as a private vendetta by the United States.

The President was right to frame his speech at the United Nations in the context of restoring credibility to the United Nations through enforcement of its resolutions. This is the essential context of this conflict but it can be validated as such only if the international community joins it. Regional support will provide an allied force with the forward basing needed to mount a large-scale attack. Right now no country in the region contiguous to Iraq is volunteering to host American troops in a war. International support will help dampen hostility toward the United States by the peoples of the region and help build support among the Iraqi people. International support for the post-war, peace-making phase of the operation will reduce the American military's footprint and decrease the need for American financial resources. Secretary Rumsfeld has testified that the United Nations or an international coalition will run Iraq after Saddam. For that to be the case, the United Nations or some ad hoc international coalition will have to be formed before the war.

The President also must ensure our troops are properly prepared. Recently, the Pentagon's Deputy Assistant Secretary for Chemical and Biological Defense stated that American troops are not ''fully equipped and prepared'' against a bio-chem attack. Decontamination shelters are reported to be in short supply as is the decontaminant foam used to clean up following an attack. The General Accounting Office recently testified that 250,000 defective protective suits against a chemical or biological attack cannot be located and may remain in current Pentagon inventories.

We must take the threat of an Iraqi chemical or biological attack very seriously. According to the British Government's White Paper on Iraq, Iraq chemical weapons caused over 20,000 casualties in the Iran-Iraq War. Iraq used sprayers, bombs, artillery rockets, and artillery shells to deliver these weapons. Thousands of rockets and artillery shells filled with chemical weapons remain hidden in Iraq's arsenal.

Haste makes waste, affirms the adage, and in this case, haste means a waste of American lives. We may have an all-volunteer force but they are not mercenaries; they are citizen-soldiers and we owe it to each and every one of them and their families to proceed carefully when endangering their lives. Preparation is not the same as procrastination.

Constituent opinion in my home state is running strongly against any authorization of the use of force against Iraq. The President and his Administration need to make a clear and compelling case to the American people and to our allies abroad as to why this confrontation is necessary now.

For that reason, Mr. President, I support efforts to frame a multilateral approach to rid Iraq of its weapons of mass destruction. I support action by the United Nations in the form of a resolution calling for unconditional and unfettered inspections in Iraq. Only after we exhaust all of our alternative means should we engage in the use of force, and before then, the President must ensure we have a strategy and plans in place for winning the war and building the peace.

I yield the floor.

Mr. BIDEN. Madam President, how much time do I control?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. BIDEN. Madam President, I yield myself the remainder of my time.

The reason to go to the U.N. Security Council does not relate to sovereignty, it relates to security, and the security of the United States based upon the notion the President of the United States has recognized when he said he thought it was necessary to go to the U.N. Security Council.

I think the arguments made against the first part of the Levin amendment are specious. Why did the President of the United States go to the Security Council? Was he yielding our sovereignty? No more than our friend from Michigan is ''yielding our sovereignty.''

The President went to the U.N. because, as one White House official said to me, he had to do so. Why? For our security interests. If we did not go to the U.N. Security Council and check off the blocks, the moment any force crossed into Iraq, we would find every U.S. embassy burned down in every Muslim country in the world. He went for security reasons.

My only disagreement with my friend from Michigan is I do not think we need a two-step process. We should go to the United Nations, and the President says we should go to the United Nations. We should seek the authority to enforce the inspectors in disarming weapons of mass destruction. And if he fails, my friend says come back and get authorization to proceed anyway. I am prepared to give him the authorization now. That is the only disagreement we have.

I would disagree with those who argue against my friend from Michigan saying that by his making this contingent of going to the United Nations first, he is in no way yielding to American sovereignty, any more than the President has.

In the underlying resolution, it requires the President, in effect, to go to the United Nations and exhaust all diplomacy.

Nobody has suggested the President of the United States has yielded our sovereignty. No one should suggest the Senator from Michigan is, either.

Mr. WARNER. Will the Senator yield for a brief question?

Mr. BIDEN. My time is up.

The PRESIDING OFFICER. The Senator has 20 seconds.

Mr. WARNER. The Senator raises a key point on which I was going to conclude, and that is, as we are debating, the Secretary of State is working before the U.N. Security Council.

Mr. BIDEN. Correct.

Mr. WARNER. He has made it clear to the Senator from Delaware, I am certain, as he has made it clear to me, that the two-step process will not achieve the goals a coalition of nations now working—Great Britain and the United States—desire to achieve; am I not correct?

Mr. BIDEN. Yes, with one caveat. He has expressed to me his ability to achieve a tough resolution would be enhanced by our not making it a two-step process. But he personally has told me and my committee he would consider and the President would consider a U.N. two-step process if they had to. The reason for my saying not two steps now is it strengthens his hand, in my view, to say to all the members of the Security Council: I just want you to know, if you do not give me something strong, I am already authorized, if you fail to do that, to use force against this fellow.

Mr. WARNER. That is right. Were we to act now, we would substantially reduce his leverage and ability.

Mr. BIDEN. In response, I cannot honestly say substantially reduce it. I think it will reduce it some. This resolution, for example, reduces the possibility of getting a strong response compared to what Lugar-Biden would have done. The truth is it is marginal. Everyone has to make their own judgment. I think it would reduce his ability. I would be hard pressed to say it

was substantial. He has a stronger hand having the authority granted to him after he exhausts the U.N. outcome to say to them: Look, if you do not give it to me, I now have the authority to move.

Mr. WARNER. I say, Madam President, the distinguished majority leader said Congress should speak with one voice. We have in our resolution—you recognize the problem of one body. This is a total substitute amendment. It strips out everything. As the Senator from Delaware knows, I say to the distinguished chairman, the Levin resolution just takes part of 687. It does not incorporate the previous resolutions, the 16 which we have time and again on this floor said Saddam Hussein has ignored.

I say to my friend, it is very important, as the leader said, that Congress speak with one voice, and the only way to do that is to retain our Lieberman-Warner-McCain-Bayh amendment and not have a substitute.

I yield the floor.

Mr. BIDEN. Madam President, I ask unanimous consent to proceed for 30 seconds.

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

Mr. BIDEN. Madam President, if the President attempts to take this Nation to war over Kuwaiti prisoners, I hope to God that is not what you all mean by this underlying provision. If this President attempts to take this Nation to war over return of Kuwaiti property, if this President attempts to take this Nation to war based on this authority for any reason—any reason—other than weapons of mass destruction, I will be on this floor every day taking issue with this President attempting to stop the war. I cannot fathom anyone suggesting that Kuwaiti prisoners warrant us going to war. This is about weapons of mass destruction, in this Senator's view.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Madam President, I totally reject there has been any inference on this side of such a nature, but we do incorporate in the preamble the other resolutions, and I think it important they be incorporated.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 15 seconds. There may not be an inference in their rhetoric, but there is more than an inference in the resolution they support. It says resolutions of the U.N. It identifies them all, including the one on Kuwaiti prisoners. I am afraid while they may want to ignore the language in their own resolution, that is more than an inference that is there; that is authorized there.

It is amazing to me that language is inserted into my resolution, which is not there, by the opponents of my resolution, while ignoring the language in their own resolution which is there.

I yield 3 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WARNER. Madam President, I should point out it also includes the return of an American prisoner, an accounting of him.

Mr. LEVIN. That part I support.

Mr. WARNER. Fine.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, the vote on the Levin substitute amendment is one of the most important votes we will cast in this process. I commend the Senator from Michigan for his fine work on this alternative. The Levin amendment urges the United Nations to take strong and immediate action to pass a resolution demanding unrestricted access for U.N. arms inspectors in Iraq. It also urges the United Nations to press for full enforcement of its prior resolutions on Iraq. The Levin substitute language makes it clear that the United States will stand behind the U.N. Security Council, even authorizing the use of U.S. military force to support the Security Council directives if necessary.

At the conclusion of World War II, the United States had a vision of a world body that would be a forum for resolving future disputes with means other than war. There were many important initiatives that needed multilateral coordination by an international body. For more than half a century, the United States has poured diplomatic energy and considerable resources into the United Nations system. During the cold war years, the U.N. languished, weakened by the divisive United States-Soviet confrontation. But following the demise of the Soviet Union, the United Nations has regained considerable authority, and as the world's lone superpower, the United States is now finding that it has considerable use for the United Nations.

Our decade-long struggle with Saddam Hussein is one example of how working with the United Nations serves our interests. We partnered with the United Nations very effectively during the Persian Gulf War. Sanctions have prevented any significant rebuilding of Iraq's conventional military capabilities. We maintain U.N. no-fly zones over Iraq that have restricted military reprisals against the Iraqi Kurds and Shiites. United Nations inspectors on the ground in Iraq learned a great deal about Iraq's weapons of mass destruction program immediately following the gulf war. But things fell apart in subsequent years.

Once again, we need a strong United Nations to step up to Saddam Hussein. The United Nations must take the lead in enforcing its demands that Iraq give up its biological and chemical weapons stockpiles and production capabilities. The United Nations also demanded that Iraq dismantle its nuclear weapons program. I am pleased that last month, President Bush decided to take his case against Saddam Hussein to the United Nations. The U.N. Security Council has responded with vigorous debate, and is considering a strong U.S. proposal for enforcement of a strict U.N. inspections regime. I urge the Security Council to act now, and act decisively.

The Levin amendment puts us squarely behind this United Nations effort. It is the only language that does so. It is critical that we give the U.N. our full support at this time, and give the Security Council the opportunity to take bold action as proposed by the United States. If we undercut the United Nations here today, we are depriving ourselves of the best chance to peacefully achieve the most important goal of disarming Saddam Hussein.

As the world's lone super power, we need a partner in the United Nations. Many of the critical tasks before us are actually international tasks. For instance, degradation of the environment is a global problem and requires a global solution. The crisis of climate change can hardly be addressed by the United States alone. Improving the quality of our water and air requires internationally coordinated efforts. Economic, employment and health problems are increasingly becoming global issues, as people move across national boundaries in search of jobs and opportunity. We need a strong partner in these efforts, and the United Nations system is our best hope.

We are becoming increasingly aware of the disparities in the economic wealth and use of resources around the globe. Addressing these problems will require a great deal of creative thinking and financial resources. While we are the world's strongest nation, we cannot solve these problems alone. Nor do we want to. We need a strong partner in this effort. A reinvigorated United Nations is the most likely venue for progress.

The spread of weapons of mass destruction has clearly become a threat to our national security. There is much more that the United States can do to stop this proliferation. But in order to have much success at these efforts, we must work in concert with the international community. We need a strong United Nations as a partner in this effort.

The effect of the Levin substitute is to give the United Nations a chance to prove it is up to the task. If we are to have a strong and effective partner in confronting the many problems facing the United States, then we must stand squarely behind the United Nations today. I urge my colleagues to support the Levin amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I rise in support of the Levin resolution. I salute my colleague from the State of

Michigan because I think what he has captured in this resolution is, frankly, what the American people believe.

There is no one in this Senate Chamber making apologies for Saddam Hussein or his weapons of mass destruction. There is no one who wants to ignore the peril which that man could pose to the Middle East or to the United States of America. But what Senator LEVIN is suggesting is, frankly, to follow what the President is suggesting.

On September 12, President Bush went to the United Nations and he said to them, if their organization means anything, then they have to stand up to this man. We have to have unconditional inspections. For 5 years we have been standing by the sidelines, and we want to know what is happening in Iraq.

Senator LEVIN says that is the first place we should go, and I agree with him. And it is not as if the United Nations has ignored this. Secretary of State Colin Powell, a man I respect very much—one of the leaders in this administration—has been in New York working with the United Nations for this resolution. That is the best course of action. To have the United Nations behind us, as President Bush's father had the United Nations behind him in the Persian Gulf war, to have a coalition of allies representing countries from all around the world; countries that have joined us in the war on terrorism would now join us in a meaningful inspection regime in Iraq. That is what Senator LEVIN suggests.

What a contrast it is from the President's own resolution. The President's resolution talks about continued discussion with the United Nations. But make no mistake, the President's resolution gives him unconditional, go-it-alone authority to launch a land invasion in Iraq with or without an ally. There is a world of difference between what Senator LEVIN and I support and what the President has asked for.

Doesn't it make more sense for us to work with the United Nations for unconditional inspections to make certain we have inspectors on the ground looking at every square inch of Iraq, and if there is resistance from Saddam Hussein, if he obstructs us, if he creates obstacles, we then have the force of the United Nations behind us in enforcement? We do not stand alone. We stand with other nations and with the United Nations. That is what President Bush's father did, and it was the right thing to do. That is what we should do because, frankly, bringing this force together is a validation of this organization, the United Nations, which the United States, as much as any other nation in the world, helped to create.

After World War II, we said: Let's come together in collective security to work together to solve the problems of the world and to deal with war and peace.

Time and again, in over 100 instances, the United Nations has risen to that challenge. We should give them that same opportunity and responsibility with the Levin resolution. That is the better course of action. As Senator LEVIN says clearly in his resolution, nothing in the resolution ever diminishes in any way whatsoever the power of the President of the United States to defend this country, its people, its territory, its Armed Forces, against any threat of aggression. That is part of what we expect of the Commander in Chief, the President, and Senator LEVIN preserves and protects that.

I urge my colleagues to support the Levin amendment. The Levin amendment is the best way for us to approach this challenge.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arizona has 1 minute.

Mr. MCCAIN. Madam President, I may be in the debate on the Durbin amendment. We can discuss the comparison between this situation and Kosovo. The United Nations Security Council never acted in Kosovo. The United States of America was not imminently threatened—was not threatened—but genocide was going on in Kosovo where thousands of people were being ethnically cleansed. If we had passed the Levin amendment at the time of Kosovo, when those of us supported then-President Clinton, we would have waited to find out whether the Security Council acted or not and then we would have come back and considered whether Kosovo was a threat to the United States of America. Kosovo is not today, was not then, and will not be tomorrow a threat, but the United States of America had an obligation, and because the United Nations Security Council did not act did not hamstring us.

The reading of this amendment says the Congress will come back into session in case of certain Security Council actions. There is no other way to read it. This amendment should be resoundingly defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan controls the remaining 5 minutes.

Mr. LEVIN. Madam President, that Saddam Hussein is a threat, must agree to inspections and be disarmed is something on which I hope we all agree. The only question here is: What is the best way to do that? Do we do that by going to the world community, as the President has, and saying we want the world community to enforce its resolution relative to weapons of mass destruction? And do we mean it? Do we go there, and are we serious when we say to them: We want you to act because it makes a difference, when force is used, as to whether or not it has the credibility and strength of the United Nations and the world community behind it? It makes a difference.

It did not make a difference in Kosovo. It makes a difference here. The ramifications of going it alone here are major. In the short term, our troops are going to be more in danger if we go it alone without the U.N. authorization.

We have been told by the Saudis and other countries we are not going to have access to their bases, their airspace, their support, unless there is a U.N. resolution. We have been informed of that.

We know that the war against terrorism can be weakened unless we act as a world community. We cannot act unilaterally and expect that other nations are going to join us in a war on terrorism the way they would if there were a U.N. resolution supporting it.

If we go it alone, there are both short-term risks as well as long-term risks. The long-term risks in going it alone are that without an imminent threat—if there is one, we can move in self-defense. No U.N. resolution is ever needed to act in self-defense. But to act without an imminent threat, to attack another nation, raises some significant precedent problems for other threatening parts of the world. India and Pakistan can easily say there is a continuing threat and use this kind of a precedent to justify attacking each other. That is not the kind of precedent we should set.

So there are real risks that we should recognize in using force unilaterally. We should see the advantage of doing this multilaterally with the support of the world community. We should go to the world community, focus all of our efforts there, and tell them we are serious.

We say we are. Let's mean it, not just say that we want them to be credible but mean it, and to tell them in advance: Oh, by the way, if you do not do it, we will anyway.

It takes them right off the hook. Instead of putting a focus on the need for world community action to authorize this action and the advantage of it, our focus becomes blurred. It is an inconsistent message to the world. Now it is a message of unilateralism. We say: We need you, but whether you do it or not, we are going it alone.

This resolution—and here I must say I agree with my friend from Arizona. He agrees with me that it would be better if we got authority from the U.N., and I am glad he does. And then when he says we must not delegate our security policy to the U.N., I agree with him. We never will; we never would. This resolution explicitly eliminates any such implication by the reiteration of the right to act in self-defense.

Mrs. BOXER. Will the Senator yield for a question?

Mr. LEVIN. I would be happy to yield for a question. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 50 seconds.

Mrs. BOXER. This is a quick question. Some of our colleagues on the other side have basically said the Senator is relying totally on the United

Nations. I have read the Senator's resolution over and over. He is so clear on the point that at any time the President can take action in self-defense and, in addition, at any time the President can come back and make the case for unilateral action. Am I correct on that reading, that at any time he can come back and answer the questions he has yet to answer and lay out what it would mean to us to go it alone? Is that correct?

Mr. LEVIN. The Senator is very much correct. I thank the Senator for the support and for her kind words earlier this afternoon.

Madam President, is there any time remaining?

The PRESIDING OFFICER. The Senator has 3 seconds.

Mr. LEVIN. I yield back the entire length of my remaining time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that I be allowed to speak.

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

Mr. REID. Madam President, my good friend, the senior Senator from Pennsylvania, has questioned some of the things I have done today. I am disappointed he feels that way.

Last night we worked for a long period of time. It was not a matter of minutes; it took a long time. The Senator from Virginia, the Senator from Arizona, the Senator from Connecticut, and others, including the people offering these amendments—I personally spent time on the phone calling Senators who had amendments. The result, after a long period of time, was that Senators who have amendments—Senator BOXER, Senator DURBIN, Senator LEVIN, Senator BYRD—we worked out an arrangement where they could offer their amendments. Senator DAYTON always was going to offer his amendment and he withdrew it and decided not to offer it. His was nongermane.

In an effort to get this done, we allowed some amendments to be voted on today that were nongermane. That is how compromises are made in legislation. As part of the deal, the Senators who had other amendments would withdraw those amendments. There was clearly never any question about that. It is in the RECORD last night, ''and they will offer no other amendments tomorrow.''

In the rush of things, they were not withdrawn last night. They should have been. They were not. Just like the problem we had with Senator BYRD today, he understood there was a unanimous consent request that had never been made that was in the RECORD.

First, we did not need consent to withdraw this. Every Senator had the right on their own to withdraw this. That is a right. They did not need unanimous consent.

My good friend who understands the rules as well as anyone here had the right at any time to file a first-degree amendment. For reasons he knows, he decided not to do so. He indicated he had second-degree amendments that he wanted to pin to some of the amendments, that the arrangements were made to not be part of the proceedings today.

I also say to my friend, the senior Senator from Pennsylvania, he said: Well, I will not agree to any of your unanimous consent requests.

I don't make unanimous consent requests for me. Rarely. I bet out of 100 unanimous consent requests, there is not three-tenths of 1 percent that I make for myself. I will try during this vote and the rest of the evening to see if we can work something out for the Senator from Pennsylvania that will satisfy him. We always try to do that. Both the majority and the minority floor staffs work very hard. We will try to do that. I don't want him upset and disappointed.

I want the RECORD to indicate that what they did last night was for the good of this body. We did our best. It may not have been a perfect arrangement, but I think it was fair. Senators were allowed to offer an amendment and in exchange for that they withdrew the others. Technically, they didn't do that last night. I didn't do it on their behalf. We did it this morning. It is done. That was the fair thing to do.

I repeat for the second time that I will be happy to work with the Senator from Pennsylvania to see if we can arrive at the conclusion he wants. We will see what we can do.

Mr. MCCAIN. Will the Senator yield?

Mr. REID. I would be happy to yield.

Mr. MCCAIN. Along with the Senator from Virginia, the Senator from West Virginia, and other Senators, negotiations were conducted in good faith, in fairness, with full consultation. Many, many Senators are unhappy that they were unable to perhaps propose more amendments or perhaps do other things.

I attest to the fact that the Senator from Nevada, fulfilling his duties of getting this legislation achieved with the consideration due every Senator, in my view, did a fair and unbiased job.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I associate myself with the——

Mr. SPECTER addressed the Chair.

Mr. WARNER. The leader is to be recognized.

The PRESIDING OFFICER. The Senator from Virginia is the manager and is recognized.

Mr. WARNER. I associate myself with the remarks of my colleague, Mr. MCCAIN. I attest to the accuracy of the statement the Senator made.

I further add that the distinguished Republican leader, Mr. LOTT, from time to time visited with the floor managers, so he, likewise, was very much aware of the procedures.

Mr. REID. I kept the majority leader advised of everything that we did.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to respond to the Senator from Nevada, over the Senator from Virginia, because what the Senator from Virginia has said and what the Senator from Arizona has said does not bear on this issue.

I am not upset. I think I have been treated unfairly. I did not offer a first-degree amendment to the so-called Biden-Lugar amendment because I had expected Senator BIDEN to offer that amendment. He did not do so up until 1 p.m. yesterday. Having found that out, I consulted with the Parliamentarian and found out that I could offer a second-degree amendment to some seven pending first-degree amendments. I worked it out very carefully and elaborately with the Parliamentarian this morning. The word was out that I was offering the Biden-Lugar amendment.

Other Members of the Senate from the other side of the aisle approached me, liked the fact I was doing it, and wanted an opportunity to vote on it. I got a call from a ranking member of the State Department saying the White House was concerned that I offered the amendment. The word was out that I had moved ahead to offer the Biden-Lugar amendment as a second-degree amendment. I had done that because, after extensive conversations with Senator BIDEN last week, I had decided to cosponsor it. When it was not offered, I decided to offer it. I was under no illusion of its being successful. It seemed to me on a matter of this importance, going to war, that matter ought to be before the Senate. So I worked it out. When I walked off the floor, I was told by an aide that the Senator from Nevada had asked unanimous consent to withdraw not only the Levin amendment, the Durbin amendment, and the Boxer amendment, but also the Dayton amendment. That was done in my absence. I thought that was unfair. I approached the Senator from Nevada and said so. It seems to me that I ought to have an opportunity to offer that amendment.

Now, I read the RECORD from last night that is referred to with respect to three of the Senators, Senator LEVIN, Senator BOXER, and Senator DURBIN. Senator DAYTON is not mentioned. I know he has the right to withdraw the amendment. Senator DAYTON does not like the resolution. Perhaps he would not have. There is an issue as to whether Senator DAYTON's amendment was germane. I am advised by the Parliamentarian that my second-degree amendment being germane cures whatever infirmity there may be on the Dayton first-degree amendment.

I have been in this body for 22 years, and I do not think I have objected to any unanimous consent agreement. However, there are plenty of Senators who do. I am not talking about the percentage the Senator from Nevada offers on his own behalf. This is part of my

objection to the way this entire debate is being run. There is cloture filed. I understand the rules. Seventh-five Senators voted against it. I have already heard comments from some who voted against it who are sorry they did so.

We are about to go to war and a Senator does not have a right to offer an amendment. A unanimous consent agreement is asked in my absence and I do not think that is fair.

I yield the floor.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan, Mr. LEVIN.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 75, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—24

Akaka	Durbin	Levin
Bingaman	Feinstein	Mikulski
Boxer	Harkin	Reed
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Conrad	Kennedy	Stabenow
Corzine	Kohl	Wellstone
Dayton	Leahy	Wyden

NAYS—75

Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Biden	Fitzgerald	Murray
Bond	Frist	Nelson (FL)
Breaux	Graham	Nelson (NE)
Brownback	Gramm	Nickles
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Campbell	Hagel	Santorum
Cantwell	Hatch	Schumer
Carnahan	Helms	Sessions
Carper	Hollings	Shelby
Cleland	Hutchinson	Smith (NH)
Clinton	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Johnson	Specter
Craig	Kerry	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lieberman	Thurmond
Dodd	Lincoln	Torricelli
Domenici	Lott	Voinovich
Dorgan	Lugar	Warner

NOT VOTING—1

Bennett

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: It is the understanding of the Senator from Virginia that the Durbin amendment is next under the order.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. And will the Chair state the allocation of time?

The PRESIDING OFFICER. The Senator from Illinois controls 40 minutes; the Senator from Delaware, Mr. BIDEN, controls 10 minutes; and Senators WARNER and MCCAIN share 15 minutes.

Mr. WARNER. Mr. President, we are ready to proceed. I would like to just address the Senate momentarily, and I say to my distinguished friend and floor leader, that on this side, the following Senators have indicated a desire for some time to speak: Senator DEWINE, Senator COLLINS, Senator SPECTER, Senator SESSIONS, Senator ENSIGN, Senator SMITH, Senator MCCONNELL, Senator GRAMM, Senator FITZGERALD, and Senator SHELBY.

Now, we have progressed very well through this debate to allocate the speakers going from one side to the other. I would hope we could do that. And in due course we could work together, I say to my good friend, who has been so helpful to move this piece of legislation, to get a UC to put speakers in line so as to sequence the times so that Senators can go about their duties today on other matters more conveniently.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Virginia, we also have a list of people who want to speak. Under the rules, we have 30 hours postcloture. We have used some of that time today. We have 100 Senators. A number of Senators have already spoken. I have looked at our list. I heard the Senator briefly mention his list. I would hope those Senators who have already spoken would allow some who have not the opportunity to speak. But that is a personal choice they have to make.

During this next debate, I will be happy to direct our floor staff, as you will, to see if we can work out—I think if we do more than four at a time, it creates a problem. So we will work on that and see if we can come up with some speakers after we dispose of this next amendment.

Mr. WARNER. I thank the leader. So we shall work together.

Senator MCCAIN and I will require additional time on this side, both of us, to address various issues. Having managed the bill, there are areas of this debate we believe need to be put in the proper context in which questions arose and were answered.

Mr. REID. After the two leaders, you have the right of first recognition, so you would certainly be able to do that.

Mr. WARNER. If I understand, I say to my leader, following disposition of the Durbin amendment, the parliamentary situation is that we are now on the balance of the 30 hours remaining under cloture; am I correct?

Mr. REID. Since cloture was invoked this morning. I don't remember exactly when it was invoked.

Mr. WARNER. About 11:10 is my recollection.

Mr. REID. The 30 hours started running at that time.

The PRESIDING OFFICER. The time was 11:38 a.m.

Mr. WARNER. Just to inform Senators what the parliamentary situation is.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized to offer an amendment.

Mr. DURBIN. Mr. President, if I am not mistaken, the Senator from Mississippi was seeking unanimous consent to speak at this time. I yield to him before I call up the amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, over the last several years the Subcommittee on International Security, Proliferation and Federal Services has monitored weapons systems development in Iraq and elsewhere. We have held numerous public hearings on the threat these developments pose to our national security.

For the information of all Senators, I am putting in the RECORD an unclassified description of the subcommittee's findings from the testimony presented to us by the intelligence agencies at our hearings. I firmly believe we are confronted with a dangerous threat to our forces who are now deployed in that area of the world. I am also convinced the President has outlined a strategy for dealing with this threat and with the dangers faced by our homeland which involves the United Nations and the Congress in the decisionmaking process, and we should support him.

This support would be clearly illustrated by approval of the Lieberman-Warner-McCain amendment. We should let our friends and adversaries alike know that, as a nation, we are united in our resolve to do whatever is necessary to protect our national security and the safety of our citizens, including the use of military force.

I ask unanimous consent that the outline of findings from my subcommittee which I described be printed in the RECORD.

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

FACTS ABOUT IRAQ'S WEAPONS OF MASS DESTRUCTION

Iraq's program to develop weapons of mass destruction and the means to deliver them has been underway for over three decades. Although it suffered setbacks during and immediately after the Gulf War, the program has since been reconstituted and has achieved significant progress in recent years. The following key facts about Iraq's program to acquire and employ weapons of mass destruction are drawn from publications and testimony of intelligence officials.

In an October 2002 report entitled ''Iraq's Weapons of Mass Destruction Programs,'' the Central Intelligence Agency reached these key judgments:

Iraq has continued its weapons of mass destruction (WMD) programs in defiance of UN resolutions and restrictions. Iraq has chemical and biological weapons as well as missiles with ranges in excess of UN restrictions; if left unchecked, it probably will have a nuclear weapon during this decade.

Iraq hides large portions of its WMD efforts. Revelations after the Gulf War starkly demonstrate the extensive efforts undertaken by Iraq to deny the world information about its programs.

Since inspections ended in 1998, Iraq has maintained its chemical weapons efforts, energized its missile program, and invested more heavily in biological weapons; most analysts assess Iraq is reconstituting its nuclear weapons program.

Iraq's growing ability to sell oil illicitly increases Baghdad's capabilities to finance WMD programs; annual earnings in cash and goods have more than quadrupled.

Iraq largely has rebuilt missile and biological weapons facilities damaged during Operation Desert Fox and has expanded its chemical and biological infrastructure under the cover of civilian production.

Baghdad has exceeded UN range limits of 150 km with its ballistic missiles and is working with unmanned aerial vehicles (UAVs), which allow for a more lethal means to deliver biological and, less likely, chemical warfare agents.

Although Saddam probably does not yet have nuclear weapons or sufficient material to make any, he remains intent on acquiring them.

How quickly Iraq will obtain its first nuclear weapon depends on when it acquires sufficient weapons-grade fissile material.

If Baghdad acquires sufficient weapons-grade fissile material from abroad, it could make a nuclear weapon within a year.

Iraq has begun renewed production of chemical warfare agents, probably including mustard, sarin, cyclosarin, and VX. Its capability was reduced during United Nations inspections and is probably more limited now than it was at the time of the Gulf War, although VX production and agent storage life probably have been improved.

Saddam probably has stocked a few hundred metric tons of chemical weapon (CW) agents.

The Iraqis have experience in manufacturing CW bombs, artillery rockets, and projectiles, and probably possess chemical agents for ballistic missile warheads, including for a limited number of covertly stored, extended-range Scuds.

All key aspects—R&D, production, and weaponization—of Iraq's offensive biological weapon (BW) program are active and most elements are larger and more advanced than they were before the Gulf War.

Iraq has some lethal and incapacitating BW agents and is capable of quickly producing and weaponizing a variety of such agents, including anthrax, for delivery by bombs, Scud missiles, aerial sprayers, and covert operatives, including potentially against the U.S. Homeland.

Baghdad has established a large-scale, redundant, and concealed BW agent production capability, which includes mobile facilities; these facilities can evade detection, are highly survivable, and can exceed the production rates Iraq had prior to the Gulf War.

Iraq maintains a small missile force and several development programs, including for an Unmanned Aerial Vehicle (UAV) that most analysts believe probably is intended to deliver biological warfare agents.

Gaps in Iraqi accounting to UNSCOM suggests that Saddam retains a covert force of up to a few dozen Scud-variant missiles with ranges of 650 to 900 km.

Iraq is deploying its new al-Samoud and Ababil-100 short-range ballistic missiles, which are capable of flying beyond the U.N.-authorized 150-km range limit.

Iraq's UAVs, especially if used for delivery of chemical and biological warfare (CBW) agents, could threaten its neighbors, U.S. forces in the Persian Gulf, and the United States if brought close to, or into, the U.S. Homeland.

Iraq is developing medium-range ballistic missile capabilities, largely through foreign assistance in building specialized facilities.

Iraq's effort to extend the reach of its ballistic missile force is not limited to medium-range missiles capable of striking its immediate neighbors. Iraq has pursued long-range ballistic missiles in the past and has even tested a rudimentary space launch vehicle (SLV).

In testimony before the Subcommittee on International Security, Proliferation and Federal Services, Robert Walpole, the National Intelligence Officer for Strategic and Nuclear Programs stated, ''Iraq's goals of becoming the predominant regional power, and its hostile relations with many of its neighbors, are the key drivers behind Iraq's ballistic missile program.''

According to the Department of Defense's report ''Proliferation: Threat and Response,'' Iraq in December 1988 attempted to launch the Al Abid 3-stage space launch vehicle, which used 5 Scud missiles clustered together as a first stage.

The Intelligence Community's unclassified summary of the ''National Intelligence Estimate on Foreign Missile Developments and the Ballistic Missile Threat Through 2015'' states:

After observing North Korean missile development the past few years, Iraq would be likely to pursue a three-stage Taepo Dong-2 [TD–2] approach to a ICBM, or space-launched vehicle, which would be capable of delivering a nuclear weapon-sized payload to the United States.

Iraq could develop and test a Taepo Dong-2-type system within about ten years of a decision to do so.

If Iraq could buy a TD–2 from North Korea, it could have a launch capability within a year or two of a purchase.

It could develop and test a TD–1–type [Taepo Dong–1] system, within a few years.

Iraq could attempt before 2015 to test a rudimentary long-range missile based on its failed Al-Abid SLV . . .

If it acquired No Dongs from North Korea, it could test an ICBM within a few years of acquisition by clustering and staging the No Dongs—similar to the clustering of Scuds for the Al-Abid SLV.

Mr. COCHRAN. I thank the distinguished Senator from Illinois.

AMENDMENT NO. 4865 TO AMENDMENT NO. 4586

Mr. DURBIN. Mr. President, pursuant to the unanimous consent agreement, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 4865 to amendment No. 4586.

(Purpose: To amend the authorization for the use of the Armed Forces to cover an imminent threat posed by Iraq's weapons of mass destruction rather than the continuing threat posed by Iraq)

On page 7, line 20, strike ''the continuing threat posed by Iraq'' and insert ''an imminent threat posed by Iraq's weapons of mass destruction''.

Mr. DURBIN. Mr. President, I call up this amendment to the underlying resolution presented by the President and sponsored by Senator LIEBERMAN and others on the floor of the Senate.

In this Capitol Building, there are many historic rooms. There is one that is of great significance to me. It is only a few steps down the hall. It was in room 219 where I gathered with about a dozen of my colleagues among the Senate Democrats for a meeting on the morning of September 11, 2001. I can still recall the meeting vividly as we watched the television screen and its report, as we heard of the evacuation of the White House, as we jumped from our chairs and looked down The Mall to see the black smoke billowing from the Pentagon. And then we were told immediately to leave this great building and rushed down the steps and far away.

That is my image of September 11. Everyone who is following this debate has their own image of September 11. My world changed. America changed. Perhaps things changed all around the world on that day.

I came to work on that morning never believing that just a few days later, on September 14, I would stand on this floor and join every one of my colleagues in the Senate in a unanimous bipartisan vote of support for President Bush's request for war on terrorism. I am not a person who comes to that vote easily. I am one who grew up with the specter of war during our war in Vietnam. I am a person who served in the Congress and considered the momentous decision of the Persian Gulf war. I always took those votes extremely seriously. But there was no doubt in my mind on September 14, this was the right one. The war against terrorism was the right one. We were going to go after those parties responsible for what they had done to us on that day of infamy.

Now we gather in the Senate, a little over a year later, to face another historic vote. The President has asked Congress for the authority to wage another war, a war against Iraq. It is fair first to ask what progress we have made on the war against terrorism. Some things have happened for which we can be very proud.

The Taliban is out of power in Afghanistan. They no longer will be catering to the kind of extremist we saw with al-Qaida. Osama bin Laden is at least on the run, and that is certainly good news. Afghanistan is moving back toward a civilized state. Women are returning to the streets without the burkas. Girls are going to school. Positive things are happening. We saw an intelligence network created around the world to support the U.S. war on terrorism, an amazing display of unity and support for what we were doing.

But still, as I stand here today and make this assessment of the war on terrorism, the manhunt continues for Osama bin Laden and his top lieutenants. Afghanistan is still in its national infancy. Hamid Karzai, leader of Afghanistan, is a good man but barely escaped an assassination attempt a few weeks ago, an assassination that, had it resulted, would have thrown that nation into chaos. Al-Qaida is still known to be in 60 nations around the world, and this war is far from over.

Make no mistake, we cannot dedicate the resources, the manpower, the skills, and the weapons of war to a new war in Iraq without sacrifices in our war on terrorism. This will be a war on two fronts; sacrifices will be made.

Let's speak to the President's request for a war against Iraq. If you have followed the comments from the President since August until today, you will note that his approach has changed. In fact, this is the third version of the resolution before us.

In one respect it is a tribute to the President that he has worked with others to try to improve the resolution. We expect that. In another, it suggests a change in attitude and philosophy and perhaps an intent as this resolution develops.

The speech the President gave on Monday night I listened to, every single word of it. I wanted to hear everything he had to say. The speech the President gave to the American people was far different than the language of the resolution before us.

What has happened since August when the President first raised the specter of Iraq as a threat to the United States?

Initially the White House said: We don't need congressional approval. We can move forward. They went on to say: We can do it unilaterally. We don't need any allies. We can attack Iraq if necessary by ourselves. And the President said our goal is regime change. We want Saddam Hussein gone. We have had enough of him. And he went on to say—Vice President CHENEY backed him up—inspections by the U.N. are worthless. We tried that.

That was the first cut, the first position of the White House.

Last Monday, when the President gave a speech, it was a much different message. He is seeking congressional approval. That is why we are here today. He said that he is going to help lead a coalition of forces against Saddam Hussein, far different than what this resolution says, far different than what he said at the outset.

He is now working through the United Nations; something that had been dismissed early on in the debate has now become a big part of it. The President went on to say that he is now focusing on weapons of mass destruction and destroying them. There won't be any argument here. I have yet to meet a single Member of Congress who defends Saddam Hussein and his weapons of mass destruction.

The President said we need an inspection regime through the United Nations. That is a big departure from where he was. But that speech basically described a process the President suggested and endorsed, which many of us endorse as well.

In 8 weeks the administration has changed its rhetoric but the resolution we have before us has not. This resolution is important for many reasons. First, it is a war resolution. With this expression of authority from Congress, the President will have what he needs under our Constitution to move forward, to dispatch troops, mobilize reserves, move the men and women in uniform into harm's way, and be prepared for battle. That is, of course, the most important part of the resolution.

Another part rivals it in importance. This resolution is historically important because it marks a dramatic departure in the foreign policy of the United States of America. It is not simply a question of our policy toward Iraq or Saddam Hussein; it is a question of our policy toward the world.

This resolution still authorizes a unilateral, go-it-alone invasion of Iraq. This resolution contains no requirement to build a coalition of allies behind us. It has been said over and over again, isn't it better for the United States to have a coalition behind us than to have a coalition against us? This resolution does not specify that we are targeting weapons of mass destruction. This resolution represents a dramatic departure in foreign policy. That is why I have offered this amendment.

Senator LEVIN of Michigan was here earlier speaking about the role of the U.N. As much as any nation, the United States has guided and nurtured the U.N. We have gone through painful, frustrating moments when we have disagreed with their actions and could not agree with Security Council decisions, but by and large we have stood by the U.N. since its creation. In the words of Kofi Annan, ''The U.N. is the international community at work for the rule of law.''

That is as succinct a description of what the U.N. is all about as I have ever read. We have been with the U.N. through NATO, in the cold war, on questions of post-Soviet transatlantic order, and a variety of other issues. Now comes the President, on September 12 of this year, who visits the U.N. and issues a significant challenge. He says to the U.N. on September 12: If this organization has a backbone, it is going to stand up to Saddam Hussein, demand inspections for the weapons of mass destruction, and remove or destroy them. And if it does not, the President basically said that the U.N. is irrelevant; it has become the League of Nations.

Well, since then, progress has been made. A man whom I respect very much, Secretary of State Colin Powell, has been involved in shuttle diplomacy with the Security Council to put together U.N. support for just the very approach the President asked. It is the right approach—to really put our inspectors on the ground with no holds barred, nothing off limits, with no exemptions for Presidential palaces, so that we can go in and discover, with the help of our intelligence community, which will provide information where we think the weapons can be found and, in finding them, be able to establish once and for all that Iraq is in violation of U.N. resolutions and destroy the weapons.

If Saddam Hussein and Iraq should resist or stop us, consider the position we are in. We can then turn to the U.N. and say: We gave you your opportunity. You know this man will not comply with orders. Now stand together in enforcing the U.N. inspection. What a strong position that is—for us to have a coalition of nations, through the U.N., working with us, rather than the Bush resolution, which says we will do it by ourselves.

I think we have seen progress, but this resolution would brush it all aside. This resolution would say to the U.N. and others around the world: Go ahead and finish your debate and engage yourself as much as you like, but in the final analysis this Nation, the United States of America, will do exactly what it wants to do.

I don't think that has been our approach historically. We have always said: If you attack us, expect an answer. That is what happened on September 14, when we voted on the resolution on the war on terrorism. But why, if the U.N. is making progress toward this goal, do we want to say we are going to ignore the progress you have made, ignore the fact that you have accepted this challenge, we are going to ignore the possibility of meaningful inspections to disarm Iraq, and we will go it alone, we will launch a land invasion?

I think that is a mistake. This U.N. coalition effort is very important. In October of last year, President Bush stated, with some pride, that we had launched our war on terrorism, and he said: ''We are supported by the collective will of the world.'' And we were. The President has a right to be proud of that. The fact that we mobilized nations around the world to come behind us in the war against al-Qaida and the terrorists meant something in the war on terrorism.

Why, then, does it not mean something today? Why, then, when we are considering this war resolution, are we not committing to build a coalition of force to make sure we are successful? We know what the coalition means. It means strength in numbers. It means a sharing of the burden. Why should it only be American soldiers walking through the deserts on the way to Baghdad? Should we not have an international force? Because the threat Saddam Hussein poses is certainly to the Middle East and other countries before it threatens the United States. Why should other nations not defray the cost of this war? The fact that we would spend $100 billion or $200 billion when we are currently in deficit—why should that not be shared? Certainly, when we fought in the Persian Gulf, that was what happened. There is nothing in the Bush resolution for a coalition of force to join us in this effort in Iraq.

Also, the creation of a coalition establishes vital cover for other nations to join us. Do you recall the comments made by Saudi Arabia a few days after the President's visit to the U.N.? They had been not only cold but antagonistic to the idea of the United States going it alone against Iraq. They announced, after his visit to the U.N., that if the U.N. took action, they

would cooperate. Why is that significant? It is as significant today as it was in the Persian Gulf. President Bush's father realized that when you bring Arab States into the coalition, it is critically important as we consider action against an Arab nation, Iraq.

Think of this for a moment, too: If our coalition includes Arab States and countries from around the world, it minimizes the impact this will have on the fundamentalists and extremists who are trying to breed and educate and train the next generation of terrorists. A third of the people living in the Arab world today are under the age of 14.

If this is a coalition including Arab States, then we are in a much stronger position to argue that it is U.N. action, collective action, it is not the United States going it alone. This will help to defuse any terrorists who might come out and will help to establish stability after the attack.

Let me go to the particular reason to raise this amendment to this resolution. The House has passed the resolution we are considering. It tells you we are drawing that much closer to the possibility of war. It is a historic decision, one which now is in this Chamber. If this Chamber agrees to the same resolution and presents it on the President's desk, my guess is it will be signed very quickly. It is more than just war against Iraq. Just a few weeks ago, the administration released what they called ''The National Security Strategy of the United States of America.'' It is a document which outlines what they consider to be the new parameters of foreign policy in our Nation. It is well worth the read.

You will find in this document, on page 15, a significant and historic departure from the foreign policy of the United States. The argument is made in this publication by the administration, by President Bush's White House, that the world has changed so significantly since September 11, 2001, that the principles and values and norms of conduct of our foreign policy must be changed dramatically in this respect. We have always said to the world: The United States is not an aggressor nation. We are not seeking to invade your country for territory or treasure. But if you threaten us, you can expect that we will return with all the force and power we have. We are not trying to conquer you, but if you threaten our territory, our people, our allies, our Armed Forces, you can expect the worst. That is the way it should be.

We have said historically we are a defensive nation. Even at the height of the cold war, we did not endorse a first strike against the Soviet Union. No, we are a defensive nation. This new foreign policy reflected in the resolution before us is a dramatic departure from that.

The argument is made that we have no choice. Because we are now fighting terrorism, we can no longer wait for an imminent threat against the United States. We have to be able to move preemptively for what might be, as is said in this resolution, a continuing threat.

What does it mean? If you list the nations of the world that pose any threat to the United States, unfortunately the list is fairly long. It would not just be Iraq. The President's ''axis of evil'' includes North Korea and Iran. One would certainly put Syria, Libya, and maybe many other countries on that list.

What the President's foreign policy is calling for is the right of the United States to attack these countries without provocation, without imminent threat. That, I say to my friends in the Senate, is a dramatic departure in foreign policy. We are not just talking about how to deal with Saddam Hussein, how to deal with weapons of mass destruction in Iraq, what to do through the United Nations. The supporters of this resolution are calling for a dramatic departure in American foreign policy.

From my point of view, it is a departure which is unwarranted and unwise. This is why I believe it: For over 50 years, with nuclear Armageddon facing us, with nuclear missiles poised in the Soviet Union and in the United States, our position was one of deterrence. We said, as I mentioned before, we would not strike first. We held that position, with some rare exceptions. That was our position as a nation, and it prevailed. It prevailed to overcome the Soviet Union and, frankly, to bring the Russians closer to our position in the world and to bring the world closer to peace.

Look what has happened in the last 10 years in our relationship with Iraq. Since the Persian Gulf war, we have made it clear to Saddam Hussein and his leaders that if they make one bad move with a weapon of mass destruction, either through a terrorist organization or directly against the United States, its neighbors, or any of our allies, frankly, they will pay a heavy price. There has never been a doubt about that. There is no doubt about that today.

The establishment and maintenance of the no-fly zone is our way of keeping an eye on Saddam Hussein from start to finish. There is not a tank or truck that moves in Iraq today we do not monitor. There is not a hole that is dug and filled up we do not monitor. We made that clear under existing foreign policy, but this resolution says it is time for us to change that policy. It is time for us to argue we can preemptively strike Iraq or any other country before they pose a threat to the United States. That is a dramatic change.

My amendment goes to this issue and says the President has the authority to use force. Let me read it specifically because I do not want to misstate it for my colleagues:

> The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to defend the national security of the United States against an imminent threat posed by Iraq's weapons of mass destruction.

That is what my amendment says. It spells that out in terms of foreign policy that we have created, in many respects, and honored throughout our history. To state it as stated in this resolution is to endorse this new rewrite of American foreign policy and to say in the age of terrorism that preemption is the answer.

I asked Dr. Condoleezza Rice a question when she came before us a few weeks ago, as follows: If we are going to argue that we have the right as a nation to attack any nation we suspect may be a threat to us, how then can the United States play a role in the world supporting diplomacy and peace? How can we argue to countries that are in incendiary relationships, such as India and Pakistan over Kashmir, that they should not do preemptive attacks of their own? How do we make that argument?

Oh, she said, diplomacy is working in Kashmir. It depends on what day of the week that question is asked. I hope it works. I hope peace comes to that region. We really lose our right to argue and demand more diplomacy and more peacekeeping when we say the United States may preempt any perceived threat, but other nations in the world should negotiate. The same can be said of China and Taiwan and many other places in the world.

To my colleagues I say this: This resolution not only addresses Iraq, it marks a significant departure in foreign policy. I hope, even though we have not had hearings, even though we have not debated this at length, that this amendment which I offer, with just a handful of words, will call into question whether this is the wisest policy, whether this is a necessary policy.

Let me say this as well. I know the United States is in a fearful and anxious situation since the attacks of September 11, 2001. Though we have been heartened by the strength of this Nation and its unity, there is still a lingering question as to whether we will be struck again.

It is because of that anxiety, because of that fear, I think many of us are moving now to say, let's do what is necessary, let's make the changes, let's get on with it.

I caution and beg my colleagues to think twice about that. America has faced periods of fear in its past, some not from foreign threats but from domestic situations.

One of the most noteworthy in our history was the Great Depression which faced our country when then-President Franklin Roosevelt, in his Inaugural Address, said:

> This great Nation will endure as it has endured, will revive and will prosper. So, first of all, let me assert my firm belief that the only thing we have to fear is fear itself. Nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert, retreat, and advance. In every dark hour of our national life, a leadership of frankness and vigor is met with that understanding

and support of the people themselves, which is essential to victory.

I have listened to speeches on this floor, speeches which have, frankly, touched the anxiety, concerns, and fear of America. I have heard people on this floor lionize Saddam's weapons of mass destruction as a threat. The President's own resolution said Saddam Hussein may launch a surprise attack against the United States, language which is almost, frankly, impossible to understand in the world in which we live.

I heard those same voices minimize the impact of weapons of mass destruction on the battlefields of Iraq if we launch a land invasion to try to force regime change.

As we know—it has been declassified this week—our intelligence community tells us the most likely scenario of weapons of mass destruction to be used against Americans is if we launch an invasion of Iraq. Saddam Hussein knows today if those weapons move or are used in any way against us and our allies, he will pay a terrible price.

Our foreign policy must not be driven by fear. We must be vigilant. We must be careful. But at this moment of national concern over our vulnerability of terrorism, we cannot lose sight of the course which guided our Nation for generations. As we search every corner of our Nation and every corner of the world for danger and threats, we can never lose our sight on true north, and that rock-solid reliable point is a commitment to a rule of law, a commitment to a foreign policy based on established values and established standards of international conduct.

We cannot now ignore the challenge of Saddam Hussein. We need to address it. We should push forward with inspections through the United Nations, and build a coalition of support to make sure he is kept under control. The Presidential resolution, which envisions the United States standing alone, is not the best course. The Presidential resolution, which calls for a dramatic departure in our foreign policy, is not the best course.

Mr. President, I reserve the remainder of my time and yield the floor. How much time do I have remaining?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Illinois has 15 minutes remaining.

The Senator from Virginia.

Mr. WARNER. Mr. President, my understanding is the Senator from Virginia and the Senator from Arizona have 15 minutes, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. At this time, the Senator from Arizona wishes to allocate his time to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will speak for about 7 minutes. If any other Senator wishes to speak, they may certainly do so.

Mr. President, I want to address directly the Senator's amendment. He talked about everything but his amendment. His amendment is remarkable because instead of allowing the President to deal with the continuing threat posed by Iraq, this amendment would require the President to identify an imminent threat; that is to say, one that is immediate, pressing, upon us, imminent. I suggest, as a member of the Intelligence Committee for almost 8 years, that it is virtually impossible for us to know when a threat is imminent, a threat posed by a regime such as Saddam Hussein's, or a group of terrorists.

These people do not announce their threats in advance. They conceal their intentions, as well as their capabilities, and it is very difficult for us to know the precise moment at which the threat is imminent.

So this amendment is remarkable because it would literally force the President to wait until the last minute in order to take the action that is permitted by the amendment.

There is a saying in the intelligence community that we do not know what we do not know. We find out later what we did not know.

We did not know that Saddam Hussein, for example, had gone to the extent he had in the development of biological and chemical weapons until defectors came out of Iraq and told us what he had done. We did not find out about that through other intelligence. Then we sent inspectors, and before Saddam Hussein got it all hidden, they were able to find some of it, at which point he said: Oh, gosh I forgot about that—or words to that effect.

We did not realize the extent to which he had developed his nuclear capability until after the gulf war was over, when we learned that he was years closer to having a nuclear weapon than we had thought.

If Saddam Hussein had waited to attack Kuwait, had not attacked Kuwait, and gone ahead with his plans, he would have had a nuclear capability before the United States knew about it. By then, it would have been too late.

My point is this: We may have pretty good intelligence, but it is not good enough to calibrate as closely as the Senator's amendment would require, to wait until the moment when the President says now it is imminent. And that is the problem. Action has to be taken when the threat is clear, when it is known to be there, but we do not really know exactly when he is going to make his move.

As September 11 showed, if it showed us anything, our intelligence is not good enough to do that. We can know there is a threat. We can know it is growing, we can know it is continuing, but we cannot know that moment when it becomes imminent.

This amendment asks an impossibility of the President: To prove that the threat is imminent or at least to wait until it is clear to him that the threat is imminent. But we may never know until it is too late that Saddam Hussein has a nuclear weapon.

The Senator also complained about this new doctrine of preemption, but I would suggest that with respect to Iraq, we are not talking about preemption, we are talking about unfinished business called the gulf war.

Every day the United States and the United Kingdom fly airplanes, pursuant to United Nations resolutions, to enforce those resolutions—frankly, to engage in aerial inspection called reconnaissance—and they get shot at almost every day. When they get shot at, they either try to take out the radar site or SAM missile site that is firing at them after they have been shot at, or what they try to do is knock it out before they get shot at. Now, somebody may call that preemption. I call it self-defense and common sense.

This is not some new doctrine we are about to engage in that is going to threaten world peace. This is the unfinished business of the gulf war that is authorized by United Nations resolutions that we engage in every day and that requires us to act in our own self-defense.

It is also said that for the last 11 years, Saddam Hussein has not used his weapons of mass destruction. So why deal with this now? Why not wait until the threat is imminent? Is that it? We are supposed to put our trust in Saddam Hussein? I am unwilling to place the security of the United States of America in the hands of the likes of Saddam Hussein. I do not believe we can trust him.

Because our intelligence is not good enough to calibrate this threat to the action that would be authorized by the amendment, and because we cannot trust Saddam Hussein, I support the resolution that is before us and oppose the amendment of the Senator from Illinois.

Finally, suggesting, as some have, although I did not hear these words from the Senator, that there has to be a smoking gun—that is the concept behind this notion of imminence—before we can take action, is extraordinarily misguided. Remember, a gun smokes after it has been fired.

When I think of a smoking gun, I think of the Pentagon and the World Trade Center. I believe that the amendment of the Senator from Illinois is dangerous, misguided, and I hope my colleagues will join me in defeating it.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Who yields time to the Senator from Texas?

Mr. KYL. Mr. President, on behalf of Senator WARNER, unless Senator LIEBERMAN wishes any time, I yield the remainder of the time to Senator GRAMM.

The PRESIDING OFFICER. Nine minutes.

Mr. GRAMM. Mr. President, this has been a great debate. I want to congratulate Senator WARNER and Senator LIEBERMAN, and I want to thank my

dear friend JOHN MCCAIN for his leadership on this issue.

Even error has been presented on the floor of the Senate in a way that one could be proud of. I think these kinds of debates build the stature of the Senate, and when the American people listen to this debate they will realize that on this issue there is a lot of serious thinking, a lot of good thought, and I believe in the end we are going to make the right decision.

I have waited to speak—did the Senator want me to yield?

Mr. WARNER. Yes. I had to speak to the Republican leader. I had 7 minutes. I wish to allocate several of those minutes to our colleague from Connecticut.

Mr. President, how much time remains?

The PRESIDING OFFICER. Seven minutes.

Mr. GRAMM. Mr. President, I ask unanimous consent that I have 5 minutes.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. I regret to say to my good friend from Texas——

Mr. GRAMM. How about 4½ minutes?

Mr. WARNER. Why doesn't the Senator take an additional 2 minutes so we can complete the debate on this amendment?

Mr. GRAMM. Mr. President, I will wait until this amendment is completed and then I will speak.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my friend from Texas for his cooperation. I now yield the remaining time, with the exception of 1 minute for the Senator from Virginia, to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask that the Chair notify me when a minute remains so I may terminate my remarks.

The PRESIDING OFFICER. The Chair will do so.

Mr. LIEBERMAN. Mr. President, I rise to oppose, respectfully, the amendment introduced by the Senator from Illinois.

The underlying resolution, building on 11 years in which the world community has tried every way imaginable, except war, to get Saddam Hussein to keep the promises he made at the end the gulf war to disarm, is a strong resolution. This amendment would diminish it, and in that sense it would also diminish its effectiveness to convince the United Nations to act so we do not have to form our own international coalition.

In two regards, it also diminishes the authority of the Commander in Chief, as granted by our resolution, and does so in a way that is far more restrictive than most any authorizing resolution for war or military action that I have seen before.

First, it introduces the word ''imminent'' in place of the words ''continuing threat.'' We say in our resolution that the President may use the Armed Forces of the United States in order to defend the national security of our country against the continuing threat posed by Iraq. The Durbin amendment would change that to the imminent threat posed by Iraq's weapons of mass destruction.

In changing it to ''imminent,'' which is a temporal term—it suggests time, that something is about to happen soon—it adds a qualification that I think is unwarranted. In the totality of Saddam Hussein's evil administration, weapons of mass destruction, ballistic missiles, unmanned aerial vehicles, there is a threat that is real to us, and I am convinced will be used against the American people unless we act, hopefully through the United Nations, to disarm him.

So while it might not be imminent in the sense that he is about to use it against us, in my opinion it is a ticking time bomb. We do not know exactly how many seconds or minutes or hours are left on that timer. I don't want the President to be limited to an imminent threat to use the power we are giving him here.

Second, it limits that authority for the President to act only in regard to an imminent threat of weapons of mass destruction.

The resolution we have introduced provides two conditions under which the President may use the Armed Forces to defend the national security of the United States against the continuing threat posed by Iraq and to enforce all relevant U.N. Security Council resolutions regarding Iraq. This harkens back to a colloquy I had with Senator SPECTER of Pennsylvania yesterday.

It seems to me these two parts have to be read in totality as modifying each other. The resolutions that are relevant in the U.N. Security Council are to be enforced particularly in relationship to the extent to which they threaten the national security of the United States. In doing this, we are expressing our understanding that the President is unlikely to go to war to enforce a resolution of the United Nations that does not significantly affect the national security of the United States.

We want to do what the Constitution invites us to do. Congress is given the authority under article I to declare war. The President under article II is the Commander in Chief. There is a healthy tension there. It is up to Congress to authorize and to the President to act as Commander in Chief with the latitude that authority gives him but also with the accountability and responsibility that authority gives him.

I have spent time looking at authorizing resolutions for war or military action from the past. The one that we put together—although some of our colleagues have described it, I think, erroneously as a blank check—is quite limited compared to the declaration of war authorizing and directing the President to employ the entire naval and military forces of the United States and the resources of the Government to carry on war—this was in the case of World War I—and to bring the conflict to a successful termination, all the resources of the country are hereby pledged by the Congress of the United States.

We have only one Commander in Chief; 535 Members of Congress cannot effectively conduct a war. We set the parameters, as this resolution does. We authorize. But it is the President ultimately who carries out and serves as our Commander in Chief. That is what our resolution does. That purpose would be significantly altered and, I say respectfully, weakened by the language of the Senator from Illinois, which is why I respectfully oppose his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. My understanding is that the Senator from Delaware has 10 minutes. He is not here. I will ask unanimous consent I take 7 of his 10 minutes.

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

Mr. WARNER. Mr. President, I wish to retain 2 of those minutes for myself and give 4 minutes to our colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank my dear colleague and floor leader. I will make a couple of comments.

I have listened to these arguments, and I would say they have been made very effectively and with great eloquence. But as I hear them, they boil down to two simple arguments. The first argument is that if we are going to use military power against Saddam Hussein, we ought to do it within the context of the United Nations and it ought to be part of a multinational effort. I reject that.

I reject it because when we are talking about the security of our Nation, I am not willing to delegate the responsibility of protecting it to the U.N. When it comes to the lives and safety of our people, I am not willing to leave that up to the U.N. I am not even willing to leave it up to our allies. It is the responsibility of the U.S. Government. That is why we need this resolution.

The plain truth is, if nobody else in the world is willing or able to do this job, we are able and we are willing. That is what this resolution says. And by being able and being willing, I believe there will be others who will help us.

The second argument can be explained through an analogy. Let's say there is a rattlesnake nesting in your rock garden. Our colleagues are saying, look, if you go in there and try to find that rattlesnake and try to kill him, he is liable to bite you. The probability of being bitten is lower if you leave him alone.

For a short period of time, they are right. There is no doubt about the fact if you put on your snake boots and you get rat shot and your pistol and go out there with a stick and start poking around trying to find him, the probability during that period of time that you are going to get bitten does go up. But most rational people get their pistol and get that stick and go out there because that rattlesnake will be out there for a long time. Your dog might go through there and get bitten. Your grandchild might be playing out there. The good thing about going in to find a rattlesnake is you know he is there and you are alert to the threat.

My view is we do have the rattlesnake in the rock garden. We have the ability to go in and get him out. And because of the threat that it poses to us, I don't think we ought to wait around to do what we know we need to do. In looking at the future, I say the threat is greater if we do not act than if we do.

Those are the two arguments I hear. They are in fancier garb and they are better put. But it really boils down to, let's turn over our security to the U.N. or to our allies. I am not willing to do that. Let's avoid the risk of this conflict because it will be dangerous while the conflict is going on. It will be a lot safer once the conflict is over.

That is where we are. I think we are doing the right thing. I think we are going to have an overwhelming vote. We have had great bipartisan success on this force resolution because Saddam Hussein has no organized political support in America. I wish we did not face organized political support for opposition to homeland security.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to our distinguished colleague from Texas, I listened intently to his remarks. Two things occurred to me. First, how much we value the Senator's contribution these many years we have served together. We shall miss him. Also, the Senator cut right to the heart of the argument, leaving no doubt where he stands.

Mr. President, I am happy to yield the floor. I think I have 3 minutes left under my control.

Mr. DURBIN. It is my understanding the Senator from Delaware still has time remaining under the unanimous consent request.

The PRESIDING OFFICER. The Senator from Delaware has 3 minutes remaining, and the Senator from Illinois has 15 minutes remaining.

Mr. DURBIN. I thank the Senator for his courtesy. When we disagree, he is always courteous in his treatment and fair on the floor of the Senate.

I might say to my friend from Connecticut, it is rare we disagree. I am sorry this is one of those cases. But I would pose a question, if he wants to answer it—without yielding the floor.

Do you believe that the threat of weapons of mass destruction in Iraq is an imminent threat to the United States today?

Mr. LIEBERMAN. I thank my friend. I agree it is rare we disagree, so I do so with respect.

That is my point. I believe the threat is real. The weapons of mass destruction threat is real. Whether it is imminent or not, I do not know.

As I said, the analogy that comes to mind is of a bomb on a timer. I don't know whether the timer is set to go off in a day or a year. But because the danger is so real, I don't want to establish the standard of imminence before the United Nations or the President of the United States can act to eliminate the danger.

Mr. DURBIN. I thank my colleague from Connecticut, and I think it is an honest answer. But let me tell you, I serve on the Intelligence Committee and I would not disclose anything I learned there because it is classified and top secret, but some things I can say because they are public knowledge.

If you want to talk about threats to the United States, let me quickly add to that list North Korea. Currently, North Korea has nuclear weapons. North Korea has missiles that can deliver that nuclear weapon to many countries that we consider our friends and allies in their region.

Iran may not have a nuclear weapon today but could be further along than Iraq is at this moment. There is scant if little evidence that Iraq has a nuclear weapon.

We do not trust Syria because it is a harbor for some 12 or 15 different terrorist organizations in Damascus, and we certainly do not trust Libya because of our fear of weapons of mass destruction.

So now of all the countries I have listed, Iraq is one of them for sure. But I have given you five or six countries which, under this resolution's logic and under this President's new foreign policy, we should be considering invading. Which one and when?

Historically, we have said it is not enough to say you have a weapon that can hurt us. Think of 50 years of cold war when the Soviet Union had weapons poised and pointed at us. It is not enough that you just have weapons. We will watch to see if you make any effort toward hurting anyone in the United States, any of our citizens or our territory.

It was a bright-line difference in our foreign policy which we drew and an important difference in our foreign policy. It distinguished us from aggressor nations. It said that we are a defensive nation. We do not strike out at you simply because you have a weapon if you are not menacing or threatening to us. Has September 11, 2001, changed that so dramatically?

The words ''imminent threat'' have been used throughout the history of the United States. One of the first people to articulate that was a man who served on the floor of this Chamber, Daniel Webster, who talked about anticipatory self-defense, recognized way back in time, in the 19th century. What we are saying today is those rules don't work anymore; we are going to change them.

I might also add, even though the Senator from Connecticut didn't address it directly, as to whether Iraq is an imminent threat, the minority leader, Republican minority leader, Senator LOTT, today on the floor came forward and said, and I quote:

> He [meaning the President] is prepared to try to find a peaceful solution here. But unless we make it clear he is committed, we are committed, the U.N. is committed, this problem will not go way. It is serious and it is imminent.

The words of Senator LOTT on the floor today, recognizing the point I am trying to make here. If the President believes it is an imminent threat from weapons of mass destruction, he should have the authority to go forward.

But this is not just a matter of striking a strong position and showing that we have resolve. It is a matter of the people of the United States, through the Senate and the House, giving authority to the President of the United States to commit the lives of our men and women in the U.S. Armed Forces.

I, for one, have thought long and hard about voting for war. As I said on September 14, 2001, I did. I would do it again on the war on terrorism. I believe every Senator—every Senator—Republican and Democrat alike, takes this responsibility particularly seriously.

I had a personal experience in my district as a Congressman in the Persian Gulf war. One of my friends had a son who was in the Marines. She called me and said: He has just been sent over there, and I am worried to death about him.

I said: Let's wait and see how this goes.

We engaged in a debate on the floor of the House and Senate, and we gave President Bush's father, the President, authority to go forward. If you remember, we built up our troops and forces for 6 months, the day came, and the war began, and we were prepared, and we were decisive; in a matter of 48 hours the war ended and I breathed a sigh of relief. It was over quickly, and there were just a handful—I think about 200 American—of casualties out of the thousands and thousands of troops who were in harm's way.

No sooner had I had this feeling of relief than I got a call. One of the 200 killed in that 48-hour period was Christian Porter, a lance corporal in the U.S. Marine Corps, killed by friendly fire—the son of my close friend. I went to that funeral, faced his mother and his father. There was little I could say. I went to the veterans cemetery, the National Cemetery, afterwards, as I am sure all of the Members of the Senate would do to pay their respects to his family and respect to this man who served his country.

The image of that funeral at that service in that day is still in my mind

today as I think about the decision we are making, about whether or not we are just striking a position to show our resolve or whether we are in fact, as this resolution says, giving to this President the authority to call into combat men and women who will put their lives on the line for the decision we make today.

Is it unfair for us to say, on this side of the debate, that we should exhaust every reasonable and realistic option before we engage in war? That we should work through the United Nations if we can find an inspection regime that is honest, to try to lessen the threat on the United States at any time in the future? That we should gather a coalition of forces?

I couldn't disagree more with my colleague from Texas. Yes, it is a threat to the United States. All of the countries I listed are threats. But why should we bear this burden alone? Should this burden not be shared by our allies and those who agree with us that we need a peaceful and civilized world? Shouldn't their troops be in the field with American troops fighting side by side for this cause? Only American soldiers? Only American tax dollars? Only America is assuming the responsibility for stability when the war on Iraq is over?

I don't think it is a fair approach. It is far better for us to have a coalition working on it. But what triggers it, goes to the heart of this amendment, is that moment in time when this President—and he is the one who has the authority as Commander in Chief—says we now face an imminent threat from weapons of mass destruction.

What could that be? It could be the identification of fissile material that is now going into Iraq which could lead to their development of a nuclear weapon. That, in my mind, shows imminent threat. It could be his using weapons of mass destruction and sharing them with terrorist organizations. That is clearly an imminent threat. All of these things would trigger the United States to step forward and say now we have to defend ourselves. But at this point in time, none of that is here.

We are being asked, by voting on this resolution, not to wait for the United Nations, not to wait for a coalition, but to move forward on a continuing threat. Member after Member comes to the floor and tells us: The threat against the United States of weapons of mass destruction is an imminent threat. We have to take it seriously. We have to vote on this before the election. That is what the White House says: We have to do it now, we have to do it before we leave town.

Yet when you ask them to put the words ''imminent threat'' in the resolution, watch them scatter and run when the vote comes to the desk here. There will be a handful of us voting for that, a handful of us who believe the foreign policy which has guided the United States for so many generations, so successfully, which has brought us peace and stability, should be honored and respected even on this resolution of great historic moment.

I yield the floor and reserve the remainder of my time. I don't know if there are others who wish to speak.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, we are making excellent progress on this bill. Did the leader wish to speak?

Mr. REID. Not quite yet. We need a few more minutes.

Mr. WARNER. I am sorry. I did not hear the leader.

Mr. President, we have some matters moving along very well. I thank my colleague from Illinois for his remarks. I shall proceed to use my 3 minutes, and the 3 minutes from the Senator from Delaware, which as I understand it is still there, without objection.

The PRESIDING OFFICER. Without objection.

Mr. WARNER. I have listened carefully to our colleague. His amendment is very simple on its face. But behind the simplicity lies a great deal of history.

This Nation of ours has been protected by the two oceans, and by wonderful neighbors to the north and to the south. We have had a sense of security. But with the advent of high technology, and with the advent of worldwide syndicates of terrorists, America will never be the same again.

That is a tough thing for me to tell my children and my grandchildren because I have labored in my life—as everyone in this Chamber has—to provide not only for my family, friends and neighbors such that they can enjoy the life we have enjoyed these many years. However, high technology, while it benefits mankind in so many ways, has brought about dramatic change.

If you wish to have the standard of imminent threat placed in the bill that Senator LIEBERMAN, Senator MCCAIN, Senator BAYH and I have crafted, I say to you most respectfully, with the advent of this extraordinary evolution of technology, the time involved in warning that is implicit in imminent threat left us with the end of the 20th century. The 21st century high technology has erased that. Imminent danger struck us on September 11th. We didn't know it was coming. The doctrine of imminent danger, as I say, has changed in this 21st century. It no longer gives us the warning that we must have.

I urge my colleagues to let this resolution remain unchanged by this amendment as they have with the other amendments that have been brought before us.

I expect Senator REID in the Chamber momentarily. I know he has a concluding matter by way of a unanimous consent request.

Before I, ask for regular order, I want to make certain that——

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that all time has not expired.

Mr. BYRD. What is the Chair saying, may I ask?

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that all time has not expired. Forty-five seconds remain to the Senator from Virginia, and 6 minutes remain to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Virginia for his courtesy. I am not going to use all 6 minutes. The Senator is correct.

The PRESIDING OFFICER. Has the Senator from Virginia yielded?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

The Senator is correct. The tools of war, the incidence of war, the timing of war has changed. But it has changed throughout our history. The principles, the rules of value, the norms and conduct which we apply today were applied starting in a much different era, and applied again and again as we saw ourselves move into an era of airplanes, into an era of intercontinental missiles. The same standards, principles, norms, conduct, and value remain.

I do not believe the war on terrorism is easy. But I also believe the United States has established an international reputation behind the rule of law—a reputation which I am afraid is going to be changed dramatically by this resolution. No longer will we wait for that imminent threat if this amendment is defeated. It is enough for us to assert that a country is a threat to the United States and begin a land invasion. And that, to me, is a dramatic change from where the United States has always been throughout its history.

I hope we will think twice about that. I have no illusions about the result of this vote. But to think we are going to make this wholesale change in foreign policy without the deliberations and hearings and without a direct debate, to me, is just wrong.

I think the Foreign Affairs Committee and others should have taken the President's new foreign policy suggestions directly and seriously and gone forward with them. Instead, through Saddam Hussein and the debate on Iraq, we are about to make a historic change in foreign policy which I hope we do not do.

In the interest of moving this to a vote, I not only yield the floor, but I yield the remainder of my time.

Mr. WARNER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, if I might conclude, time doesn't permit

me to get into the doctrine of anticipatory self-defense, but I think at another opportunity we will have that debate, perhaps before we conclude this matter.

I think we are about to proceed as soon as the distinguished majority whip addresses the Senate.

Mr. REID. Mr. President, I haven't had a chance to speak to my friend from Virginia, but the chairman of the Foreign Relations Committee—if we could just get a unanimous consent request agreed to, which I am hopeful and confident we will—the Senator from Delaware wants to be recognized to speak.

Mr. WARNER. Mr. President, yes. I received this information. But I would be happy to allow our distinguished chairman time.

Mr. REID. We know others want to speak, but he is chairman of the committee, and he has been very quiet, which is unusual.

Mr. WARNER. I wouldn't suggest that he has been quiet, but I certainly want to recognize him and give him such time——

Mr. BIDEN. Mr. President, if the Senator will yield, let the RECORD show I have spoken about one-tenth the amount of time my friend from Virginia has, but not nearly with the persuasiveness he has. I want the opportunity to speak before the final vote.

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of the Durbin amendment, Senator BYRD be recognized to speak for up to 2 hours; that upon the disposition of the Lieberman amendment, the joint resolution be read a third time; the cloture vote on the joint resolution be vitiated; the Senate proceed to the consideration of the House companion, H.J. Res. 114; the joint resolution be read a third time, and the Senate vote on final passage of that joint resolution; that the preamble be agreed to and that no amendments to the title be in order; and that S.J. Res. 45 be indefinitely postponed, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, I had not intended to, but I just received a request from Senator MCCAIN that he be allowed to follow Senator BYRD's speech for not to exceed 30 minutes.

Mr. BIDEN. Mr. President, reserving the right to object, as chairman of this committee, I have yet to make a full speech on this subject. I have withheld for 3 days on the request of everyone else. I understand that.

Two things: No. 1, I just want to make sure I get to speak before the final vote; and, No. 2, that I speak at some point after Senator MCCAIN speaks and very close to Senator BYRD's speech.

Mr. REID. The Senator will speak after Senator MCCAIN.

I ask unanimous consent that be part of the request.

Mr. BIDEN. This is highly unusual. I can't think of another time when the chairman of the Foreign Relations has been denied an opportunity to speak when he wishes to. But I will be happy to yield, because I just want to be a nice fellow. But this is preposterous.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Delaware that at the request of the distinguished majority whip, which was agreed to, I will have two hours. This Senator will be glad to yield to the chairman of the Foreign Relations Committee the first one-half hour of my time.

Mr. BIDEN. Mr. President, there is no need for that. I just want an opportunity to make my speech. It will take about 35 or 40 minutes to lay out in the RECORD why this is an important position which we are all about to take.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. No objection.

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

Mr. REID. Regular order, Mr. President.

The PRESIDING OFFICER (Ms. CANTWELL). The question is on agreeing to amendment No. 4865. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 30, nays 70, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—30

Akaka	Dorgan	Mikulski
Bingaman	Durbin	Murray
Boxer	Feingold	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Inouye	Sarbanes
Carper	Jeffords	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Dayton	Leahy	Wellstone
Dodd	Levin	Wyden

NAYS—70

Allard	Ensign	McCain
Allen	Enzi	McConnell
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Nelson (FL)
Biden	Graham	Nickles
Bond	Gramm	Reid
Breaux	Grassley	Roberts
Brownback	Gregg	Rockefeller
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Carnahan	Hollings	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Clinton	Inhofe	Specter
Cochran	Johnson	Stevens
Collins	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Lieberman	Voinovich
DeWine	Lincoln	Warner
Domenici	Lott	
Edwards	Lugar	

The amendment (No. 4865) was rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, Senator BYRD has indicated to me and a number of us that he will not use the full 2 hours. In that we are waiting for him, I think it appropriate that the time of the quorum call I will make run against his allotted 2 hours. I ask unanimous consent that be the order.

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

Mr. REID. Madam President, I withdraw my unanimous consent request.

The PRESIDING OFFICER. Without objection, the request is vitiated.

Mr. REID. I ask the Senator from Arizona—he is entitled to a half hour after Senator BYRD speaks—if he would mind using that time now?

Mr. MCCAIN. I say to the Senator from Nevada, not only will I be glad to start using the time now, but when Senator BYRD returns to the floor, I will be glad to interrupt my speech for Senator BYRD.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I will proceed with my statement. If Senator BYRD arrives on the floor, I will interrupt it and yield to Senator BYRD.

In the history of nations, greatness is forged, or opportunity squandered, not by natural evolution or by the hand of mysterious Fate, but by decisions leaders make in times of potential or imminent peril. A common view in America is that these decisions are thrust on us—the world wars, Iraq's invasion of Kuwait, the attacks of September 11—and we find meaning, and honor, in our response. As Americans, that response is guided by faith in our founding principles, in our love of freedom, and the blessings of justice.

Yet leaders always have choices, and history teaches that hard choices deferred—appeasing Hitler, choosing not to deter Saddam Hussein in 1990, failing to act sooner against al Qaeda—often bring about the very circumstances we wished to avoid by deferring action, requiring us to react in freedom's defense.

America's leaders today have a choice. It will determine whether our people live in fear behind walls that have already been breeched, as our enemies plan our defeat in time we have given them to do it. It will answer the fundamental question about America's purpose in the world—whether we perceive our beliefs to be uniquely American principles or universal values, for if they are so dear to us that we believe all people have the right to enjoy them, we should be willing to stand up for them, wherever they are threatened.

It will reveal whether we are brave, and wise or reluctant self-doubting, and in retreat from a world that still, in its cruelest corners, possesses a merciless hostility to our values and interests. It will test us, as did September

11, except that we can choose to engage the enemy on our terms rather than wait for the battle to be brought to us.

Our choice is whether to assume history's burden to make the world safe from a megalomaniacal tyrant whose cruelty and offense to the norms of civilization are infamous, or whether to wait for this man, armed with the world's worst weapons and willing and able to use them, to make history for us.

It is a question of whether preemptive action to defeat an adversary whose designs would imperil our vital interests is not only appropriate but moral—and whether our morality and security give us cause to fire the first shot in this battle. It will help determine whether the greater Middle East will progress toward possession of the values Americans hold to be universal, or whether the Arab and Islamic worlds will be further influenced by a tyrant whose intent is to breed his own virulent anti-Americanism in all who fall under his influence, and use that influence to hurt us gravely.

The government of Saddam Hussein is a clear and present danger to the United States of America. Would that he were just another Arab dictator, pumping oil and repressing his people but satisfied with his personal circumstances within the confines of his country's borders. That situation alone would offend our sense of justice and compel us to militate for a regime change, but buy means short of preemptive military action. But Saddam Hussein has shown he has greater ambitions.

His ambitions lie not in Baghdad, or Tikrit, or Basra, but in the deserts of Kuwait and Saudi Arabia. They lie in Jerusalem and Tel Aviv, where he sponsors suicide bombings by Palestinians he calls ''martyrs'' and the civilized world calls terrorists, using murder by proxy to advance his aspirations to lead the Arab world and fan hatred of Israel, America, and the universal ideal of freedom. These ambitions have led him to attack his sovereign neighbors—Kuwait, Saudi Arabia, Israel, Iran and Bahrain. His will to power has so affected his judgment that he has started two major wars and lost them, each time imperiling his own grip on power.

His moral code is so spare that he has gassed his own people—horror the world thought it had left behind at Auschwitz and Treblinka. We are told that he enjoys watching video of his opponents being tortured, for fun. He kills not just his political opponents but their families, cruelly.

He has developed stocks of germs and toxins in sufficient quantities to kill the entire population of the Earth multiple times. He has placed weapons laden with these poisons on alert to fire at his neighbors within minutes, not hours, and has devolved authority to fire them to subordinates. He develops nuclear weapons with which he would hold his neighbors and us hostage.

No, this is not just another self-serving, oil-rich potentate. He is the worst kind of modern-day tryant—a conscienceless murderer who aspires to omnipotence who has repeatedly committed irrational acts since seizing power. Given this reality, containment and deterrence and international inspections will work no better than the Maginot Line did 62 years ago.

He has unrepentantly violated sixteen United Nations Security Council resolutions, defying the will of the international community so consistently, so compulsively, so completely that no leader who professes allegiance to the values the United Nations was formed to uphold can sanction his audacity. His defiance, if not ended, is a threat to every nation that claims membership in the civilized world by virtue of its respect for law and fundamental human values.

Because Saddam Hussein respects neither law nor values, advocating inspections of his weapons facilities as an alternative to war posits a false choice between ending the threat he poses peaceably or by force of arms. His character, his ambition, and his record make clear that he will never accept the intrusive inspections that, by depriving him of his arsenal of dangerous weapons, would deprive him of his power. This power gives him international stature, feeds his fantasy of being a Saladin for our time, and sustains his ability to repress his people and thus remain the rule of Iraq.

Saddam Hussein is on a crash course to construct a nuclear weapon—as he was in 1981 when Israel preemptively destroyed his reactor at Osirak, enabling U.S. forces to go into Iraq a decade later without the threat of nuclear attack, and as he was in 1990, when he thought development of such a weapon, if completed in time, would have deterred American military action against him, allowing him to secure his control over his neighbors and dominate the region.

Saddam has masterfully manipulated the international weapons inspections regime over the course of a decade, enabling him to remain in power with his weapons of mass destruction intact, and growing in lethality. He knows how to play for time, and how to exploit divisions within the international community, greased by the prospect of oil contracts for friendly foreign powers.

His calculated ambiguity about his willingness to accept a new inspections regime are intended to stave off military attack until such time as he is able to deter it through deployment of an Iraqi nuclear weapon. He is using opponents of war in America, including well-intentioned individuals who honestly believe inspections represent an alternative to war, to advance his own ends, sowing divisions within our ranks that encourage reasonable people to believe he may be sincere.

He is not. He has had ten years to prove otherwise, and he has transparently failed. His regime would be secure if he would only acquiesce to the international community's demands to disarm, but he has not. It is Saddam Hussein who puts his own regime at risk by developing these weapons. The burden is not on America to justify going to war. The burden is Saddam Hussein's, to justify whey his regime should continue to exist as long as its continuing existence threatens the world.

Giving peace a chance only gives Saddam Hussein more time to prepare for war—on his terms, at a time of his choosing, in pursuit of ambitions that will only grow as his power to achieve them grows. American credibility, American security, and the future of the United Nations Security Council rest on the will of the United States to enforce the legitimate demands of the international community for Iraq's disarmament, by means that match the menace posed by his ambitions.

Saddam Hussein's regime cannot be contained, deterred, or accommodated. Containment has failed. It failed to halt Saddam's attacks on five sovereign nations. The sanctions regime has collapsed. As long as Saddam remains in power, he will be able to deceive, bribe, intimidate, and attack his way out of any containment scheme.

Some say we can deter Saddam Hussein, even though deterrence has failed utterly in the past. I fail to see how waiting for some unspecified period of time, allowing Saddam's nuclear ambitions to grow unchecked, will ever result in a stable deterrence regime. Not only would deterrence condemn the Iraqi people to more unspeakable tyranny, it would condemn Saddam's neighbors to perpetual instability. And once Iraq's nuclear ambitions are realized, no serious person could expect the Iraqi threat to diminish.

As for accommodation, I am reminded of Winston Churchill's characterization of appeasement: continually feeding the alligator in the hope that he will eat you last.

I do not believe the threat posed by Saddam Hussein's regime will be eliminated until he is removed from power. Congress made the same point in 1998 when we passed the Iraq Liberation Act, which made regime change in Baghdad a priority of American policy.

Our regional allies who oppose using force against Saddam Hussein warn of uncontrollable popular hostility to an American attack on Iraq. But what would really be the effect on Arab populations of seeing other Arabs liberated from oppression? Most Iraqi soldiers will not willingly die for Saddam Hussein. Far from fighting to the last Iraqi, the people of that tortured society will surely dance on the regime's grave.

I wish the Bush administration and its predecessor had given more serious support to internal and external Iraqi opposition than has been the case. But it's a safe assumption that Iraqis will be grateful to whoever is responsible

for securing their freedom. Perhaps that is what truly concerns some of our Gulf War allies: that among the consequences of regime change in Iraq might be a stronger demand for self-determination from their own people.

I commend the President for making a strong case for bringing Iraq into compliance with its international obligations to the United Nations. The Security Council bears the responsibility for enforcing the obligations it has imposed on Iraq in order to uphold international peace and security. The President was right to tell our friends and allies on the Council that if it does not act, America will.

Diplomacy is important, and I welcome the diplomatic campaign the administration is waging to solicit the support of other nations. At the end of the day, we will not wage this war alone. Many nations are threatened by Saddam Hussein's rule, and many nations have a stake in the new order that will be built atop the ruins of Saddam Hussein's fascist state. Our friends and allies will help us construct this new order, and we should welcome that.

Our friends and allies must know that we do not target Saddam's regime simply because he is a bad man, although his continuation of his tyranny is a rebuke to every decent value of humanity. We contemplate military action to end his rule because allowing him to remain in power, with the resources at his disposal, would intolerably and inevitably risk American interests in a region of the world where threats to those interests affect the whole world.

For the United States to accept Saddam's continued rule is to acquiesce to the certain prospect of strategic blackmail when, soon, Saddam wields a nuclear weapon and threatens the destruction of Israel or the invasion of Saudi Arabia, or demands the withdrawal of all American forces from the region, and America finds itself forced to respond at much more terrible cost than we would pay today.

Failure now to make the choice to remove Saddam Hussein from power will leave us with few choices late, when Saddam's inevitable acquisition of nuclear weapons will make it much more dangerous to defend our friends and interests in the region. It will permit Saddam to control much of the region, and to wield its resources in ways that can only weaken America's position. It will put Israel's very survival at risk, with moral consequences no American can welcome.

Failure to end the danger posed by Saddam Hussein's Iraq makes it more likely that the interaction we believe to have occurred between members of al Qaeda and Saddam's regime may increasingly take the form of active cooperation to target the United States.

We live in a world in which international terrorists continue to this day to plot mass murder in America. Saddam Hussein unquestionably has strong incentives to cooperate with al Qaeda. Whatever they may or may not have in common, their overwhelming hostility to America and rejection of any moral code suggest that collaboration against us would be natural. It is all too imaginable. Whether or not it has yet happened, the odds favor it, and they are not odds the United States can accept.

To those who argue that America's threat to Saddam's rule makes it more likely that he would collaborate with terrorists to attack our homeland, I would ask: how can we sanction the continuing existence of a regime whose ruler has the capability to inflict such damage on us and would even consider doing so?

Standing by while an odious regime with a history of support for terrorism develops weapons whose use by terrorists could literally kill millions of Americans is not a choice. It is an abdication. In this new era, preventive action to target rogue regimes is not only imaginable but necessary. Who would not have attacked Osama bin Laden's network before September 11th had we realized that his intentions to bring harm to America were matched by the capability to do so? Who would not have heeded Churchill's call to stand up to Adolf Hitler in the 1930s, while Europe slept and appeasement fed the greatest threat to Western civilization the world had ever known? Who would not have supported Israel's bombing of Iraq's nuclear reactor in 1981 had we then known, as Israel knew, that Saddam was on the verge of developing the bomb?

Opponents of this resolution offer many questions that are designed to persuade the President to wait before moving against Saddam Hussein. They have every right to do so. But there is one question I don't want to be asked in the months and years ahead: ''Why did you give Saddam Hussein time to harm us?''

Weighing the costs of inaction is an important as chronicling the costs of action in blood and treasure as we prepare to confront Iraq in 2002. In an age of weapons of mass destruction and global terrorists bent on acquiring those weapons, the costs of inaction could well be catastrophic.

As we hold this debate today, this future is not preordained. We have choices. I hope we make the right one.

Politics has no place in this debate. Voting for a course of action that will send young Americans off to fight and die for their country is the most solemn responsibility every member of this Congress will undertake. Those of us who have the honor of bearing that responsibility must weigh our words, and consult our consciences carefully. By voting to give the President the authority to wage war, we assume and share his responsibility for the war's outcome. Others have neither that burden nor that privilege.

We have a choice. The men and women who wear the uniform of our country, and who might lose their lives in service to our cause, do not. They will do their duty, as we see fit to define it for them.

We have a responsibility to these men and women to judge responsibly when our security is so threatened that we must call on them to uphold their oath to defend it. When we call them to serve, they will make us proud. We should strive to make them proud by showing deliberation, judgment, and statesmanship in the debate that will determine their mission.

There is no such thing as a Democrat or a Republican war. We vote on this resolution in the same way brave young men and women in uniform will fight and die as a result of our vote-as Americans. The freedom and security Americans will continue to enjoy as history's greatest nation will be their legacy, and their honor.

They will do their duty. Ours lies before us. Its outcome will determine America's course in this century, in an age when waiting for imminence of attack is catastrophic.

In this age, liberating oppressed peoples from the tyranny of those who would do us harm serves not only narrow American interests but the ordered progress of freedom. The global success of liberty is America's greatest strategic interest as well as its most compelling moral argument. All our other interests are served in that cause. In it rests our faith in the greatness of America, the last, best hope of earth.

What ensures our success in this long struggle against terrorism and rogue leaders who conspire against us is that our military strength is surpassed only by the strength of our ideals. Our enemies are weaker than we are in men and arms, but weaker still in causes. they fight to express an irrational hatred for all that is good in humanity, a hatred that has fallen time and again to the armies and ideals of the righteous. We fight for love of freedom and justice, a love that is invincible. We will never surrender. They will. All we must do is stay true to our faith.

Mr. REID. I ask unanimous consent to speak.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator from West Virginia begins his remarks, I wish to say something publicly that I should have said privately. That is, I know a little bit about the rules of the Senate, but very little compared to the Senator from West Virginia.

I am not sure everyone appreciates how far along we are. This is a very important resolution we are debating no matter on what side of the resolution you are. The Senator from West Virginia has expressed his thoughts now for almost a week off and on. We would not be in the position we are today to finish this sometime tonight but for the Senator from West Virginia.

In my younger days when I would be involved in things physical, there is not anyone I would like to have next to

me than the Senator from West Virginia. He is a fighter. I have never come across many fighters like the President pro tempore of the Senate. I express my personal appreciation and that of all the Senators for the Senator allowing us to be in the position we are today to finish this resolution tonight.

The Senator from West Virginia has forgotten more about the Senate rules than I will ever know. I am searching for words to express my admiration and respect for the Senator from West Virginia. He is a fighter, but he is a fair fighter and is always willing to see the other side of the picture, even though we may not agree.

Senator BYRD, you have made my life and that of the Senate, while interesting today, a lot easier than it could have been. The Senator accomplished this. No one in the world could have expressed themselves with the sincerity of feelings and love of country and Constitution as has the Senator. I say again, thank you for allowing us to be in this situation we are in today.

Mr. MCCAIN. May I add to the comments of the Senator from Nevada. I find from my days trying to enact a line-item veto, the days when the Senator from West Virginia was the majority leader, that he has always treated me with the utmost courtesy and consideration. In all of my encounters, I have found him to be incredibly enlightening, very educational, and occasionally frustrating. I would like to thank Senator BYRD for setting the tone and the tenor of this debate at a level that I think was important to maintain and one that I think all Members of the Senate, no matter which side they are on on this issue, can be proud of as we will look back at this debate and this very important resolution that is being considered.

I thank the Senator from West Virginia. I look forward to hearing him for the next couple of hours.

I thank the Chair.

How much time do I have remaining on my time?

The PRESIDING OFFICER (Mr. DAYTON). Eight minutes.

Mr. MCCAIN. I ask unanimous consent to reserve the remainder of my time for Senator BAYH, who is one of the original cosponsors.

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

Mr. MCCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I wish to begin. I read this quote:

> Naturally, the common people don't want war but, after all, it is the leaders of a country who determine the policy and it is always a simple matter to drag the people along. Whether it is a democracy or a fascist dictatorship or a parliament or a Communist dictatorship, voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked and denounce the pacifists for a lack of patriotism and exposing the country to danger. It works the same in every country.

Hermann Goering, 1893–1946, field marshal, German Army, founder of the Gestapo, President of the Reichstag, Nazi parliament, and convicted war criminal. Speech, 1934.

Mr. President:

> The moving Finger writes; and, having writ,
> Moves on: nor all your Piety nor Wit
> Shall lure it back to cancel half a Line,
> Nor all your Tears wash out a Word of it.

So said the Persian poet, Omar Khayyam, in the 11th century.

And so I say today. The Senate has made clear its intentions on the Iraq resolution. There is no doubt, there is no question. The Senate has made its intentions indubitably clear. The outcome is certain. The ending has been scripted. The Senate will vote, and the Iraq resolution will pass.

I continue to believe that the Senate, in following this preordained course of action, will be doing a grave disservice to the Nation and to the Constitution on which it was founded.

In the newly published ''National Security Strategy of the United States,'' the document which I hold in my hand—''The National Security Strategy of the United States of America,'' date: September 2002, the document in which the President of the United States outlines the unprecedented policy of preemptive deterrence which the Iraq resolution will implement—the President asserts that: ''The constitution has served us well.''

There you have it, 31 pages, and that is the only reference to the Constitution of the United States that is made in this document titled ''The National Security Strategy of the United States of America.'' He asserts that: ''The constitution has served us well.'' That's it. That is the alpha and the omega of the reference to the Constitution, this great Constitution of the United States which creates the Presidency of the United States, which creates a bicameral legislative body, which creates the judicial branch of this great Nation—provides for it. That is all it says about the Constitution. He asserts that ''the Constitution has served us well.''

And note, too, that the word ''constitution'' as mentioned in the President's document is in lower case. It doesn't begin with a capital letter, it begins with a lower-case letter, ''the constitution.''

I have a constitution. The Senator from New Mexico has a constitution. His constitution, which was given to him by his Roman ancestral forebears, that is his constitution. He is strong, he is weak, he has strong mental processes, he has a good heart, or whatever it is—his constitution, lower case. But this Constitution is with a capital C. This administration doesn't believe that it merits a capital C even, and only mentions, as I say, one time in passing that ''the Constitution has served us well.''

That, apparently, is what this administration thinks of the Constitution. And it references the Constitution as though it were some dusty relic of the past that needs to be eulogized before it is retired. And so it says: ''The constitution has served us well.''

He is wrong about that. The Constitution is no more dated than the principles that it established than is this great book that I treasure above all books, this great book right here.

The President is wrong. The Constitution is no more dated in the principles it established than is the Holy Bible.

The Constitution continues to serve us well, if only we would take the time to heed it.

I am deeply disappointed that this Senate, which I have believed in for all these many years—and which God and the people of West Virginia have blessed me to experience, 44 years come next January 3rd—I am deeply disappointed the Senate is not heeding the imperatives of the Constitution and is instead poised to hand off to the President of the United States the exclusive power of Congress to determine matters of war and peace—to declare war.

I do not in my heart believe this is what the American people expect of the Senate.

I have had many occasions in which to stand and laud the Senate, and to renew my expression of deep belief in the Senate of the United States as an institution. I have done that many times. But I am deeply disappointed the Senate is not heeding the imperatives of the Constitution, and is instead poised, as I say, to hand over to the President the exclusive power of Congress to determine matters of war and peace.

I do not in my heart believe this is what the American people expect of the Senate.

I have heard from tens of thousands of people—people from all across this country of ours—people from every State in the Union, from New Mexico to Florida to California to the State of Washington, and to the States of Wisconsin, Minnesota, West Virginia, New York, and all in between. I have heard from thousands of Americans who have urged me to keep up the fight—almost 50,000 e-mail letters within the last 5 days, and more than 18,000 telephone calls to my office in the last 5 days—urging me to keep up the fight. So they are listening, and they want to hear more.

If Senators don't think for a moment that people are listening to this Senate debate, the people are listening. They want to be informed. They have questions they want answered.

When I came to this body, we didn't have televised coverage. We didn't have a radio. We didn't even have radio coverage of the debates in this Senate. I can remember that when a Senator stood to his feet, other Senators gathered closely. They moved up close in their seats to listen to that Senator. We had no public address system in

this Chamber. But they were being informed by the Senate debates. The people were being educated and informed as to the great issues of the day. The Senate was an institution which did inform the people. We spent days upon days on the great issues that came before this Senate—more than 100 days, for example, on the Civil Rights Act of 1964, more than 100 days. This institution did its duty to the American people by informing them of the issues of the day, and by debating those issues—Republicans and Democrats. The aisle was not as wide in those days as it is now. Sometimes I think it is a great canyon here, a great chasm that separates the Democratic and the Republican parties in this Senate. But not so then. We disagreed from time to time.

But I can remember. If I were to take the time now, I could call the names of the faces who in my dreams come back to me—the faces of those who sat in those seats years ago, decades ago. They were men. There was only one woman at that time, Margaret Chase Smith of Maine. But Senators, Republicans and Democrats, joined in informing the people through the process of debate.

I am only one Senator from a very small State. Yet, as I say, within the past week, I have received nearly 20,000 telephone calls and nearly 50,000 e-mails supporting the position I have taken on this floor. This is not counting the calls and the e-mails that have come in to my State office in Charleston, WVA.

I want all of those people across America, out there across the plains, the Great Rockies, across the Mississippi, and to the Pacific coast, from the gulf coast to the Canadian border—I want all those people who took the time to contact me to know how their words have strengthened, heartened me and sustained me in my feeble efforts here to turn the tide of opinion in the Senate.

''The iron will of one stout heart shall make a thousand quail.''

These are my heroes—the people out there who have called, who have written, and who have told me in person as I have walked across the street. They are my heroes. And I will never forget the remarkable courage and patriotism that reverberated in the fervor—in the fervor—of their messages. I gave them hope because they love this country. And they love this Constitution. Senators all know that. The people out there love this Constitution. They love this Constitution. All of the people out there do.

So they are my heroes.

As the Apostle Paul, that great apostle, said, ''I have fought a good fight, I have finished the course, I have kept the faith.''

There are Americans all across this country in every State of this Union who have joined in spirit with me and with a small band of like-minded Senators in fighting the good fight.

We could stay here on this floor and continue to fight. They say, well, we might stay here until 4:30 in the morning. Come on. Come on.

I am thinking of the words of Fitzjames in ''The Lady of the Lake,'' when he stood there before Roderick and said: ''Come one, come all! this rock shall fly From its firm base as soon as I.'' So come on. Let's see the clock turn to 4:30 in the morning. Who cares what time it is as long as we are speaking for our country?

So I say to the distinguished Senator who presides over this Chamber tonight, whose forebear and ancestral relative signed his name at the Constitutional Convention on September 17, 1787—his name was Dayton, Jonathan Dayton. This is his relative who presides over the Senate at this moment.

So we could continue this fight. Let me tell you, ladies and gentlemen, there are several checkpoints—I will call them checkpoints—at which, under the rules, I could cause the Senate to have to go through another cloture and another 72 hours. I could do that. And I would have no hesitancy, not any, in doing it if I did not know the Senate has already spoken.

Also, there is a point at which it becomes time to accept reality and to regroup. It is clear we have lost this battle in the Senate. The next front is the White House. I urge all those people who are following the debate out there, and who have encouraged me in my efforts, and have encouraged the other Senators who have stayed with me firmly—without faltering, without fainting, and without wavering—I urge the people to keep on in their behalf, who have encouraged us in our efforts, I urge them to turn their attention to the President of the United States. Call him, write him, e-mail him, urge him to heed the Constitution and not short circuit this Constitution by exercising the broad grant of authority the Iraq resolution provides.

The President has said on many occasions that he has not yet made up his mind to go to war. And here we are, we have been stampeded into this moment, when we will soon approve this resolution.

Let me say again, there are several checkpoints at which we could play this record over and over again. For example, the title of the resolution could be amended. How about that? And then there is going to be a House resolution coming over to this body, and there is going to be a request, I suppose, after the Senate votes on that resolution, a request to insert the words of the Senate, which are likewise the same words, so that it will have a House number. And there would have been a place.

I will not go through all these places. But we could fight on. No, we would not finish at 4:30 tomorrow morning, we would not finish it at 4:30 the next morning, if we wanted to. I hope the leadership and the Senators will all understand that. I am not bragging. Dizzy Dean said: It's all right to brag if you have done it. We could do that. We could do that. But what good would it do? What good would it do? The course of destiny has already been set by this Senate.

So the President has said on many occasions he has not made up his mind to go to war. When he does make up his mind, if he does, then he should come back to Congress and seek formal authorization.

Let those high-powered lawyers of the White House tell him otherwise. They are going to stand by their client, I suppose. But they did not go to the same law school I went to. They probably did not have to work as hard as I had to work. Their wives may not have worked as hard as my wife to put me through law school. Well, so much for that.

Let him come back to the Congress for authorization.

Mr. President, I continue to have faith in our system of Government. It works. I continue to have faith in the basic values that shape this country, this Nation. Ours was a great country before it became a great nation. Those values do not include striking first at other countries, at other nations. Those values do not include using our position as the strongest and most formidable Nation in the world to bully and intimidate other nations.

There are no preemptive strikes in the language of the Constitution, I do not care what other Senators say. Those values do not include putting other nations on an enemies list so we can justify preemptive military strikes.

Were I not to believe in the inherent ability of the Constitution to withstand the folly of such actions as the Senate is about to take, I would not stop fighting. Yes, he is 85—85. I will be 85 years old 41 days from now if the good Lord—if the good Lord—lets me live. But don't you think for a moment I can't stand on this floor all the rest of this night. I like to fight when I am fighting for the Constitution and for this institution. I will fight until I drop, yes, fight until they hack my flesh to the bone. I would fight with every fiber in my body, every ounce of my energy, with every parliamentary tool at my disposal—and there are parliamentary tools at my disposal; don't you ever think there are not—but I do believe the Constitution will weather this storm. The Senate will weather the storm as well.

I only hope that when the tempest passes, Senators will reflect upon the ramifications of what they have done and understand the damage that has been inflicted on the Constitution of the United States.

Now, those people out there believe in the Constitution. And I have been very disappointed to have stood on my feet—an 85-year-old man, standing on his feet, and pleading with his colleagues to stand up for the Constitution—I have been disappointed that some of them seem not to have listened at all. That is a real disappointment. It

isn't ROBERT C. BYRD who counts; it is the Constitution of the United States. And but for that Constitution, they would not be here, I would not be here, and you, Mr. President, would not be here. It is that Constitution.

And we all take an oath, a solemn oath, to support and defend the Constitution of the United States against all enemies, foreign and domestic.

In the greatest oration that was ever delivered in the history of mankind, the oration ''On the Crown,'' delivered in the year 331 B.C. by Demosthenes in his denunciation of Aeschines, he asked this question: Who deceives the state?

He answered his own question by saying: The man who does not speak what he thinks. Who deceives the state? The man who does not speak what he thinks.

I believe we ought to speak what we think. A political party means nothing, absolutely nothing to me, in comparison with this Constitution which I hold in my hand. It means nothing, political party means nothing to me, in comparison with this great old book which our mothers read, the Holy Bible.

It seems to me that in this debate—thinking about the 50,000 e-mails that have come to this country boy from the hills of West Virginia, 50,000 e-mails, almost 20,000 telephone calls; my wonderful staff have been hard-pressed to take all these calls and log them in—the American people seem to have a better understanding of the Constitution than do those who are elected to represent them.

Now, that is a shame, isn't it? I feel sorry for some of my colleagues. I love them; bless their hearts. I love them. I forgive them. But you might as well talk to the ocean. I might as well speak to the waves as they come with the tides that rise and fall. I might as well speak to the waves, as did King Canute, as to speak to some of my colleagues. They won't hear me. And it isn't because it is ROBERT BYRD. They just don't want to hear about that Constitution.

That is what these people are writing me about. Perhaps it is that their understanding, the understanding of the people, the great mass of people out there, it may be that their understanding of the Constitution has not yet filtered through the prism of the election year politics. That's it—the election year politics.

I believe the American people have a better understanding of what the Senate is about to do, a greater respect for the inherent powers of the Constitution, and a greater comprehension of the far-reaching consequences of this resolution, a greater comprehension than do most of their leaders.

I thank my colleagues who have allowed me to express at considerable length my reasons for opposing the resolution. I thank those Senators, such as the Senator who presides over the Senate at this very moment, I thank those Senators who have stood with me in my fight for the Constitution and for this institution and for that provision in the Constitution that says, Congress shall have power to declare war.

I thank those Senators who have engaged in thoughtful debate with me. I thank Senator MCCAIN. I thank Senator WARNER. I thank these men. They stood up for what they believe. They stood up for this administration. The only difference is, I will stand for no administration—none—when it comes to this Constitution. If the administration took a position opposite that Constitution, forget it. I don't care if it is a Democrat.

I do not believe the Senate has given enough time or enough consideration to the question of handing the President unchecked authority to usurp the Constitution and declare war on Iraq. I have no brief for Iraq. But I accept the futility of continuing to fight on this front. So I could keep us here all night tonight. I know there would be other Senators who would stand with me. Other Senators believe as I do. I could keep us here tomorrow. I could keep us here through Saturday. I would hope we would not be in on Sunday. That is the Sabbath Day. But come back on next Tuesday, have at it again, until the flesh from my bones be hacked.

I say to the people of America, to those who have encouraged other Senators and me to uphold the principles of the Constitution: Keep up the fight. Keep fighting for what is right. Let your voices be heard.

Why do you think George Washington crossed the Delaware? I say to my good friend from Delaware, JOE BIDEN, my esteemed friend, my esteemed colleague. He crossed the Delaware, I say to my friend FRED THOMPSON—Senator FRED THOMPSON, we are going to soon miss him. I like him. I like him. He always speaks with great passion and fervor, and he is always respectful of other Senators. He was here during the days of Sam Ervin, Howard Baker, the days of Watergate, that Senator from Tennessee.

Let me say, I will always listen to you, the people out there, and I hope the President will begin to listen to you.

If the President really wants to do something for this country, let him help to fight the war at home. This week, we will soon be passing another CR. Time and time again, the President's Attorney General and the Director of Homeland Security have put the Nation on notice that there is an imminent threat of another terrorist attack to our homeland. And from time to time, they have even identified the most likely targets, such as our nuclear powerplants, our transportation infrastructure, our Nation's monuments, our embassies. They have told our citizens to be vigilant about this imminent risk.

What has the President done to respond to this imminent risk of terrorist attack on our Nation's shoulders? The President has proposed to create a new bureaucracy. He has proposed to move boxes around on an organization of flowcharts. He has proposed to create the second-largest domestic agency in the history of the Republic. Even the President recognizes that actually creating the new Department of Homeland Security will take at least 1 year.

I tell you, my friends, if I ever saw a good lawyer, he sits right here on the back row, right now—that Senator from Tennessee, FRED THOMPSON. Why do I say that? Because he made the most rousing defense of this sorry resolution that is before the Senate and on which we will soon vote, the most rousing defense of it. And yet he is against it. He is against it. That is what I call a good lawyer; he makes a rousing defense of this thing which he hates.

Even the President recognizes that actually creating the new Department of Homeland Security will take at least 1 year. The GAO has said it will take at least 5 to 10 years for a new Department to be effected.

So while our citizens are facing this imminent risk, under the President's proposal, the agencies responsible for securing our borders, such as the Customs Service, the Immigration and Naturalization Service, and the Coast Guard, will spend the next year or more figuring out for whom they work, with whom they work. Instead of focusing on their mission, our border agencies and inspectors will be wondering whether their units will be reorganized or transferred to new locations, and they will be wondering where their phones are, where their computers are, and whether their jobs are going to be eliminated. And what would be happening in the meantime? Who will be keeping the store and watching the terrorists?

Reorganizing our bureaucracy will not improve our Nation's immediate capacity to deter or respond to the imminent threat of a terrorist attack. Since September 11, the Senate Appropriations Committee has focused on providing immediate resources to Federal, State, and local agencies and first responders in order to improve our capacity to respond to this evolving threat.

On September 14, 2001—just 3 days after the horrific attacks on September 11—Congress approved $40 billion. That is $40 for every day since Jesus Christ was born. Congress approved $40 billion, including $9.8 billion for homeland defense. Resources were provided to the FBI to hire more agents and to improve their computers; to State and local governments to improve the capacity of our hospitals and clinics to respond to chemical or biological weapons attacks; to State and local governments to train and equip our law enforcement and fire personnel to respond to attacks; for HHS to purchase smallpox vaccine for USDA; to the FDA to protect our food safety; to the Postal Service to purchase equipment that can protect the mail—where have you been, Mr. President? That is what

Congress did—for the FAA to secure cockpits and to improve the security of our airports; to the Department of Transportation for port security; to the Energy Department to help secure our nuclear facilities; to Customs and INS for additional border security inspectors and agencies, and for improved training and equipment.

To listen to the President, he is the only person who has been thinking anything about homeland security. Here is the great Congress of the United States that has been providing moneys for the defense of our country.

Despite objections from the White House, Congress was able to increase funding for homeland security programs by $3.9 billion. Where have you been, Mr. President? If you want to do something, do something here at home.

On November 14, 2001, Senate Democrats supported the inclusion of $15 billion for homeland security in an economic stimulus package, including $4 billion for bioterrorism and food safety; $4.6 billion for law enforcement and responsive initiatives; $3.2 billion for transportation security: and $3 billion for other homeland security programs, including mail screening and protection for our nuclear plants and labs, water projects, and other facilities.

Where has he been, Mr. Commander in Chief? Out on the campaign trail raising money for the campaign? This is what Congress has been doing.

On November 14, 2001, the White House strongly objected to the amendment, asserting that existing funding was ''more than adequate to meet foreseeable needs.''

Now, who is fighting for homeland security? Under pressure from the White House, Senate Republicans, objecting to the emergency designation for the homeland security funding, raised the Budget Act point of order. Efforts to waive the budget point of order failed. On December 4, 2001, the Appropriations Committee reported out, by a vote of 29 to 0, the Defense appropriations bill for fiscal year 2002.

In addition to the $20 billion appropriated on September 14, the bill would have provided $7.5 billion in additional homeland security funds, including $3.9 billion for bioterrorism and food safety; $1.3 billion for antiterrorism law enforcement; $1.43 billion for security of mail and nuclear facilities; $879 million for transportation and border security. The bill would also have provided an additional $7.5 billion to FEMA's disaster relief account for activities and assistance related to 9/11.

On December 5, 2001, in a meeting with congressional leaders, President Bush threatened to veto the Defense appropriations bill because of funding ''that is not needed at this time.''

On December 6, 2001, Senate Republicans objected to the emergency designation for the homeland security funding in the Defense appropriations bill and raised the Budget Act point of order. Efforts to waive the budget point of order failed.

On December 7, 2001, after negotiations with Senate Republicans, homeland security programs were reduced by over $3.6 billion. The Senate then passed the Defense appropriations bill. In April and May of 2002, the Senate Appropriations Committee held five bipartisan hearings, led and conducted by Senator TED STEVENS and me, concerning the defense of our homeland. Senator STEVENS and I, and others on that committee, Republicans and Democrats, heard from Governors and from mayors. We heard from firemen, law enforcement, and emergency medical personnel. We heard from specialists in the field of counterterrorism. Based on those hearings, the Committee on Appropriations in the Senate produced a bipartisan supplemental appropriations bill to continue our effort to provide immediate resources to improve our Nation's capacity to deter and respond to terrorist attack.

On May 22, 2002, the Senate Appropriations Committee, by a vote of 29 to 0, reported out a supplemental appropriations bill that included $8.3 billion for homeland defense programs.

Once again, on June 4, 2002, the President threatened to veto the bill because he believed it contained unnecessary homeland security spending.

On June 7, 2002, the Senate passed the Supplemental Appropriations Act for further recovery from and response to terrorist attacks on the United States. The bill provided $8.3 billion for homeland security programs, including the following amounts above the President's request: $265 million for airport security funds; $646 million for first responder programs; $716 million for port security. However, under pressure from the White House, conferees on that bill were forced to reduce homeland security funding from $8.3 billion to $6.7 billion—under pressure from the White House.

In negotiations with House Republicans, homeland security funding was dropped for cybersecurity, for improved capacity for the Centers for Disease Control to investigate potential biological attacks, for airport security, for the Coast Guard, and for the Customs Service.

On July 24 of this year, the Senate passed the conference report to the Supplemental Appropriations Act for further recovery from and response to terrorist attacks on the United States. Get this now; we are talking about war here, the war on terrorism. Where? Here in this country. This act reduced the $8.3 billion for homeland security appropriated by the Senate to $6.7 billion.

Did the White House agree to fund the full $6.7 billion for homeland defense programs? Did it?

No. The White House talks a good game on homeland defense, but the White House support is more about rhetoric than it is about resources. In order for the President to spend $2.5 billion for homeland defense spending, it was necessary for him to do what? Just sign his name on a document designating the funding as an emergency requirement.

What did the President choose to do? Did he choose to sign his name and start that $2.5 billion to flowing into the States and counties and municipalities of this country? No. The President chose not to make that designation.

In making that decision, he terminated $2.5 billion of funding for the FBI, funding to train and equip our Nation's firefighters, funding for the Corps of Engineers to help ensure our water supply, funding for security at nuclear facilities, funding for the Coast Guard.

Now tell that, Mr. President, at your next campaign stop, your next fundraiser when you are talking about making war on Iraq. Tell the people there what I have been reading. It is fact. These are for the record.

One of the lessons we learned at the World Trade Center on September 11 was that our fire personnel could not communicate by radio with police personnel; that local officials could not communicate with State and regional personnel.

When the President decided to block the $2.5 billion, he blocked the $100 million that we approved to help State and local governments across the land to solve the problem, and $90 million to provide medical assistance to the first responders at the World Trade Center was lost.

What is the President's solution for the imminent threat to our Nation's homeland security? Rhetoric? Yes. More bureaucracy? Yes. Resources to respond to the immediate threat? No.

Mr. President, with reference to this Commander in Chief business that we hear about—oh, the Commander in Chief, they say. I listen to my friends across the aisle talking about the Commander in Chief. We must do this for the Commander in Chief; we must stand shoulder to shoulder with the Commander in Chief. The Commander in Chief. Of what is he Commander in Chief? The army, the navy, and the militia of the several States. But who provides the army and the navy? Who provides for the calling out of the militia of the several States? Congress. So much for the the term ''Commander in Chief.''

Charles I used that term in 1639—Commander in Chief. You know what happened to Charles I of England? The swordsman cut off the head of Charles I on January 30, 1649. So much for Commander in Chief.

Parliament and the King of England fought a war. Can you imagine that? Can you imagine Congress fighting a war with the President of the United States? They did that in England. Yes, Parliament and the King fought a war. Who lost? The King. Who was it? King Charles I. A high court convened on January 1, I believe it was, 1649, and in 30 days they cut Charles I's head off—severed it from his body. So much for

Charles I. That was the Commander in Chief. Yes. Hail to the chief.

I respect the President as much as anybody else. But the Barons at Runnemede on the banks of the Thames on June 15, 1215, took it upon themselves to let the King know that there was a law, and that Kings had to live by the law, just as did barons and others.

I do not know who is talking to this President down here. I do not know who among his crowd down there is trying to pump him up, but my friends, this President of the United States is the President by virtue of this Constitution. He is created by this Constitution that I hold in my hand, which says in article II that the President shall be Commander in Chief. And yet this refers to the Constitution in this national security strategy of the United States of America printed on September 2002. It refers to the Constitution not even with a capital letter.

The Constitution of America—what is the matter with those people? Haven't they studied the Constitution down at the other end of the avenue? They better become aware of it. This is the Constitution, and that Constitution refutes this resolution on which Congress is about to vote to give to the President of the United States power to determine the use of the military forces, when he will use them, where he will use them, how long he will use them. It is this Constitution. You better believe it, may I say to those who advise the President.

I think the President is probably a much better individual by himself, but somebody is giving him bad advice.

Here is what Hamilton says. Let's read what Hamilton says. He is one of the three authors of the ''Federalist Papers.'' Hamilton, who was shot to death in Weehawken, NJ, on the 11th of July, 1804. He died on the 12th of July, 1804; shot by the Vice President of the United States; murdered by the Vice President of the United States. Let's hear what Alexander Hamilton has to say in the Federalist Paper No. 69. Read it. These are the ''Federalist Papers.'' There are 85 of them written by Jay, Hamilton, and Madison. Let's hear what he says about the Commander in Chief. I want the Commander in Chief to hear me. I want the Commander in Chief to hear not what ROBERT BYRD said—who is he?—but read what Alexander Hamilton said:

> The President is to be the ''commander-in-chief'' of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. . . .In most of these particulars, the power of the President will resemble equally that of the king of Great Britain and of the governor of New York. The most material points of difference are these:—First. The President will have only the occasional command of such part of the militia of the nation as by legislative provision may be called into the actual service of the Union. The king of Great Britain and the governor of New York have at all times the entire command of all the militia within their several jurisdictions. In this article, therefore—

Talking about this article of the Constitution—

> In this article, therefore, the power of the President would be inferior to that of either the monarch or the governor. Second. The President is to be commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it.

Get that down there at the other end of the avenue. Read it.

> Second. The President is to be commander-in-chief. . . .It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

That is Hamilton.

I am reading from the Federalist Papers. Perhaps I ought to send a copy down to the White House. I will see if I can't do that. I will send them a copy. It will not cost them anything, just a gift from ROBERT C. BYRD.

Now, I have a little more to say. Suffice it to say there are other of my colleagues, and I, who have stood on this floor and we have pointed to the Constitution of the United States. We have said time and time again, as we have offered amendments, to try to uphold this Constitution of the United States, read those amendments. They went down, I am sorry to say, but I am not discouraged.

Let me read some verses from the Book of Luke in the Holy Bible, beginning with chapter 16, verse 19 and continuing through verse 31:

> There was a certain rich man, which was clothed in purple and fine linen, and fared sumptuously every day. And there was a certain beggar named Lazarus, which was laid at his gate, full of sores, and desiring to be fed with the crumbs which fell from the rich man's table. Moreover the dogs came and licked his sores. And it came to pass that the beggar died, and was carried by the angels into Abraham's bosom. The rich man also died, and was buried.
>
> And in hell he lift up his eyes, being in torments, and seeth Abraham afar off, and Lazarus in his bosom. And he cried and said, Father Abraham, have mercy on me, and send Lazarus, that he may dip the tip of his finger in water, and cool my tongue; for I am tormented in this flame.
>
> But Abraham said, Son, remember that thou in thy lifetime receivedst thy good things, and likewise Lazarus evil things; but now he is comforted and thou art tormented. And beside all of this, between us and you there is a great gulf fixed; so that they which would pass from hence to you cannot. Neither can they pass to us, that would come from thence.
>
> Then he said, I pray thee therefore, father, that thou wouldest send him to my father's house; For I have five brethren: that he may testify unto them, lest they also come into this place of torment. And Abraham saith unto him, They have Moses and the prophets; let them hear them. And he said, Nay, father Abraham; but if one went unto them from the dead they will repent. And he said unto him, if they hear not Moses and the prophets, neither will they be persuaded, though one rose from the dead.

There you have it. We can speak until we are blue in the face, we can speak until our tongues fall out, and they will not hear us. So if there were those who were brought from the dead, would some listen?

Some would; some would not.

We have spoken. We have spoken out of our hearts, and we can speak until our hearts fall from our bodies, but some would not hear. Let those who will not hear understand that this Constitution will endure. It will endure because it was written, as John Marshall said, to endure for the ages.

In closing, I want to thank my dear friends in this Senate who have stood in this Chamber day after day in the effort to educate our people.

The Senate is a great institution, but somehow I think we are failing. We are failing to educate the people. Why? Because we do not want to spend enough time. How much time have we spent on this resolution as of yesterday at 4 p.m.? A little over 25 hours on this bill—25 hours. Why, many of the larger municipalities in this country would spend a week on an application for a sewer permit. And here we spend 2 days?—that is what it amounts to, 25 hours—and we are ready to quit.

We know we might as well quit because this cloture rule is being used against us. Why at this critical time, when we are discussing the most critical legislation we have had before the Senate this year, the most critical legislation we may have in a long time? We have been stampeded, we have been rushed, and it is unfair to the people of this country. Yet it has to be that way.

I have letters from constitutional scholars in response to my inquiry of them as to the war powers of the United States Congress. I received several letters from constitutional scholars from around the country, and I ask unanimous consent that they be printed in the RECORD: A letter by Jane E. Stromseth, professor of law, Georgetown University Law Center; a letter from Tufts University, the Fletcher School of Law and Diplomacy, a letter signed by Michael J. Glennon, professor of international law.

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

GEORGETOWN UNIVERSITY LAW CENTER,
Washington, DC, August 26, 2002.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: Thank you for your letter of July 22, asking for my opinion regarding whether the Bush Administration currently has sufficient constitutional and/or statutory authority to introduce U.S. Armed Forces into Iraq for the purpose of removing Saddam Hussein from power. This question is of vital importance to our country and our Constitution, and I appreciate the opportunity to address it.

The answer to your question requires an interpretation of the Constitution and of several statutes, and it also depends on the factual circumstances surrounding any contemplated military action. As I discuss below, if the United States or its armed

forces are subject to attack or imminent attack by Iraq, the President can invoke his constitutional authority as Commander in Chief to repel sudden attacks. Also, if the President establishes a direct link between Iraq and the attacks of September 11, he can invoke S.J. Res. 23 (Pub. L. No. 107–40) as statutory authority to commit U.S. forces to Iraq. However, based on the facts as they have been presented by the Bush Administration as of August 26, 2002, neither an imminent attack by Iraq nor a clear link between Iraq and the September 11 attacks have been established. Moreover, given the likely scale and risks of a U.S. military action to remove Saddam Hussein from power, the commitment of U.S. forces to Iraq to impose a regime change would constitute a war requiring prior congressional authorization, which, absent a connection to the September 11 attacks does not presently exist. While serious arguments can be advanced that the 1991 Gulf War authorization, coupled with subsequent legislative action, provide statutory authority to use U.S. armed forces to remove Saddam Hussein as part of enforcing the Gulf War cease-fire resolution (UN Security Council Resolution 687), those arguments ultimately fall short on close examination. In sum, whether commencing U.S. military action against Saddam Hussein, in circumstances outside a link to Sept. 11 or an attack or imminent attack against the United States, is a wise policy is a question on which reasonable people can disagree; it is also a question that ought, under our Constitution, to be debated by Congress and its authorization secured before any such military action commences. The basis for these conclusions is set forth full below.

First Principles

As you know well, the Constitution's war powers provisions are part of a structural system of checks and balances designed to protect liberty by guarding against the concentration of power. The Constitution gave Congress the power to declare war because the Founders believed that such a significant decision should be made not by one person, but by the legislature as a whole, to ensure careful deliberation by the people's elected representatives and broad national support before the country embarked on a course so full of risks. As James Madison put it: ''In no part of the constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislation, and not to the executive department . . . [T]he trust and the temptation would be too great for any one man. . . .''[1] The Founders, in short, vested the power to decide whether the country should go to war in the Congress to ensure that the decision to expose the country to such sacrifices and costs reflected the judgment and deliberation of the legislative branch as a whole.

At the same time, the framers wanted a strong Executive who could ''repel sudden attacks'' and act with efficiency and dispatch in protecting the interests of the United States in a dangerous world. By making the President Commander in Chief, moreover, they sought to ensure effective, unified command over U.S. forces and civilian accountability. My best reading of the constitutional sources is that the Founders expected the President, as Commander in Chief and Chief Executive, to protect the United States in a dangerous and uncertain world by repelling attacks or imminent attacks against the United States, its vessels, and its armed forces, but not, on his own, to go beyond this authority and commence war without congressional authority. The Founders, in short, made a clear distinction between defending against attacks initiated by others and commencing war.

Historical practice since the Constitution's ratification has not fundamentally altered how we should understand the Constitution's allocation of war powers today. On the contrary, practice cannot supplant or override the clear requirements of the Constitution, which gives the power to declare or initiate war to Congress. Furthermore, of the dozen major wars in American history, five were formally declared by Congress and six were authorized by other legislative measures.[2] Whatever conclusions one might reach about small-scale uses of force, which admittedly raise more complicated issues, the fact remains that major wars have been authorized by Congress.[3]

The War Powers Resolution (Pub. L. No. 93–148) aims to ''insure that the collective judgment of both the Congress and the President'' apply to the introduction of U.S. forces into hostilities and to the continued use of those forces. Moreover, it seeks to enable the Congress to better fulfill its constitutional responsibilities by requiring the President ''in every possible instance'' to ''consult with Congress before introducing'' U.S. armed forces into hostilities or imminent hostilities. Among its other provisions, the War Powers Resolution makes clear, in Section 8(a), that authority to introduce U.S. Armed Forces into hostilities or imminent hostilities ''shall not be inferred . . . from any provision of law . . . , including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.'' This clear-statement rule is designed to serve the constitutional purpose of ensuring a clear and deliberate congressional authorization of force. Thus, when Congress authorized commencement of the Gulf War in 1991, and again when Congress authorized the use of force in response to the September 11 attacks, it expressly affirmed that it was providing specific statutory authorization within the meaning of the War Powers Resolution.

Moreover, the War Powers Resolution makes clear that it is not intended ''to alter the constitutional authority of the Congress or of the President,'' nor shall it ''be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities . . . which authority he would not have had in the absence of this joint resolution.'' (Section 8(d)(1) and 8(d)(2)). Thus, contrary to claims sometimes made, the War Powers Resolution does not authorize the President to commit U.S. forces to war for 60 days.[4] On the contrary, because the Constitution requires congressional authorization to commence war, the War Powers Resolution should not be read to confer such authority on the President. Congress thus expressly authorized the 1991 Persian Gulf War and certainly did not view the War Powers Resolution as obviating the need for such authorization. (I have attached my summary of the congressional debate preceding the Gulf War as an appendix to this letter).

Military Action Against Iraq for the Purpose of Removing Saddam Hussein from Power

If the President were to commit U.S. armed forces to Iraq for the purpose of removing Saddam Hussein from power, the United States would be embarking on what likely would be a major and sustained commitment of military forces in a campaign that would involve enormous risks and substantial potential casualties. In order to commit U.S. forces to such a military action, the President would need authority to act.

Constitutionally, the President possesses the power to repel sudden attacks, which, in my view, includes the power to forestall imminent attacks against the United States and its armed forces, and to protect Americans in imminent danger abroad.[5] In an age of terrorism, there may well be direct and imminent threats to the United States that require an immediate defensive response by the President and constitute a legitimate exercise of the international right of self-defense. But, at this point, the President has not offered evidence of an imminent attack by Iraq on the United States or its forces. The purpose behind the President's power as Chief Executive and Commander in Chief to ''repel sudden attacks'' is to give the President the flexibility to act to defend the United States when there is not time to consult with Congress. But the decision to go beyond this and to commence a war is vested in Congress. Moreover, there is time for a thorough legislative debate regarding Iraq; the United States and its forces are not currently being attacked; military forces would be built up over a period of time before military action could be commenced; and ample time exists to consult with Congress and seek its authorization to use force.

Major military action with far-reaching objectives such as regime change is precisely the kind of action that constitutionally should be debated and authorized by Congress in advance. Under present circumstances, which admittedly could change, military action against Iraq to force a change in regime would pose significant risks to U.S. forces, including risks of Iraqi retaliation with weapons of mass destruction, and risks of a larger conflict in an already hemoraging Middle East. Initiating a military confrontation of this nature would be a decision to engage in war that is precisely the kind of decision the Founders vested in Congress by virtue of its power to declare war. Moreover, the purposes behind that power (ensuring deliberation, democratic consensus and national unity before

[1] James Madison, in Alexander Hamilton & James Madison, Letters of Pacificus and Helvidius on the Proclamation of Neutrality of 1793, at 89 (Washington, D.C., J. Gideon & G.S. Gideon, 1845).

[2] President Truman committed U.S. forces to Korea without seeking congressional authorization. For a discussion of constitutional war powers and the Korean War, see Jane Stromseth, ''Rethinking War Powers: Congress, The President, and the United Nations,'' 81 Georgetown Law Journal 597, 621–640 (1993). Congress subsequently enacted legislation to provide funds for the Korean War and to extend the draft, id. at 626, 630.

[3] In a longer piece, I discuss original intent, historical practice, and current arguments about war powers more fully and systematically, and I draw upon my conclusions in that piece here. See Jane E. Stromseth, ''Understanding Constitutional War Powers Today: Why Methodology Matters,'' 106 Yale L.J. 845 (1996).

[4] The War Powers Resolution and its 60/90 day time-clock apply to a wide variety of situations in which U.S. forces are introduced into hostilities as well as into ''situations where imminent involvement in hostilities is clearly indicated by the circumstances.'' Whatever effects this statute has, or was intended to have on smaller-scale deployments of force, including deployments that involve simply the prospect of hostilities, the War Powers Resolution cannot be read as authorizing 60 days wars because of the clear language to the contrary in sections 8(d) and 2(c) of the statute.

[5] This interpretation of the President's authority is consistent with the understanding reflected in the original Senate version of the War Powers Resolution. See S. Rep. No. 93–220, at 22 (1973). For a discussion of the scope of the President's defensive war powers, see Stromseth, ''Understanding Constitutional War Powers Today: Why Methodology Matters,'' 106 Yale L. J. 845, 888–892 (1996).

engaging in war) are critical if the American people and American armed forces are being asked to bear those risks. In short, under the factual circumstances that exist as of the date of this letter, the President cannot rely on inherent constitutional authority to commit U.S. forces to Iraq for the purpose of removing Saddam Hussein from power.

Congress's Post-September 11 Authorization of Force

Whether statutory authority presently exists to introduce U.S. armed forces into Iraq to depose Saddam Hussein depends on whether such action would fall within the provisions of S.J. Res. 23 (Pub. L. No. 107–40), adopted in response to the September 11 attacks.

Congress's authorization for the use of force against those responsible for the attacks of September 11 is an express recognition that Congress and the President both have a critical constitutional role to play in the war on terrorism. S.J. Res. 23 authorizes the President: ''to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.'' Thus, the force must be directed against those responsible for the September 11th attacks, or those who harbored such organizations or persons; and the purpose of using force is focused and future-oriented: to prevent additional terrorist acts against the United States by the states, organizations, or persons responsible for the September 11th attacks or who harbored those responsible.

Congress' post-September 11th resolution was an unambiguous decision to authorize force. Like the Gulf War authorization in 1991, the authorization explicitly affirms that it ''is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.'' This removes any actions that fall within the scope of the authorization from the War Powers Resolution's 60-day timeclock provision. At the same time, Congress made clear that the requirements of the War Powers Resolution otherwise remain applicable, which would include the requirement of regular reporting and consultation. Moreover, in signing the Joint Resolution, President Bush made clear that he would consult closely with Congress as the United States responds to terrorism.

Whether this joint resolution authorizes military action against Iraq to remove Saddam Hussein from power depends on whether the requisite link to the attacks of September 11 exists or not. That is, did Iraq ''plan [], authorize, [] commit [], or aid [] the September 11 attacks,'' or ''harbor'' organizations or persons who did? Under the terms of the resolution, the President determines whether such a link to the September 11th attacks is established, but Congress undoubtedly expected that the President would make his determination and the basis for it known to Congress. In a matter as momentous as commencing hostilities against Iraq, Congress and the American people would certainly expect a clear and convincing indication of evidence linking Iraq to the September 11 attacks. As of August 26, 2002, the Administration, to my knowledge, has not made such a showing nor publicly argued that there is a direct link between Iraq and the September 11 attacks. Nor has the Administration presented its views regarding whether using force to remove Saddam Hussein from power is ''necessary and appropriate force . . . in order to prevent any future acts of international terrorism against the United States'' by the nations, organizations or persons responsible for the September 11 attacks. If the link between Iraq and the September 11 attacks is tenuous, additional congressional authorization clearly addressing Iraq would better serve the important constitutional purposes underlying Congress's power to declare war: congressional deliberation and national consensus before the country embarks on a major military action so full of risks.

The 1991 Gulf War Authorization

Some argue that the President has current authority to use U.S. forces against Iraq to remove Saddam Hussein based on the 1991 Use of Military Force Against Iraq Resolution (Pub. L. 102–1). This Resolution, adopted prior to the 1991 Gulf War, authorized the President to use U.S. Armed Forces pursuant to U.N. Security Council Resolution 678 to achieve implementation of previous, enumerated Security Council resolutions.[6] Those Security Council resolutions included Resolution 660 (1990) demanding that Iraq withdraw immediately from Kuwait. UN Security Council Resolution 678, in turn, authorized UN member states cooperating with Kuwait ''to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area.'' In contrast to this UN resolution, which refers to ''all subsequent relevant resolutions,'' the 1991 congressional authorization of force was crafted to refer only to implementation of specific UN resolutions adopted prior to Resolution 678—resolutions that focus above all on Iraqi withdrawal from Kuwait and restoration of Kuwait's sovereignty. Congress, in short, tailored its 1991 authorization to the specific goal of liberating Kuwait rather than providing an open-ended authorization of force.

Those who invoke the 1991 Use of Military Force Against Iraq Resolution as current authority to remove Saddam Hussein begin by noting that Iraq is in material breach of UN Security Council Resolution 687 (the Gulf War cease-fire resolution). That resolution requires Iraq to relinquish all weapons of mass destruction and authorized a UN Special Commission (UNSCOM) to monitor Iraq's compliance. Resolution 687, in particular, requires Iraq to ''unconditionally accept the destruction, removal, or rendering harmless, under international supervision'' of all chemical and biological weapons and all ballistic missiles with a range exceeding 150 kilometers and to ''unconditionally undertake not to use, develop, construct or acquire'' such weapons. (Resolution 687, paragraphs 8 and 10). Iraq likewise is required not to develop or acquire nuclear weapons or subsystems or components, and to submit to ongoing monitoring and verification of its compliance (paragraphs 12, 13). Undoubtedly, Iraq's persistent refusal to allow full, unimpaired weapons inspections is a clear and unacceptable breach of Resolution 687. The domestic legal question then is: has Congress authorized the use of U.S. armed forces to remove Saddam Hussein from power in order to enforce UN Security Council Resolution 687?

The 1991 Authorization for Use of Military Force Against Iraq Resolution does not, on its face, provide authorization to use force to implement Resolution 687. Adopted prior to the Gulf War, the 1991 Joint Resolution authorized the President to use U.S. armed forces pursuant to UN Resolution 687 in order to achieve implementation of specific UN resolutions adopted prior to Resolution 687. So purely as a temporal matter, the cease-fire resolution (687), which came at the end of the Gulf War, is not among the UN resolutions enumerated in the 1991 Joint Resolution. Consequently, the 1991 authorization does not provide clear authority to use force today to remove Saddam Hussein from power as a means to enforce the Gulf War cease-fire resolution.

Since 1991, Congress has indicated in a ''sense of the Congress'' resolution its support for using ''all necessary means'' to achieve the ''goals'' of UN Resolution 687; Congress has also indicated its support for a policy of regime change in Iraq. Yet, upon careful examination, these indications of congressional intent do not provide a clear authorization by Congress of the use of U.S. armed forces to attack Iraq to remove Saddam Hussein from power. If the United States is to commence war against Iraq, and to expose U.S. forces and citizens to the considerable costs and sacrifices that this would entail, both the Constitution and the War Powers Resolution (section 8(a)(1)) expect a clear authorization from Congress that reflects a deliberate decision to initiate hostilities on a major scale. The various congressional actions since 1991 concerning Iraq do not provide that authorization.

First, Section 1095 of the FY1992 Defense Authorization Act (Pub. L. 102–190, signed December 5, 1991) declared the sense of the Congress that Iraq's noncompliance with UN Resolution 687 constitutes ''a continuing threat to the peace, security, and stability of the Persian Gulf region'' and that ''the Congress supports the use of all necessary means to achieve the goals of Security Council Resolution 687 as being consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).'' At the same time, Section 1095 also expressed the sense of the Congress that ''the President should consult closely with the partners of the United States in the Desert Storm coalition and with the members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 687.''

Some may contend that Section 1095 together with the 1991 Authorization for Use of Military Force Resolution gives the President the authority to use force to commence war against Iraq to impose a regime change because the 102nd Congress expressed its view that using ''all necessary means to achieve the goals of Security Council Resolution 687'' is ''consistent with'' the 1991 authorization of force. Iraq is in material breach of Resolution 687, as it was back in 1991, and thus, according to this argument, the President can use force to achieve Iraq's compliance, in accordance with Section 1095 and the 1991 authorization, by removing Saddam Hussein from power.

Yet, upon careful review, this argument ultimately falls short. First, regime change goes beyond the provisions or requirements of UN Resolution 687, so Congress has not provided clear authority for commencing hostilities for this purpose as a means to implement 687. It is one thing to use limited force to enforce no-fly-zones, for instance; it is a quite different thing to commence war

[6] H.J. Res. 77, Pub. L. No. 102–1, provides in Section 2(a): ''The President is authorized, subject to subsection (b), to use United States armed forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.'' Section 2(b), in turn, requires the President, before using force, to make available to Congress his determination that ''the United States has used all appropriate diplomatic and other peaceful means to obtain compliance by Iraq with the United Nations Security Council resolutions cited in subsection (a); and . . . that those efforts have not been and would not be successful in obtaining such compliance.''

to remove Saddam Hussein from power. Second, and more importantly, Section 1095 does not provide the clear authorization of war that both the Constitution and the War Powers Resolution expect. Section 1095 does not use the word ''force'' or ''authorize''; rather, it is a ''sense of the Congress'' resolution indicating that Congress ''supports'' the use of ''all necessary means'' to ''achieve the goals'' of Resolution 687 as being consistent with the 1991 Authorization. Section 1095 also fails to fulfil the War Powers Resolution's clear-statement rule that authority to use force cannot be inferred from legislation that does not specifically cite its provisions. Although Section 1095 refers to the 1991 Authorization, it does not itself cite the War Powers Resolution. Constitutionally, reliance on a ''sense of the Congress'' resolution in a massive defense authorization bill enacted over a decade ago as authorization to commence a war against Iraq today to remove Saddam Hussein from power falls short of a clear contemporaneous authorization of major military action that is faithful to the purposes underlying the Constitution's vesting of the power to declare war in Congress.

The Constitution vested the power to declare war in Congress to ensure careful deliberation by the Congress as well as the President before the United States commenced war. Much has changed over the last decade, particularly after the attacks of September 11, and initiating war against Iraq today clearly would involve substantial costs and risks for the United States, our forces and citizens, and for our allies. Reasonable people may come to different conclusions on the merits of this issue. But commencing a major military action against Iraq to remove Saddam Hussein from power would clearly constitute war, and congressional deliberation and clear authorization is required. Reliance on an ambiguous ''sense of the Congress'' resolution adopted over a decade ago falls short of clear authority to commence war against Iraq. The American people, including the brave men and women who fight for our country, would expect a full debate and consideration of the issue from their elected representatives in Congress in light of the circumstances we face today. The Constitution's wisdom on this point is compelling: Authorization, if provided by Congress, ensures that the costs and implications of any such action have been fully considered and that a national consensus to proceed exists. Congressional authorization also ensures American combat forces that the country is behind them, and conveys America's resolve and unity to allies as well as adversaries.

To be sure, congressional action since 1991 indicates Congress's continuing concern about Iraq's noncompliance with UN Resolution 687 and Congress's support for maintaining the no-fly-zones. But Congress has not provided clear statutory authority to commence war against Iraq to overthrow Saddam Hussein. In 1998, in response to Saddam Hussein's continuing defiance of UN Resolution 687 and his refusal to allow weapons inspections, the Senate and House passed a resolution, S.J. Res. 54 (Pub. L. 105–235, signed Aug. 14, 1998), which declared Iraq in ''material breach'' of its international obligations and ''urged'' the President ''to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.'' This did not, however, provide clear authorization to use U.S. armed forces.

Later in October 1998, Congress declared in the Iraq Liberation Act of 1998, Pub. L. 105–338 (112 Stat. 3178), that it ''should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.'' (sec. 3). But that Act also declared that ''[n]othing in this Act shall be construed to authorize or otherwise speak to the use of United States Armed Forces . . . in carrying out this Act'' except as provided in section 4(a)(2) of the Act, which authorizes the President to provide assistance to Iraqi democratic opposition organizations through a ''drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for such organizations.'' (sec. 4(a)(2)).

Some may argue that the 1991 Authorization and Section 1095—combined with Pub. L. 105–235 (declaring Iraq in material breach of its international obligations); Publ. L. 105–338 (calling for a regime change in Iraq); and congressional acquiescence during ''Operation Desert Fox'' (Dec. 16–19, 1998) when force was used in response to Iraq's refusal to readmit weapons inspectors—amounts to implied authorization by Congress to use U.S. armed forces on a more substantial scale to remove Saddam Hussein from power. See *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981) (relying on related legislation and congressional acquiescence in holding that the President was implicitly authorized to suspend claims pending in U.S. courts).

This argument falls short as well. While Congress's acts and resolutions clearly indicate its concern about Iraq's noncompliance with UN Resolution 687, nowhere in the record is there explicit authorization by Congress to commence a war against Iraq to remove Saddam Hussein from power. Sense of the Congress resolutions and congressional acquiescence cannot substitute for a clear authorization to initiate war. They do not meet the clear-statement provisions of Section 8 of the War Powers Resolution. Furthermore, the principles underlying the Constitution's decision to vest the power to declare war in Congress are not served by relying on ambiguous indications of Congressional intent regarding force. Moreover, Congress itself decisively closed the door to ''composite'' interpretations of its intent in 1998, when it made clear that its support for a policy of regime change should not be ''construed to authorize or otherwise speak to the use of United States Armed Forces.''

Summing Up

To recap the basic points of this letter: If the United States is subject to attack or imminent attack by Iraq, the President clearly possesses constitutional authority to use U.S. armed forces. Likewise, if it can be demonstrated that Iraq ''planned, authorized, committed, or aided'' the September 11 attacks, or ''harbored'' those responsible, the President would have authority to use force under S.J. Res. 23. If the link is tenuous and disputed, however, the constitutional purposes underlying the vesting of the power to declare war in Congress would be best served by an additional clear, express authorization of force against Iraq that reflects the deliberation and judgment of the Congress. Finally, Congress's authorization of the Persian Gulf War, together with subsequent legislative action, fall short of a clear authorization of war against Iraq to remove Saddam Hussein from power.

Both the Constitution and the War Powers Resolution affirm the critical importance of ensuring that decisions to commit U.S. forces to war reflect the deliberation and support of both the President and the Congress. Prior to the Persian Gulf War, the President obtained clear authority to use force from Congress. Likewise, in response to the September 11 attacks, Congress and the President acted together in enacting S.J. Res. 23. As our country moves ahead in the war against terrorism and as it considers policy options with respect to Iraq, I sincerely hope that the Congress and the President will work together as the Constitution envisions.

Please call on me again if I can be of assistance.

Sincerely,

JANE E. STROMSETH,
Professor of Law.

TUFTS UNIVERSITY, THE FLETCHER SCHOOL OF LAW AND DIPLOMACY,
MEDFORD, MA, AUGUST 20, 2002.

Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: Thank you for your letter of July 22, 2002 requesting my opinion whether the President currently has authority under U.S. domestic law to introduce the U.S. armed forces into hostilities against Iraq for the purpose of removing Saddam Hussein from power.

To summarize, I believe that he does not, although that conclusion is based upon the assumption that Iraq was not involved in the events of September 11, and that use of force for this purpose would risk substantial casualties or large-scale hostilities over a prolonged duration. I reach that conclusion for the following reasons:

A. No treaty currently in force gives the President authority to use force.

B. None of the three relevant statutes gives the President authority to use force.

1. The War Powers Resolution confers no power on the President to introduce the armed forces into hostilities that he would not have had in its absence.

2. Congress's Gulf War authorization would confer such power only if Security Council Resolution 678 did so, and Resolution 678 probably does not do so.

a. The authority conferred by Resolution 678, which authorized use of force against Iraq following its invasion of Kuwait, was narrowly circumscribed and was directed at reversing the Iraqi invasion of Kuwait.

b. That authority most likely was extinguished on April 6, 1991, the date the Iraqis notified the United Nations of their acceptance of the pertinent provisions of Security Council Resolution 687, which declared a formal cease-fire.

c. Once extinguished that authority did not revive when Iraq failed to comply with its obligations under Resolution 687.

d. A decision to revive Resolution 678 must be made by the Security Council and cannot be made by an individual member state.

e. It would be inappropriate to infer Security Council intent to revive Resolution 678 from acquiescence by the Council to subsequent military strikes against Iraq that were not expressly authorized.

f. The War Powers Resolution requires that doubts flowing from ambiguous or unclear measures be resolved against finding authority to use force; at a minimum, these considerations raise such doubts.

3. S.J. Res. 23 would permit use of force against Iraq only if Iraq participated in the events of September 11.

C. Absent authorization from a treaty or statute, authority to use force against Iraq can derive only the Constitution. The Constitution's text, the case law, custom, the intent of the Framers, and structural and functional considerations all suggest that, to the extent that use of force against Iraq would risk substantial casualties or large-scale hostilities over a prolonged duration, prior congressional approval would be required.

I now turn to a closer examination of each of the three sources from which authorization to use force could in principle derive: a treaty, a statute, or the Constitution.

A. Authorization by treaty

No treaty currently in force gives the President authority to use force. Indeed, the United States has never been a party to any treaty that purported to give the President authority to use force. The constitutionality of any such treaty would be doubtful in that it would necessarily divest the House of Representatives of its share of the congressional war power. (For this reason, all of the United States' mutual security treaties have made clear that they do not affect the domestic allocation of power.) Moreover, war-making authority conferred by any such treaty would be cut off unless it met the requirements of section 8(a)(2) of the War Powers Resolution. Section 8(a)(2) requires, in effect, that any treaty authorizing the use of force meet two conditions. The first condition is that any such treaty must ''be implemented by legislation specifically authorizing'' the introduction of the armed forces into hostilities or likely hostilities. This condition is not met because no treaty is so implemented. The second condition is that any such implementing legislation must state that it is ''intended to constitute specific statutory authorization'' within the meaning of the War Powers Resolution. Again, since no implementing legislation is in effect, the second condition is also not met. Thus it must be concluded that, if further authority to use force is required, the President cannot seek that authority from any treaty.

* * * * *

B. Authorization by statute

The second source to which the President might turn for authority to use force is statutory law. I referred above to the provision of the War Powers Resolution that limits authority to use force that can be inferred from a treaty. A companion provision limits such authority that can be inferred from a statute. That provision is section 8(a)(1). Section 8(a)(1) sets out two similar conditions that must be met before authority to use armed force can be inferred from a given statute. The first condition is that such a statute must ''specifically authorize'' the introduction of the armed forces into hostilities or likely hostilities. The second condition is that such a statute must state ''that it is intended to constitute specific statutory authorization within the meaning of'' the War Powers Resolution. Unless each condition is met, a given statute may not be relied upon as a source of authority to use armed force. Arguments challenging the validity of this provision are essentially frivolous. (Archibald Cox testified that he was ''aghast'' at the contention; I addressed the argument in an appendix to my testimony before the Senate Judiciary Committee on April 17, 2002.)

The War Powers Resolution cannot itself be relied upon as authorization to introduce the armed forces into hostilities because it does not meet these two conditions and because it explicitly provides that it confers no power on the President to introduce the armed forces into hostilities that he would not have had in its absence. Two statutes now in effect, however, may meet these conditions. The first statute is H.J. Res. 77 of January 14, 1991 (P.L. 102–1), the law authorizing use of force against during the Gulf War. The second statute is S.J. Res. 23, the law enacted by Congress and signed by the President on September 18, 2001 (P.L. 107–40).

1. The Gulf War authorization

Congress's Gulf War resolution authorized the President to use force against Iraq only to the extent that such use of force had been authorized by the United Nations Security Council. Section 2(a) of P.L. 102–1 provides that ''[t]he President is authorized, pursuant to subsection (b), to use the United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.'' (Subsection (b) required the President to determine, before using force, that all appropriate diplomatic and other peaceful means had been used.) Thus the Gulf War resolution would continue to authorize use of force against Iraq if such use continues to be authorized under resolution 678 of the Security Council. If Resolution 678 does not continue to authorize the United States to use force against Iraq, on the other hand, the Gulf War resolution would not authorize the President to introduce the armed forces into hostilities against Iraq, and further congressional approval would be required. This would be true, as indicated above, even if the Security Council adopts new approval to use force against Iraq, since the existing congressional authorization, the Gulf War resolution, refers only to specific Security Council measures adopted at the time of the Gulf War.

In considering this key issue, it is helpful to recall the chain of events that led to the adoption of the relevant congressional and Security Council resolutions:

On August 2, 1990, Iraq invaded and occupied the territory of Kuwait.

On August 2, 1990, the Security Council adopted the first of the eleven resolutions later set out in Congress's Gulf War resolution, quoted above. This was Resolution 660, which condemned the Iraqi invasion of Kuwait and called for an immediate and unconditional withdrawal. All eleven Security Council resolutions related to the Iraqi invasion of Kuwait and represented an effort gradually to tighten the screws before authorizing use of force.[1]

On November 29, 1990, the UN Security Council adopted Resolution 678 which, among other things, authorized ''all member States to uphold and implement Resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the region.'' The Resolution provided that this authority could not be exercised, however, if Iraq ''on or before January 15, 1991, fully implements . . . the above-mentioned resolutions. . .'' (The ''above mentioned resolutions'' were the same eleven measures.)

On January 14, 1991, Congress adopted the Gulf War resolution.

On January 17, 1991, the United States commenced air attacks against Iraq.

On February 24, 1991, the United States commenced the ground attack.

On February 27, 1991, Iraq in a letter to the President of the Security Council, promised to comply with the twelve Security Council resolutions.

On February 28, a cease-fire was declared.

On March 2, 1991, the Security Council adopted Resolution 686, noting the cease-fire, noting Iraq's promise to comply with the the Council's twelve resolutions, demanding that Iraq do so, and demanding that Iraq meet additional conditions spelled out in paragraphs (2) and (3). Significantly, Resolution 686 further provided that, ''during the period required for Iraq to comply with paragraphs 2 and 3 above, the provisions of paragraph 2 of resolution 678 (1990) remain valid. . . .''

On April 3, 1991, the Security Council adopted Resolution 687 which demanded that Iraq destroy all weapons of mass destruction and set up a comprehensive on-site inspection regime under the aegis of the UN Special Commission on Iraq (UNSCOM). The Resolution also declared that ''upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990).''

On April 6, 1991 in a letter from its Iraqi Minister of Foreign Affairs, Iraq notified the President of the Security Council and the Secretary-General that it accepted the provisions of the Resolution 687.

In light of this background, can Resolution 678 reasonably be construed to continue to authorize use of force by the United States against Iraq? While reasonable arguments can be made on both sides,[2] the more persuasive argument appears to be that it does not, for these reasons:

(a) The authority conferred by Resolution 678 was narrowly circumscribed and was directed at reversing the Iraqi invasion of Kuwait. Resolution 678 conferred authority to use armed force for three different purposes. (i) The first purpose was to uphold and implement resolution 660. Resolution 660, however, simply called upon Iraq to withdraw from Kuwait that goal has been achieved. (ii) The second purpose was to uphold and implement ''all subsequent relevant resolutions'' The phrase could conceivably be construed as referring to any resolution adopted after the date on which Resolution 660 was adopted, August 2, 1990. Read in context, however, it seems more likely that the phrase refers to the nine ''foregoing resolutions'' that were recalled and reaffirmed in the first prefatory clause of Resolution 678. Those resolutions were ''subsequent to'' Resolution 660 but of course all preceded Resolution 678. ''All subsequent resolutions,'' it might further be argued, could hardly be taken as referring to any resolution ever adopted on any future date by the Security Council. Such a construction would have had the effect, internationally, divesting the Security Council of any future role in deciding whether to authorize use of force against Iraq—even though paragraph 5 of Resolution 678 explicitly affirms the intent of the Security Council ''to remain seized of the matter.'' Domestically, given the incorporation by reference of the phrase in Congress's Gulf War resolution, such as interpretation would

[1] Among other things, those resolutions imposed economic sanctions on Iraq (661), found that the Iraqi annexation of Kuwait was null and void and demanded that Iraq rescind its annexation (662), demanded that Iraq permit the departure of third-country nationals and ensure their safety (664), authorized member states to halt maritime shipping to Iraq so as to inspect cargoes incident to the economic embargo (665), took steps to ensure a supply of foodstuffs to alleviate human suffering in Iraq (666), demanded the release of diplomatic personnel seized by Iraq in Kuwait (667), established a consultative mechanism to deal with special economic problems arising from the economic sanctions (669), extended limitations on aircraft destined to land in Iraq or Kuwait (670), demanded that Iraq cease and desist from taking third-country nationals hostage or otherwise mistreating them or Kuwaiti nationals (674), and condemned the Iraqi destruction of civil records maintained by the government of Kuwait (677).

[2] Most commentators have rejected the argument that authority to use force continues to flow from Resolution 678. *See, e.g.*, Gray, After the Cease-Fire: Iraq, the Security Council and the Use of Force, 65 British Yearbook of International Law 135 (1994); Krisch, Unilateral Enforcement of the Collective Will: Kosovo, Iraq, and the Security Council, 3 Max Planck United Nations. Y.B. 59 (1999); Lobel & Ratner, Bypassing the Security Council: Ambiguous Authorizations to Use Force, Cease-Fires and the Iraqi Inspection Regime, 93 American Journal of International Law 124 (1999); Tomuschat, Using Force against Iraq, 73 Die Friedens-Warte-Journal of International Peace and Organization 75 (1997); and Dekker & Wessel, Military Enforcement of Arms Control in Iraq, 11 Leiden Journal of International Law 497 (1998). But see Wedgewood, The Enforcement of Security Council Resolution 687: The Threat of Force against Iraq's Weapons of Mass Destruction, 92 American Journal of International Law 724 (1998).

have effected a massive delegation of the congressional war power to the Security Council—a delegation that would crate profound constitutional problems. These difficulties are avoided by giving the phrase ''all subsequent relevant resolutions'' the meaning that it seems plainly intended to have had, namely, as referring to resolutions subsequently to Resolution 660 but adopted before Resolution 678. (iii) The third purpose for which Resolution 678 authorized use of force was to restore international peace and security in the region. A broad interpretation of that grant of authority would view it as permitting use of force against Iraq by any state at any point in the future when that state concluded that Iraq had disrupted that region's peace and security. The authority to restore peace and security was, however, like other provisions of Resolution 678 authorizing use of force against Iraq, tied to and precipitated by the Iraqi invasion of Kuwait. Each of the twelve Security Council resolutions cited in Congress's Gulf War Resolution relates directly to that invasion. Resolution 687, declaring a ''formal cease-fire,'' appears to have represented a de facto finding by the Security Council that peace and security had been restored. It seems unlikely that the Security Council, in adopting Resolution 678, intended to declare Iraq a free-fire zone into the indefinite future.

(b) The authority to use force conferred in Resolution 678 was most likely extinguished April 6, 1991, the date the Iraqis notified the United Nations of their acceptance of the pertinent provisions of Resolution 687. Under that Resolution, ''a formal cease-fire'' took effect upon such notification. The legal obligations that flow from a formal cease-fire are incompatible with the legal rights that flow from authorization to use force. The Security Council did ''reaffirm'' Resolution 678 in Resolution 949, adopted October 15, 1994, and also in Resolution 1137, adopted November 12, 1997. However, this was done only in prefatory clauses; neither Resolution 949 nor Resolution 1137 re-authorizes the use of force against Iraq. No resolution has done so. The Security Council has never declared that either the cease-fire or Resolution 687 is no longer in effect.

(c) The authority to use force conferred in Resolution 678, once extinguished did not revive when Iraq failed to comply with its obligations under Resolution 687. Resolution 687 makes clear that the termination of that authority was conditioned upon Iraq's notification of acceptance of the pertinent provisions of Resolutions 687, not upon Iraq's compliance with those provisions. In this regard it is instructive to compare the terms of Resolution 687 with the terms of its predecessor resolution, Resolution 686. Resolution 686 implemented a provisional cease-fire following the suspension of hostilities between Iraq and the coalition forces. As noted above, Resolution 686 provides that compliance, not acceptance, by Iraq was required with respect to two paragraphs of Resolution 686 to bring about the termination of authority to use force. (It is agreed that Iraq has complied with those two paragraphs.) In contrast, Resolution 687 provides that acceptance, not compliance, was all that was required to terminate authority to use force. Had the Security Council intended to cause that authority to revive upon Iraqi non-compliance, the Council presumably would have used the same words, or similar words, that it used in the preceding resolution to bring about that result. But it did not. There is no indication in the terms of Resolution 687 or any other Security Council resolution that the Council intended that Iraqi non-compliance would trigger a revival of authority to use force.

(d) A decision to revive Resolution 678 must be made by the Security Council and cannot be made by an individual member state. As suggested by the interactive context in which the Gulf War was ended, the transaction that brought hostilities to a close was in the nature of an agreement. Its terms were set forth in Resolution 686 and 687. Those terms were agreed to and approved by Iraq and the U.N. Security Council, not by Iraq and individual member states of the Security Council, and not by Iraq and individual member states of the Gulf War coalition. An earlier, informal, battlefield cease-fire was instituted by coalition forces. But the coalition owed its presence to authority conferred by the Security Council, and the informal cease-fire was superseded by the formal termination of hostilities set out by the Security Council in Resolution 687. The parties to that formal undertaking were Iraq and the U.N. Security Council. With rare exceptions that are not applicable here, under long-settled principles of international law rights flowing from the material breach of an agreement run to the aggrieved party of the agreement; a state has no right to complain of the breach of an agreement to which it is not a party. One of the rights that flows from the power to complain of the material breach of an agreement is the option to terminate or suspend the agreement in whole or in part. In Resolution 687 the Security Council apparently intended to retain that right: paragraph 34 of Resolution 687 provides that the Council, not individual states, ''shall take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region.'' Thus it would be up to the Council as a body to decide what action to take in response to a breach. Individual states such as the United States have no right to terminate or suspend those provisions of Resolution 687 that caused the authorities granted in Resolution 678 to be extinguished upon the notification of Iraqi acceptance. The option to terminate or suspend those provisions resides exclusively in the author of Resolution 678 and party to the agreement with Iraq: the Security Council, not individual member states.

(e) It would be inappropriate to infer implicit Security Council intent to revive Resolution 678 from acquiescence by the Council to subsequent military strikes against Iraq that were not expressly authorized. It can be argued that a consistent pattern of acquiescent practice would constitute evidence of the authoritative interpretation of the Resolution. However, the right of veto that inheres in the Council's five permanent members renders this argument unconvincing in these circumstances. All five members have not remained silent during each of the subsequent strikes against Iraq; several have on occasion objected. Following the 1998 air strikes on Iraq, for example, the President of the Russian Federation declared that ''[t]he U.N. Security Council resolutions on Iraq do not provide any grounds for such actions. By the use of force, the U.S. and Great Britain have flagrantly violated the U.N. Charter and universally accepted principles of international law.''[3] The Chinese also objected.[4] When Resolution 1154 was adopted, warning that continued violations of Iraq's obligations to permit unconditional access to UNSCOM ''would have the severest consequences,'' the French representative to the Security Council stated that the resolution was designed ''to underscore the prerogatives of the Security Council in a way that excludes any question of automaticity. . . . It is the Security Council that must evaluate the behavior of a country, if necessary to determine any possible violations, and to take the appropriate decisions.''[5] Even if all five permanent members of the Security Council had remained silent, silence under such circumstances does not necessarily signify consent or approval. Silence may simply indicate a belief that objection is futile. Moreover, if formal objection were now legally required, this argument would in effect establish a new procedure under which each of those five members would be required to take the affirmative step of voicing objection to acts not authorized by the Council that they did not wish to be seen as approving. The U.N. Charter itself places no such obligation on the permanent five members of the Council; to prevent the Council from acting, each is required to voice objection only to a formal proposal made by a member of the Council within the Council's proceedings, not to the external conduct of third states. In any event, even if it were appropriate to infer the Council's approval to attack Iraq from its acquiescence to other attacks on Iraq, there would be no reason to assume that the Council, in its acquiescence, intended to revive Resolution 678 rather than to create new, implicit authority. New, implicit Security Council authority would not constitute authorization under Congress's Gulf War Resolution to introduce the armed forces into hostilities against Iraq. As noted above the Gulf War Resolution permits such use of force only if it is permitted by Resolution 678. New Security Council authorization, whether given explicitly in the form of a new resolution or implicitly in the form of acquiescence, would not satisfy the terms of the Gulf War Resolution and could not, under U.S. domestic law, authorize the President to introduce the armed forces into hostilities.

(f) The War Powers Resolution requires that doubts flowing from ambiguous or unclear measures be resolved against finding authority to use force; at a minimum, these considerations raise such doubts. As discussed above, section 8(a)(1) of the War Powers Resolution requires that Congress ''specifically authorize'' the introduction of the armed forces into hostilities if its enactment is to suffice as statutory approval. The War Powers Resolution, in other words, requires that doubts flowing from ambiguous or unclear measures be resolved against finding authority to use force. Because serious doubt exists whether Security Council Resolution 678 confers continuing authority on the United States to use force against Iraq,[6] the Gulf War Resolution, which incorporates Security Council Resolution 678 by reference, cannot be said to constitute specific statutory authorization within the meaning of the War Powers Resolution to introduce the armed forces into hostilities against Iraq.

For these reasons, I conclude that the Gulf War authorization is most reasonably construed as conferring no such authority.

2. S.J. Res. 23

The second statute that meets these conditions is the law enacted by Congress and signed by the President on September 18, 2002, P.L. 107–40, also known as Senate Joint Resolution 23 or S.J. Res. 23.

The statute contains five whereas clauses. Under traditional principles of statutory

[3] Statement of the President of the Russian Federation, press release of the Mission of the Russian Federation to the U.N., Dec. 20, 1998.

[4] Press release of the Foreign Ministry of China, Dec. 17, 1998 (''The unilateral use of force . . . without the authorization of the Security Council runs counter to the U.N. Charter and the principles of international law.')

[5] U.N. Doc. S/PV.3858, at 15, 18 (1998).

[6] Because your letter requests my views concerning the application of U.S. domestic law, I do not here discuss whether international law would permit use of force against Iraq absent Security Council approval.

construction these provisions have no binding legal effect. Only material that comes after the so-called ''resolving clause''—Resolved by the Senate and House of Representatives of the United States of America in Congress assembled''—can have any operative effect. Material set out in a whereas clause is purely precatory. Such material may be relevant for the purpose of clarifying ambiguities in a statute's legally operative terms, but in and of itself such a provision can confer no legal right or obligation.

To determine the breadth of authority conferred upon the President by this statute, therefore, it is necessary to examine the legally operative provisions, which are set forth in section 2(a) thereof. That section provides as follows: ''IN GENERAL.—That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.'' The central conclusion that emerges from these words (which represent the only substantive provision of this statute) is that all authority that the statute confers is tightly linked to the events of September 11. The statute confers no authority unrelated to those events. The statue authorizes the President to act only against entities that planned, authorized committed, or aided the terrorist attacks that occurred on September 11. 2002. No authority is provided to act against entities that were not involved in those attacks. The closing reference limits rather than expands the authority granted, by specifying the purpose for which that authority must be exercised—''to prevent any future acts of international terrorism against the United States. . . .'' No authority is conferred to act for any other purpose or to act against ''nations, organizations or persons'' generally. Action is permitted only against ''such'' nations, organizations or persons, to wit, those involved in the September 11 attacks.

The statute thus cannot serve as a source of authority to use force in prosecuting the war on terrorism against entities other than those involved in the September 11 attacks. To justify use of force under this statute, some nexus must be established between the entity against which action is taken and the September 11 attacks.

The requirement of nexus between the September 11 attacks and the target of any force is reinforced by the statute's legislative history. Unfortunately, because of the truncated procedure by which the statute was enacted, no official legislative history can be compiled that might detail what changes were made in the statute and why. It has been reported unofficially however, that the Administration initially sought the enactment legislation which would have set out broad authority to act against targets not linked to the September 11 attacks. The statute proposed by the Administration reportedly would have provided independent authority for the President to ''deter and preempt any future acts of terrorism or aggression against the United States.''[7] Members of Congress from both parties, however, reportedly objected to this provision.[8] The provision was therefore dropped from the operative part of the statute and added as a final whereas clause, where it remained upon enactment. You outlined this history in your remarks on the Senate floor on October 1, 2001 (Cong. Rec., daily ed., Oct. 1, 2001 at S9949).

Accordingly, unless Iraq participated in the events of September 11, authority for use of force against Iraq must derive from a source other than S.J. Res. 23. Only one possible source remains: the United States Constitution. If use of force by the President is authorized by the Constitution, no authority is needed from any treaty or statute.

C. Constitutional authorization

A starting point in considering the scope of the President's independent constitutional powers is to note a proposition on which commentators from all points on the spectrum have agreed: that the President was possessed of independent constitutional power to use force in response to the September 11 attacks upon the United States. As was widely observed at the time, the War Powers Resolution itself supports this conclusion. Its statement of congressional opinion concerning the breadth of independent presidential power under the Constitution (section 2(c)(3)) recognizes the President's power to use force without statutory authorization in the event of ''a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.'' Thus, U.S. military operations in Afghanistan could have been carried out under the President's constitutional authority, even if S.J. Res. 23 had never been enacted. This conclusion has important implications for the question you have posed. If it turns out that Iraq is linked to the September 11 attacks, S.J. Res. 23 will continue to suffice, along with the President's constitutional authority, to provide all necessary authorization.

A more difficult question arises if Iraq was not connected with the September 11 attacks. In the last 30 years, Congress has on two occasions expressed its opinion concerning the scope of the President's power to use armed force without prior congressional approval the issue. One statement of opinion, as I mentioned, is set forth in section 2(c)(3) of the War Powers Resolution. I've also alluded to the other statement: the final whereas clause in S.J. Res. 23. That whereas clause expresses the opinion of Congress that ''the president has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States.'' Obviously, these two statements are inconsistent. The scope of presidential power to wage war that was recognized by Congress in the War Powers Resolution is much narrower than that recognized in S.J. Res. 23. If the President only has power to act alone in ''a national emergency created by attack upon the United States, its territories or possessions, or its armed forces,'' then he obviously is without power to ''to take action to deter and prevent acts of international terrorism against the United States'' where no attack upon the United States has occurred. Which statement is correct?

In my view, neither. The statement in the War Powers Resolution is overly narrow, and the statement in S.J. Res. 23 is overly broad. The original, Senate-passed version of the War Powers Resolution contained wording, which was dropped in conference, that came close to capturing accurately the scope of the President's independent constitutional power. It provided—in legally binding, not precatory, terms—that the President may use force ''to repel an armed attack upon the United States, its territories or possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack.'' This formula, unlike the hastily-crafted words of the S.J. Res. 23 whereas clause, was drafted over a period of years, with numerous hearings and advice from the top constitutional scholars in the country. It was supported by Senators Fulbright, Symington, Mansfield, Church, Cooper, Eagleton, Muskie, Stennis, Aiken, Javits, Case, Percy, Hatfield, Mathias, Scott and yourself—not an inconsequential group. They agreed upon a simple premise: that the war power is shared between Congress and the President.

This is the premise that animates all efforts by members of Congress who seek to have the Executive meet authorization and consultation requirements. This is the premise that is, for all practical intents and purposes, rejected by proponents of sole executive power.

The premise flows from each source of constitutional power:

The constitutional text. Textual grants of war power to the President are paltry in relation to grants of that power to the Congress. The president is denominated ''commander-in-chief.'' In contrast, Congress is given power to ''declare war,'' to lay and collect taxes ''to provide for a common defense,'' to ''raise and support armies,'' to ''provide and maintain a navy,'' to ''provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions,'' to provide for organizing, arming, and disciplining, the militia,'' and to ''make all laws necessary and proper for carrying into execution...all...powers vested by this Constitution in the Government of the United States.''

The case law. Support for the Executive derives primarily from unrelated dicta pulled acontextually from inapposite cases, such as United States v. Curtiss-Wright (1936). The actual record is striking: Congress has never lost a war powers dispute with the President before the Supreme Court. While the cases are few, in every instance where the issue of decision-making primacy has arisen—from *Little* v. *Barreme* (1804) to the Steel Seizure Case (1952)—the Court has sided with Congress.

Custom. It is true that Presidents have used armed force abroad over 200 times throughout U.S. history. It is also true that practice can affect the Constitution's meaning and allocation of power. The President's power to recognize foreign governments, for example, like the Senate's power to condition its consent to treaties, derives largely from unquestioned practice tracing to the earliest days of the republic. But not all practice is of constitutional moment. A practice of constitutional dimension must be regarded by both political branches as a juridical norm, the incidents comprising the practice must be accepted, or at least acquiesced in, by the other branch. In many of the precedents cited, Congress objected. Furthermore, the precedents must be on point. Here, many are not. Nearly all involved fights with pirates, clashes with cattle rustlers, trivial naval engagements and other minor uses of force not directed at significant adversaries, or risking substantial casualties or large-scale hostilities over a prolonged duration. In a number of the ''precedents,'' Congress actually approved of the executive's action by enacting authorizing legislation (as with the Barbary Wars).

Structure and function. If any useful principle derives from structural and functional considerations, it is that the Constitution gives the Executive primacy in emergency war powers crises, where Congress has no time to act, and that in non-emergency situations—circumstances where deliberative

[7] Helen Dewar & Juliet Eilperin, Emergency Funding Deal Reached; Hill Leaders Agree to Work Out Language on Use of Force, Wash. Post, Sept. 14, 2001 at A30.

[8] Helen Dewar & John Lancaster, Congress Clears Use of Force, Aid Package; $40 Billion—Double Bush's Request—Earmarked for Rebuilding. Terror Response, Wash. Post, Sept. 16, 2001 at A11.

legislative functions have time to play out—congressional approval is required.

Intent of the Framers. Individual quotations can be, and regularly are, drawn out of context and assumed to represent a factitious collective intent. It is difficult to read the primary sources, however, without drawing the same conclusion drawn by Abraham Lincoln. He said: ''The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.'' Chief Justice William Rehnquist, quoting Justice Robert Jackson in Dames & Moore v. Regan (1981), shared Lincoln's belief that the Framers' rejected the English model. He said: ''The example of such unlimited executive power that must have most impressed the forefathers was the prerogative exercised by George III, and the description of its evils in the Declaration of Independence leads me to doubt that they were creating their new Executive in his image.''

Notwithstanding the plain import of these sources of constitutional power, some argue that the only role for Congress occurs after the fact—in cutting off funds if the president commences a war that Congress does not support. Two problems inhere in this theory. First, it reads the declaration-of-war clause out of the Constitution as a separate and independent check on presidential power. The Framers intended to give Congress control over waging war before the decision to go to war is made. Giving Congress a role only after the fact, however, would make its power to declare war nothing but a mere congressional trumpet to herald a decision made elsewhere.

Second, the theory flies in the face of the Framers' manifest intention to make it more difficult to get into war than out of it. This approach would do the opposite. If the only congressional option is to wait for the president to begin a war that Congress does not wish the nation to fight and then cut off funds, war can be instituted routinely with no congressional approval—and seldom if ever ended quickly. The practical method of cutting off funds is to attach a rider to the Department of Defense authorization or appropriation legislation. This means, necessarily, passing the legislation by a two-thirds vote so as to overcome the inevitable presidential veto. The alternative is for Congress to withhold funding altogether—and be blamed by the president for closing down not merely the Pentagon but perhaps the entire federal government. The short of it is, therefore, that to view the congressional appropriations power as the only constitutional check on presidential war power is for all practical purposes to eliminate the declaration-of-war clause as a constitutional restraint on the president.

For reasons such as these, the Office of Legal Counsel of the Justice Department concluded in 1980 that the core provision of the War Powers Resolution—the 60-day time limit—is constitutional. It said: ''We believe that Congress may, as a general constitutional matter, place a 60-day limit on the use of our armed forces as required by the provisions of [section 5(b)] of the Resolution. The Resolution gives the President the flexibility to extend that deadline for up to 30 days in cases of ''unavoidable military necessity.'' This flexibility is, we believe, sufficient under any scenarios we can hypothesize to preserve his function as Commander-in-Chief. The practical effect of the 60-day limit is to shift the burden to the President to convince the Congress of the continuing need for the use of our armed forces abroad. We cannot say that placing that burden on the President unconstitutionally intrudes upon his executive powers.

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''Finally, Congress can regulate the President's exercise of his inherent powers by imposing limits by statute.''[9]

Finally, it is worth recalling that much the same issue arose prior to the outset of the Gulf War. The President, executive branch lawyers maintained, was constitutionally empowered to place the United States at war against Iraq without congressional approval. A number of Members of Congress brought an action seeking an injunction to prevent him from initiating an offensive attack against Iraq without first securing a declaration of war or some other explicit congressional authorization. The action was dismissed by a federal district court as not yet ripe for review. In the course of doing so, however, the court made the following pithy but important observation, which seems directly pertinent to events unfolding today: ''If the Executive had the sole power to determine that any particular offensive military operation, no matter how vast, does not constitute war-making but only an offensive military attack, the congressional power to declare war will be at the mercy of a semantic decision by the Executive. Such an ''interpretation'' would evade the plain language of the constitution, and it cannot stand:[10]

To the extent that use of force against Iraq to remove Saddam Hussein from power would risk substantial casualties or large-scale hostilities over a prolonged duration, I therefore conclude that prior congressional approval would be required.

Sincerely,

MICHAEL J. GLENNON,
Professor of International Law.

Ms. STABENOW. Will my friend from West Virginia yield for a moment?

Mr. BYRD. Yes, I would be happy to.

Ms. STABENOW. Before the Senator concludes this evening, I wanted to thank him, as a new Member to this body, for his incredible commitment to our Constitution, our country, and our people. It has been an inspirational time for me to watch the Senator from West Virginia on the floor, listen to his arguments, and see his dedication. I have been proud to stand with him in opposing this resolution.

I ask unanimous consent that a New York Times op-ed written today by the distinguished Senator from West Virginia be printed in the RECORD. It is an excellent summary of the concerns that many of us have in rushing into this war, and I want to thank the Senator for that. I think it is important this be in the RECORD of the Senate as a part of this debate today.

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

[From the New York Times, Oct. 10, 2002]

CONGRESS MUST RESIST THE RUSH TO WAR

(By Robert C. Byrd)

A sudden appetite for war with Iraq seems to have consumed the Bush administration and Congress. The debate that began in the Senate last week is centered not on the fundamental and monumental questions of whether and why the United States should go to war with Iraq, but rather on the mechanics of how best to wordsmith the president's use-of-force resolution in order to give him virtually unchecked authority to commit the nation's military to an unprovoked attack on a sovereign nation.

How have we gotten to this low point in the history of Congress? Are we too feeble to resist the demands of a president who is determined to bend the collective will of Congress to his will—a president who is changing the conventional understanding of the term ''self-defense''? And why are we allowing the executive to rush our decision-making right before an election? Congress, under pressure from the executive branch, should not hand away its Constitutional powers. We should not hamstring future Congresses by casting such a shortsighted vote. We owe our country a due deliberation.

I have listened closely to the president. I have questioned the members of his war cabinet. I have searched for that single piece of evidence that would convince me that the president must have in his hands, before the month is out, open-ended Congressional authorization to deliver an unprovoked attack on Iraq. I remain unconvinced. The president's case for an unprovoked attack is circumstantial at best. Saddam Hussein is a threat, but the threat is not so great that we must be stampeded to provide such authority to this president just weeks before an election.

Why are we being hounded into action on a resolution that turns over to President Bush the Congress's Constitutional power to declare war? This resolution would authorize the president to use the military forces of this nation wherever, whenever and however he determines, and for as long as he determines, if he can somehow make a connection to Iraq. It is a blank check for the president to take whatever action he feels ''is necessary and appropriate in order to defend the national security of the United States against the continuing threat posed by Iraq.'' This broad resolution underwrites, promotes and endorses the unprecedented Bush doctrine of preventive war and preemptive strikes—detailed in a recent publication, ''National Security Strategy of the United States''—against any nation that the president, and the president alone, determines to be a threat.

We are at the graves of moments. Members of Congress must not simply walk away from their Constitutional responsibilities. We are the directly elected representatives of the American people, and the American people expect us to carry out our duty, not simply hand it off to this or any other president. To do so would be to fail the people we represent and to fall woefully short of our sworn oath to support and defend the Constitution.

[9] Presidential Power to Use the Armed Forces Abroad without Statutory Authorization, 4A, Op. Office of the Legal Counsel, Dept of Justice 185, 196 (1980).

[10] Dellums v. Bush, 752 F. Supp. 1141 (D.D.C. 1990).

We may not always be able to avoid war, particularly if it is thrust upon us, but Congress must not attempt to give away the authority to determine when war is to be declared We must not allow any president to unleash the dogs of war at his own discretion and or an unlimited period of time.

Yet that is what we are being asked to do. The judgment of history will not be kind to us if we take this step.

Members of Congress should take time out and go home to listen to their constituents. We must not yield to this absurd pressure to act now, 27 days before an election that we will determine the entire membership of the House of Representatives and that of a third of the Senate. Congress should take the time to hear from the American people, to answer their remaining questions, and to put the frenzy of ballot-box politics behind us before we vote. We should hear them well, because while it is Congress that casts the vote, it is the American people who will pay for a war with the lives of their sons and daughters.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. Mr. President, let me first thank the Senator from Michigan, DEBBIE STABENOW, for her eloquence, for her steadfast determination to stand by the Constitution as she has shown so many days, so many times in recent days. I thank her for being the Senator she is, a Senator who is indebted to her people and stands every day somewhere in this Senate complex working for the people she represents. I have received great inspiration from watching her. I serve on the Budget Committee with her and she is an outstanding voice for the people who believe in the Constitution, who takes a stand and is so eloquent, so articulate on behalf of that Constitution.

I thank the Senator from Michigan from the bottom of my heart.

I am about to yield the floor.

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

Mr. BYRD. Yes.

Mr. SARBANES. Mr. President, I join my colleague from Michigan in expressing my deep thanks to the Senator from West Virginia for his extraordinarily effective and powerful presentations in the course of this debate. I was also planning to put this article in, as my colleague has already done. It is a very powerful statement that appeared in this morning's New York Times entitled ''Congress Must Resist the Rush to War.'' The Senator from West Virginia, as he always does, asks some very piercing questions and calls the Congress to its responsibilities.

Let me quote a paragraph or two from the article:

This broad resolution underwrites, promotes and endorses the unprecedented Bush doctrine of preventive war and pre-emptive strikes—detailed in a recent publication, ''National Security Strategy of the United States''—against any nation that the president, and the president alone, determines to be a threat.

Of course, the particular resolution that is before the Senate, as is pointed out in this article, and I quote the Senator from West Virginia:

This resolution would authorize the president to use the military forces of this nation wherever, whenever, and however he determines, and for as long as he determines if he can somehow make a connection to Iraq.

And there actually were other proposals to narrow that authority, but of course none of them carried.

Further quoting:

It is a blank check for the president to take whatever action he feels ''is necessary and appropriate in order to defend the national security of the United States against the continuing threat posed by Iraq.''

I say to my colleague from West Virginia, it seems to me clear that upon approval of this resolution, as far as the Congress is concerned, war has been declared against Iraq. Would the Senator agree with that observation?

Mr. BYRD. I do, I do. And I say further to my dear friend that as soon as this resolution is adopted and signed by the President of the United States, Congress is out of it. It is on the sidelines. We may wish we could say something. We may wish we could do something. But as far as the human eye can see, we are out of it until such time as Congress asks to repeal this legislation or to put a limit on it internally.

Mr. SARBANES. Let me ask my colleague this question: Suppose some unforeseen, extraordinary development should take place after this resolution is passed and sent down and signed by the President which transforms perhaps the weapons of mass destruction situation. The President, though, could still move ahead and go to war, could he not?

Mr. BYRD. Yes.

Mr. SARBANES. They would have been given the authority to do that; would that be correct?

Mr. BYRD. Absolutely. We would have handed this over to the President—lock, stock, and barrel. Here it is.

Mr. SARBANES. When would the President have to decide whether he was going to use this authority? Let's assume with respect to passing it later in the evening—although I will oppose it—assuming it is passed and the Congress authorizes the President to go to war, in effect, with Iraq, is there a limit on the time period in which the President could then use that power to launch war against Iraq?

Mr. BYRD. There is no limit.

I offered an amendment, and the distinguished Senator from Maryland supported that amendment today, as the distinguished Senator from Minnesota supported it, the distinguished Senator from Michigan, the distinguished Senator from New York, but we only got 31 votes. That amendment was defeated.

Mr. SARBANES. That underscores what the distinguished Senator says in this op-ed piece that appeared in this morning's New York Times. I quote:

We may not always be able to avoid war, particularly if it is thrust upon us, but Congress must not attempt to give away the authority to determine when war is to be declared. We must not allow any president to unleash the dogs of war at his own discretion and for an unlimited period of time.

Yet that is what we are being asked to do [in the resolution before the Senate].

Mr. BYRD. Yes.

Mr. SARBANES. This, of course, is a decision with far-sweeping consequences, certainly as it deals with Iraq and all of its implication. But the precedent is being established in terms of the future, it seems to me, and that constitutes a major erosion of the role of the Congress with respect to the Nation going to war.

Mr. BYRD. It does. And it is easy enough, I suppose, to pass this resolution. But should we try to negate it, should we try to repeal it, should we try to change the law, a President can veto any change that Congress might bring along later, any change it might enact, in order to overturn this law it is now about to adopt.

Mr. SARBANES. I am glad the distinguished Senator made that point because that is the next item I wanted to go to. People could say: If the circumstances changed and the Congress wants to pull it back, why not come in, pass a law, and pull it back? But the fact is that a President who wanted to keep that authority and may well want to use it, as long as he could keep the support of one-third—not of each House of the Congress but only one-third of one House, either a third of the Senators, plus one, or a third of the Members of the House of Representatives—he could negate congressional action that tried to pull back this war-making authority, could he not?

Mr. BYRD. The distinguished Senator from Maryland is absolutely correct. It only takes a majority of both Houses to pass this resolution, but it would take two-thirds in the future if the President should attempt to veto a substitute piece of legislation by this Congress to abort what we are doing here today, to appeal it, to amend it. One-third plus one in either body could uphold the President's veto, and that legislation would not become law.

Mr. SARBANES. I think that is a point we have not really touched on much in this debate, but I think it is an extremely important point.

What has happened—you pass this resolution, you make a major grant of war-making authority to the President, but then if subsequently you decide it ought to be pulled back or ought not be exercised by the President, it is extraordinarily difficult to do that, so not only have you given the President this broad power to begin with, but the way the system is constructed, he can hold on to that power, even if a majority of both Houses of the Congress which gave the power want to take it back. Is that not correct?

Mr. BYRD. The Senator could not be more correct. The Senator is absolutely correct.

Mr. SARBANES. It is worth engaging in this discussion just to underscore the sweep of authority that is being provided.

Again, I thank my colleague for his leadership on this issue and especially commend him for what I thought was a very thoughtful and powerful article. I

encourage people across the country to read this article. It is a very succinct, analytical, and perceptive statement of the issues that are at stake.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland. He is a great Senator. I am proud of the years I have served with him. We have gone through some interesting times here in the Senate. We stood beside one another, shoulder to shoulder, shoulder to shoulder in fighting for this Constitution on several occasions—the line-item veto, constitutional amendment to balance the budget, and on other occasions. I thank the people of Maryland for sending him and for keeping him here.

I would say that the Republic will long live, as long as the people of America send Senators here like PAUL SARBANES.

I thank the people of Maryland, and I thank God for him.

Mr. President, I am about to yield the floor. I have been asked by the distinguished Senator from New York to yield to her. How much time do I have?

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator has 42 minutes.

Mr. BYRD. Mr. President, I do not intend to hold the floor much longer. How much time will the Senator from New York, Mrs. CLINTON, wish me to yield to her?

Mrs. CLINTON. Twenty minutes.

Mr. BYRD. Mr. President, I yield 20 minutes to the Senator, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MCCAIN. Will the Senator from New York just yield for a second to me?

Mr. BYRD. And I yield to the distinguished Senator whatever time he needs.

Mr. MCCAIN. I point out the distinguished chairman of the Foreign Relations Committee has not had an opportunity to speak. In all due respect, I would like to give the chairman of the Foreign Relations Committee the respect he deserves.

Mr. BIDEN. I thank the Senator. I am delighted to wait in line, and I will wait until after the Senator has finished.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Forty-one minutes.

Mr. BYRD. I yield 20 minutes to the Senator from New York, Mrs. CLINTON, and I yield 20 minutes, leaving myself 1 minute, to the Senator from Delaware, Mr. BIDEN.

I thank the distinguished Senator from Arizona for reminding me the Senator from Delaware had been waiting very patiently.

I thank all Senators.

Mr. BIDEN. No problem.

Mrs. CLINTON. Mr. President, I thank the Senator from West Virginia for his courtesy. By far beyond that, I thank him for his leadership and his eloquence and his passion and commitment to this body and to our Constitution. I join with the remarks by both the Senators from Michigan and Maryland, expressing our appreciation for the way in which he has waged this battle on behalf of his convictions. It is a lesson to us all.

Today, Mr. President, we are asked whether to give the President of the United States authority to use force in Iraq should diplomatic efforts fail to dismantle Saddam Hussein's chemical and biological weapons and his nuclear program.

I am honored to represent nearly 19 million New Yorkers, a thoughtful democracy of voices and opinions who make themselves heard on the great issues of our day, especially this one. Many have contacted my office about this resolution, both in support of and in opposition to it. I am grateful to all who have expressed an opinion.

I also greatly respect the differing opinions within this body. The debate they engender will aid our search for a wise, effective policy. Therefore, on no account should dissent be discouraged or disparaged. It is central to our freedom and to our progress, for on more than one occasion history has proven our great dissenters to be right.

I believe the facts that have brought us to this fateful vote are not in doubt. Saddam Hussein is a tyrant who has tortured and killed his own people, even his own family members, to maintain his iron grip on power. He used chemical weapons on Iraqi Kurds and on Iranians, killing over 20,000 people.

Unfortunately, during the 1980s, while he engaged in such horrific activity, he enjoyed the support of the American Government because he had oil and was seen as a counterweight to the Ayatollah Khomeini in Iran.

In 1991, Saddam Hussein invaded and occupied Kuwait, losing the support of the United States. The first President Bush assembled a global coalition, including many Arab States, and threw Saddam out after 43 days of bombing and hundreds of hours of ground operations. The United States led the coalition, then withdrew, leaving the Kurds and the Shiites, who had risen against Saddam Hussein at our urging, to Saddam's revenge.

As a condition for ending the conflict, the United Nations imposed a number of requirements on Iraq, among them disarmament of all weapons of mass destruction, stocks used to make such weapons, and laboratories necessary to do the work. Saddam Hussein agreed and an inspection system was set up to ensure compliance. Though he repeatedly lied, delayed, and obstructed the inspectors' work, the inspectors found and destroyed far more weapons of mass destruction capability than were destroyed in the gulf war, including thousands of chemical weapons, large volumes of chemical and biological stocks, a number of missiles and warheads, a major lab equipped to produce anthrax and other bioweapons, as well as substantial nuclear facilities.

In 1998, Saddam Hussein pressured the United Nations to lift the sanctions by threatening to stop all cooperation with the inspectors. In an attempt to resolve the situation, the U.N., unwisely in my view, agreed to put limits on inspections of designated sovereign sites, including the so-called Presidential palaces—which in reality were huge compounds, well suited to hold weapons labs, stocks, and records which Saddam Hussein was required by U.N. resolution to turn over.

When Saddam blocked the inspection process, the inspectors left. As a result, President Clinton, with the British and others, ordered an intensive 4-day air assault, Operation Desert Fox, on known and suspected weapons of mass destruction sites and other military targets.

In 1998, the United States also changed its underlying policy toward Iraq from containment to regime change and began to examine options to effect such a change, including support for Iraqi opposition leaders within the country and abroad. In the 4 years since the inspectors, intelligence reports show that Saddam Hussein has worked to rebuild his chemical and biological weapons stock, his missile delivery capability, and his nuclear program. He has also given aid, comfort, and sanctuary to terrorists, including al-Qaida members, though there is apparently no evidence of his involvement in the terrible events of September 11, 2001.

It is clear, however, that if left unchecked, Saddam Hussein will continue to increase his capability to wage biological and chemical warfare and will keep trying to develop nuclear weapons. Should he succeed in that endeavor, he could alter the political and security landscape of the Middle East which, as we know all too well, affects American security.

This much is undisputed. The open questions are: What should we do about it? How, when, and with whom?

Some people favor attacking Saddam Hussein now, with any allies we can muster, in the belief that one more round of weapons inspections would not produce the required disarmament and that deposing Saddam would be a positive good for the Iraqi people and would create the possibility of a secular, democratic state in the Middle East, one which could, perhaps, move the entire region toward democratic reform.

This view has appeal to some because it would assure disarmament; because it would right old wrongs after our abandonment of the Shiites and Kurds in 1991 and our support for Saddam Hussein in the 1980s when he was using chemical weapons and terrorizing his people; and because it could give the Iraqi people a chance to build a future in freedom.

However, this course is fraught with danger. We and our NATO allies did not depose Mr. Milosevic, who was responsible for more than a quarter of million

people being killed in the 1990s. Instead, by stopping his aggression in Bosnia and Kosovo, and keeping the tough sanctions, we created the conditions in which his own people threw him out and led to his being in the dock and being tried for war crimes as we speak.

If we were to attack Iraq now, alone or with few allies, it would set a precedent that could come back to haunt us. In recent days, Russia has talked of an invasion of Georgia to attack Chechen rebels. India has mentioned the possibility of a preemptive strike on Pakistan. What if China should perceive a threat from Taiwan?

So, for all its appeal, a unilateral attack, while it cannot be ruled out, is not a good option.

Others argue that we should work through the United Nations and should only resort to force if and when the United Nations Security Council approves it. This too has great appeal for different reasons. The United Nations deserves our support. Whenever possible we should work through it and strengthen it, for it enables the world to share the risks and burdens of global security and when it acts, it confers a legitimacy that increases the likelihood of long-term success. The United Nations can lead the world into a new era of global cooperation. And the United States should support that goal.

But there are problems with this approach as well. The United Nations is an organization that is still growing and maturing. It often lacks the cohesion to enforce its own mandates. And when Security Council members use the veto on occasion for reasons of narrow national interest, it cannot act. In Kosovo, the Russians did not approve the NATO military action because of political, ethnic, and religious ties to the Serbs.

The United States, therefore, could not obtain a Security Council resolution in favor of the action necessary to stop the dislocation and ethnic cleansing of more than a million Kosovar Albanians. However, most of the world was with us because there was a genuine emergency with thousands dead and a million more driven from their homes. As soon as the American-led conflict was over, Russia joined the peacekeeping effort that is still underway.

In the case of Iraq, recent comments indicate that one or two Security Council members might never approve forces against Saddam Hussein until he has actually used chemical, biological, or God forbid, nuclear weapons.

So, the question is how do we do our best to both diffuse the threat Saddam Hussein poses to his people, the region, including Israel, and the United States, and at the same time, work to maximize our international support and strengthen the United Nations.

While there is no perfect approach to this thorny dilemma, and while people of good faith and high intelligence can reach diametrically opposing conclusions, I believe the best course is to go to the United Nations for a strong resolution that scraps the 1998 restrictions on inspections and calls for complete, unlimited inspections, with cooperation expected and demanded from Iraq.

I know the administration wants more, including an explicit authorization to use force, but we may not be able to secure that now, perhaps even later. If we get a clear requirement for unfettered inspections, I believe the authority to use force to enforce that mandate is inherent in the original 1991 United Nations resolutions, as President Clinton recognized when he launched Operation Desert Fox in 1998.

If we get the resolution the President seeks, and Saddam complies, disarmament can proceed and the threat can be eliminated. Regime change will, of course, take longer but we must still work for it, nurturing all reasonable forces of opposition.

If we get the resolution and Saddam does not comply, we can attack him with far more support and legitimacy than we would have otherwise.

If we try and fail to get a resolution that simply calls for Saddam's compliance with unlimited inspections, those who oppose even that will be in an indefensible position. And, we will still have more support and legitimacy than if we insist now on a resolution that includes authorizing military action and other requirements giving other nations superficially legitimate reasons to oppose Security Council action. They will say, we never wanted a resolution at all and that we only support the U.N. when it does exactly want we want.

I believe international support and legitimacy are crucial. After shots are fired and bombs are dropped, not all consequences are predictable. While the military outcome is not in doubt, should we put troops on the ground, there is still the matter of Saddam Hussein's biological and chemical weapons. Today he has maximum incentive not to use them or give them away. If he did either, the world would demand his immediate removal. Once the battle is joined, with the outcome certain, he will have maximum incentive to use weapons of mass destruction and give what he can't use to terrorists who can torment us with them long after he is gone. We cannot be paralyzed by this possibility, but we would be foolish to ignore it. According to recent reports, the CIA agrees with this analysis. A world united in sharing the risk at least would make this occurrence less likely and more bearable and would be far more likely to share the considerable burden of rebuilding a secure and peaceful post-Saddam Iraq.

President Bush's speech in Cincinnati and the changes in policy that have come forth from the administration since they first began broaching this issue some weeks ago have made my vote easier.

Even though the resolution before the Senate is not as strong as I would like in requiring the diplomatic route first and placing highest priority on a simple, clear requirement for unlimited inspections, I take the President at his word that he will try hard to pass a United Nations resolution and seek to avoid war, if possible.

Because bipartisan support for this resolution makes success in the United Nations more likely and war less likely, and because a good faith effort by the United States, even if it fails, will bring more allies and legitimacy to our cause, I have concluded, after careful and serious consideration, that a vote for the resolution best serves the security of our Nation. If we were to defeat this resolution or pass it with only a few Democrats, I am concerned that those who want to pretend this problem will go way with delay will oppose any United Nations resolution calling for unrestricted inspections.

This is a difficult vote. This is probably the hardest decision I have ever had to make. Any vote that may lead to war should be hard, but I cast it with conviction. Perhaps my decision is influenced by my 8 years of experience on the other end of Pennsylvania Avenue in the White House watching my husband deal with serious challenges to our Nation. I want this President, or any future President, to be in the strongest possible position to lead our country in the United Nations or in war. Secondly, I want to ensure that Saddam Hussein makes no mistake about our national unity and support for the President's efforts to wage America's war against terrorists and weapons of mass destruction. Thirdly, I want the men and women in our Armed Forces to know that if they should be called upon to act against Iraq our country will stand resolutely behind them.

My vote is not, however, a vote for any new doctrine of preemption or for unilateralism or for the arrogance of American power or purpose, all of which carry grave dangers for our Nation, the rule of international law, and the peace and security of people throughout the world.

Over 11 years have passed since the UN called on Saddam Hussein to rid himself of weapons of mass destruction as a condition of returning to the world community.

Time and time again, he has frustrated and denied these conditions. This matter cannot be left hanging forever with consequences we would all live to regret. War can yet be avoided, but our responsibility to global security and the integrity of United Nations resolutions protecting it cannot.

I urge the President to spare no effort to secure a clear, unambiguous demand by the United Nations for unlimited inspections.

Finally, on another personal note, I come to this decision from the perspective of a Senator from New York who has seen all too closely the consequences of last year's terrible attacks on our Nation. In balancing the

risks of action versus inaction, I think New Yorkers, who have gone through the fires of hell, may be more attuned to the risk of not acting. I know I am.

So it is with conviction that I support this resolution as being in the best interests of our Nation. A vote for it is not a vote to rush to war; it is a vote that puts awesome responsibility in the hands of our President. And we say to him: Use these powers wisely and as a last resort. And it is a vote that says clearly to Saddam Hussein: This is your last chance; disarm or be disarmed.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I seek the floor in my own right. I understand the distinguished Senator from West Virginia offered me 20 minutes of his time. I seek the floor in my own right. As I understand, under the present state of affairs, I have up to 1 hour.

The PRESIDING OFFICER. The Senator has the remainder of his 1 hour: 47 minutes.

Mr. BIDEN. I thank the Chair.

Mr. President, I will vote for the Lieberman-Warner amendment to authorize the use of military force against Iraq. And unlike my colleagues from West Virginia and Maryland, I do not believe this is a rush to war. I believe it is a march to peace and security.

I believe that failure to overwhelmingly support this resolution is likely to enhance the prospects that war will occur. And in line with what the distinguished Senator from New York just said, I believe passage of this, with strong support, is very likely to enhance the prospects that the Secretary of State will get a strong resolution out of the Security Council.

I will vote for this because we should be compelling Iraq to make good on its obligations to the United Nations. Because while Iraq's illegal weapons of mass destruction program do not—do not—pose an imminent threat to our national security, in my view, they will, if left unfettered. And because a strong vote in Congress, as I said, increases the prospect for a tough, new U.N. resolution on weapons of mass destruction, it is likely to get weapons inspectors in, which, in turn, decreases the prospects of war, in my view.

I am among those who had serious reservations about and flat out straight opposition to the first draft proposed by the White House on September 19. It was much too broad. The draft raised more questions than it answered. It was not clear whether the authorization requested by the President to use force was limited to Iraq or applicable to the region as a whole.

It was not clear whether the objective was to compel Iraq to destroy its weapons of mass destruction programs, to liberate Kuwaiti prisoners, or to end Saddam Hussein's regime. It was not clear whether the rationale for action was to enforce the U.N. Security Council resolutions that Saddam has flouted for the last decade or to implement a new doctrine of preemption. And it was not clear whether the administration considered working through the U.N. and working with allies important or irrelevant.

The second draft negotiated with congressional leadership—and I would say I believe, in part, as a consequence of the efforts of my good friend, Senator LUGAR, and me, and roughly 23 or 24 Republicans—got the attention of the administration. They were simultaneously negotiating with the Senator from Indiana and me as well as the leader in the House. The leader in the House reached an agreement first. I thought that was unfortunate because I believe we could have had a better resolution had that not occurred.

Nonetheless, the second draft negotiated addressed some of these questions but left others unanswered. Along with many of my colleagues on both sides of the aisle—notably, Senator LUGAR—I continued to seek greater clarity about the focus of the proposed resolution.

President Bush brought the resolution into sharper focus this week in his speech to the Nation. He said:

> War is neither imminent nor inevitable.

He also said his objective was to disarm Iraq, that his rationale to enforce United Nations resolutions was not based upon preemption, and that he desired to lead the world, and if war was necessary, it would be with allies at our side.

Mr. President, the resolution now before the Congress, similarly, is clear and more focused than previous drafts. It is not perfect, but it acknowledges the core concerns that Senator LUGAR, I, and others raised and that have been raised by such Senators as HAGEL and SPECTER and many others. Considered in the context of the President's speech this week, and his address last month to the United Nations General Assembly, this resolution, though still imperfect, deserves our support. Let me explain why.

First, the objective is more clearly and carefully stated. The objective is to compel Iraq to destroy its illegal weapons of mass destruction and its programs to develop and produce missiles and more of those weapons.

Saddam is dangerous. The world would be a better place without him. But the reason he poses a growing danger to the United States and its allies is that he possesses chemical and biological weapons and is seeking nuclear weapons, with the $2 billion a year he illegally skims from the U.N. oil-for-food program. For four years now, he has prevented United Nations inspectors from uncovering those weapons and verifying Iraq's disarmament, and he is in violation of the terms he agreed to allowing him to stay in power.

What essentially happened was, he sued for peace. What essentially happened was, the U.N. resolutions were a reflection of what ordinarily, if there were no U.N., would be in the form of a peace agreement.

This resolution authorizes the President to use force to

> defend the national security of the United States against the continuing threat posed by Iraq; and enforce all relevant United Nations Security Council Resolutions. . . .

In my view, and as has been stated by the President and Secretary of State, the threat to the United States is Iraq's weapons of mass destruction programs. The relevant U.N. resolutions are those related to Iraq's nuclear, chemical, and biological weapons. And the fact that we use the conjunctive clause, the word ''and,'' and not the word ''or,'' means that the authorization we are granting to the President is tied to defending the national security of the United States in the context of enforcing the relevant U.N. resolutions relating to weapons of mass destruction.

This is not a blank check for the use of force against Iraq for any reason. It is an authorization for the use of force, if necessary, to compel Iraq to disarm, as it promised after the Gulf War.

Some in the Administration have argued that our stated objectives should be the end of Saddam Hussein's regime. Regime change is the ultimate goal of American policy, as embodied in the sense-of-the-Congress provision of the Iraq Liberation Act in 1998. Indeed, an effective effort to disarm Iraq could well result in regime change. After all, such an effort would force Saddam to make a hard choice—either give up his weapons or give up power—and he has made the wrong choices many times before.

In his own words, the President said:

> Taking these steps would also change the nature of the Iraqi regime itself. America hopes the regime will make that choice.

But this resolution does not make Saddam's removal its explicit goal. To have done so, in my view, would run the risk of alienating other countries who do not share that goal and whose support we need to disarm Iraq and possibly to rebuild it. And it would significantly weaken our hand at the United Nations.

Nor does this resolution give the President the authorization to go to war over Bahraini prisoners, reparations owed to Kuwait, foreign MIAs, the return of Kuwait's national archives, or Saddam's ties to terrorism and human rights abuses. These are serious problems. The United Nations must continue to insist they be resolved, including maintaining embargoes and tightening and strengthening those sanctions against Iraq. But I doubt seriously the American people will support going to war to rectify any of them; nor will our allies.

The Secretary of State, in testimony before the Committee on Foreign Relations, made clear that our core objective is disarmament. I quote:

> I think it is unlikely that the President would use force if [Iraq] complied with the weapons of mass destruction conditions. . . .

we all know that the major problem . . . the President is focused on and the danger to us and to the world are the weapons of mass destruction.

By the way, even if my reading is incorrect and he would be able to go to liberate Bahraini prisoners, does anybody in this body think the President of the United States would risk American forces and, in a very crass sense, his presidency by going in with American forces unilaterally to make sure that Bahraini prisoners were in fact released? That is fiction.

This week the President stated the objective clearly and concisely. He said:

Saddam Hussein must disarm himself or, for the sake of peace, we will lead a coalition to disarm him.

The President is right to focus on disarming Iraq and not on regime change.

Second, the rationale is more tightly focused. It is to enforce the U.N. Security Council resolutions on weapons of mass destruction that Saddam has defied for more than a decade. This is a man who waged a war of aggression, lost the war, and sued for peace. The terms of surrender dictated by the United Nations require him to declare and destroy his weapons of mass destruction programs. He has not done so.

This resolution sets out in detail Saddam's decade of defying the Security Council resolutions on disarmament. It states that Iraq ''remains in material and unacceptable breach of its international obligations,'' through its weapons of mass destruction programs. It authorizes the President to enforce all ''relevant U.N. Security Council resolutions regarding Iraq,'' with force, if necessary.

As the President said this week:

America is challenging all nations to take the resolutions of the United Nations Security Council seriously.

That is what this is about. Yet some administration supporters have argued using force against Iraq is justified on the basis of a new doctrine of preemption, a doctrine that would represent the most far-reaching change in our foreign policy since the end of the cold war. In fact, the concept of preemption has long been part of our foreign policy tool kit. It is a doctrine well established under international law.

What we are talking about here in this new policy is a policy of prevention, striking first at someone who may some day pose a threat to us, even if that threat is not imminent today. This policy merits a serious national debate, but not adoption by this body, nor is it contained in this resolution.

The speed and stealth with which an outlaw state or terrorist could use weapons of mass destruction and the catastrophic damage they could inflict require us to consider new ways of acting, not reacting. But that is not what this is about.

It would be dangerous to rush to embrace as a new principle of American foreign policy a rule that gives every nation the right to act preventively. The former Secretary of State, Secretary Henry Kissinger, made this point powerfully in his testimony before my committee 2 weeks ago. I quote him:

As the most powerful nation in the world, the United States has a special unilateral capacity and indeed obligation to lead in implementing its convictions. But it also has a special obligation to justify its actions by principles that transcend the assertions of preponderant power. It cannot be in either the American national interest or the world's interest to develop principles that grant every nation an unfettered right of preemption against its own definition of threats to its security.

Dr. Kissinger is right. What message would declaring a policy of prevention send to the Indians and Pakistanis, the Chinese and the Taiwanese, the Israelis and the Arabs, the Russians and Georgians?

This resolution does not send that message because it does not endorse the prevention doctrine. It does not need to. Because, as the President has argued, this is about compelling Saddam Hussein to make good on his requirement and obligation to disarm.

Third, this resolution makes clear the President's determination to build international support for our Iraq policy. Our allies throughout the world and in the region have important contributions to make in the effort to disarm Iraq and to rebuild Iraq, if we go to war. And we depend upon their continued cooperation in the unfinished war against terrorism. The United States has a singular capacity to act alone, if necessary. We must—and this resolution does—preserve our right to do so. But acting alone in Iraq would cost us significantly more in lost lives, in dollars spent, and influence dissipated around the world. Acting alone must be a last resort, not a defiant retort to those not yet convinced of our policy.

This resolution emphasizes the importance of international support, manifested through the United Nations Security Council. It states that:

The Congress of the United States supports the efforts by the President to—

(1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions applicable to Iraq and encourages him in those efforts; and,

(2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance. . . .

Similarly, the President, in going to the United Nations over the strong objection of half his administration, made clear his desire to work with others, not around them. In his speech this week, he talked about his determination ''to lead the world'' in confronting the Iraqi problem. He stated that if we act militarily, we will act ''with allies at our side.''

I am convinced he will follow through on this commitment.

In short, the combination of this resolution and the President's own words in recent speeches, both publicly and privately, give me confidence that most of our core concerns have been addressed.

I also take confidence from how far this administration has come on Iraq over the past year. Many in this Chamber predicted, and many who oppose this resolution predicted, that the administration would use the terrible events of September 11 as an excuse to strike back at Iraq. This, despite any credible evidence that Iraq was involved in the terrorist attacks on America.

Both The New York Times and The Washington Post have reported that in the days following 9/11, the most senior Pentagon officials urged the President to consider setting his sights on Iraq, not Afghanistan. I can say from personal conversations, I know that to be true. As a matter of fact, I gathered my Foreign Relations Committee staff not long after 9/11, when talk of going to Afghanistan was in this Chamber and at the administration. I suggested, based on conversations I had with some, be careful, prepare. We are not going to Afghanistan. We are going to Iraq.

I know there was a proposal that was being promoted to the President that he should use this as an excuse to go to Iraq. Secretary Rumsfeld is reported to have argued there would be a big buildup of forces with not that many good targets in Afghanistan.

At some point, the United States would have to deal with Iraq and is this not the opportunity? he apparently suggested—not to me; that is as reported. Many predicted the administration would ignore the U.N. and the need to build international support for its Iraqi policy. That is not surprising because senior administration officials said as much.

During the spring and early summer, literally dozens of articles flatly stated that the President planned a unilateral attack against Iraq. As late as August 29 of this year, The New York Times reported:

Officials in Washington and Crawford, TX, are engaged in an intense debate over whether they should seek to involve the United Nations one last time. . . . As one top adviser described the argument, Mr. Bush must decide ''whether to go it alone or go to the United Nations.'' He went to the United Nations.

Many predicted the administration would refuse to give the weapons inspectors one last chance to disarm. That is not surprising. That prediction would have been made because administrative officials consistently disparaged inspections.

Richard Perle, senior adviser to the Pentagon, said:

The inspectors are not going to find anything. . . .They will flounder if they are permitted to return.

Vice President CHENEY, as late as August 26 of this year, took this line:

A person would be right to question any suggestion that we should just get inspectors

back into Iraq and then our worries will be over. A return of inspectors would provide no insurance whatsoever of Saddam's compliance with U.N. resolutions.

I don't know how many Sunday shows I did from June through now, where every interviewer would say: But, Senator, you are wrong, the President is going to act alone. And they read me quote after quote from high officials.

Thank God for Colin Powell. Thank God for Colin Powell because that was the other half being argued by the administration quietly, saying: Mr. President, do not listen to those voices who counsel ''no inspectors and do not go back to the U.N.''

Many predicted the administration would not seek authorization from Congress for the use of force and, again, that is not surprising. As late as August 29 of this year, the White House counsel—the White House counsel—reportedly told the President that he had all the authority he needs to wage war against Iraq—there was a big deal about leaking a memorandum from the White House counsel to the world that Congress need not be involved, Mr. President. I had two private meetings with the President myself, where I made clear that I thought that was dead wrong and he would be—to use the slang on the east side of my city—''in a world of hurt'' if he attempted to do that.

The President said to me personally he was going to come to Congress if he sought authority. What did he do? He came to Congress. But it is not strange that my colleagues up here would believe he would not do that. The White House press secretary actually reiterated that conclusion of the White House counsel at a White House briefing. Each prediction by those who thought the President would make, in my view, the wrong choice, seemed very well founded because it was based on the beliefs and statements of very senior administration officials, including the Vice President of the United States.

We all know the lore around here—that the Vice President of the United States is the most powerful man in the administration. Some even suggest it goes beyond that. But guess what? Each prediction proved to be wrong, as some of us, quite frankly, predicted all along.

My colleague from New York may remember my getting a little bit of a sarcastic response in the Democratic Caucus when I suggested there was no possibility there would be a war before November; there was no possibility of an October surprise; there was no possibility that he would go and seek power to go to war, if need be, absent congressional authorization. There was no possibility he would fail to go to the U.N. It is not just because that is the only thing I believe a rational President could do, but because he told me—and I suspect many others—that that is what he would do.

Mr. President, President Bush did not lash out precipitously after 9/11. He did not snub the U.N. or our allies. He did not dismiss a new inspection regime. He did not ignore the Congress. At each pivotal moment, he has chosen a course of moderation and deliberation. I believe he will continue to do so—at least that is my fervent hope. I wish he would turn down the rhetorical excess in some cases because I think it undercuts the decision he ends up making. But in each case, in my view, he has made the right rational and calm, deliberate decision.

As I noted a few moments ago, the President said this week that the use of force in Iraq is neither ''imminent nor inevitable,'' and that makes sense because while the threat from Iraq is real and growing, its imminence and inevitability in terms of America's security have been exaggerated.

For two decades, Saddam Hussein has relentlessly pursued weapons of mass destruction. There is a broad agreement that he retains chemical and biological weapons, the means to manufacture those weapons and modified Scud missiles, and that he is actively seeking a nuclear capability. It remains less clear how effective his delivery vehicles are, whether they be the al-Hussein missiles, with a 650 kilometer range, short-range missiles, or untested and unmanned aerial vehicles for the dispersion of chemical and biological weapons.

Shifting weather conditions, the likely incineration of much of the chemical or biological agent in a warhead explosion, and the potential blowback on Iraqi forces, all complicate the Iraqi use of these weapons. But we are right to be concerned that, given time and a free hand, Saddam would improve this technology.

Other countries have, or seek, weapons of mass destruction. Saddam actually used them against his neighbors, against his own people. He has a lengthy track record of aggression—first, in Iran, then Kuwait. He has brutally repressed Iraqi civilians—the Kurds in the North, then the Shias in the south, and then the Kurds again. And the combination of Saddam Hussein and weapons of mass destruction is dangerous, destabilizing, and deadly.

Ultimately, either those weapons must be dislodged from Iraq, or Saddam must be dislodged from power. But exactly what threat does the combination of Saddam and weapons of mass destruction pose to the United States? How urgent is the problem? Some argue the danger is threefold: one, Iraq could use these weapons against us; two, it could use them to blackmail us; three, it could become a surreptitious supplier to terrorist groups.

Others question these scenarios. For example, Brent Scowcroft, President George Herbert Walker Bush's National Security Adviser, and chairman of President Bush's foreign intelligence advisory board, recently wrote:

> Threatening to use these weapons for blackmail—much less their actual use—would open [Saddam] and his entire regime to a devastating response by the U.S. While Saddam is thoroughly evil, he is above all a power-hungry survivor.

Similarly, Scowcroft wrote ''there is scant evidence to tie Saddam to terrorist organizations, and even less to the September 11 attacks. Indeed, Saddam's goals have little in common with the terrorists who threaten us . . . and he is unlikely to risk his investment in weapons of mass destruction, much less his country, by handing such weapons to terrorists who would use them for their own purposes and leave Baghdad as a return address.''

Daniel Benjamin, former Director of Counter-terrorism on the National Security Council staff, and co-author of the remarkable new book, ''The Age of Sacred Terror,'' wrote recently in The New York Times the following:

> Iraq and Al Qaeda are not obvious allies. In fact, they are natural enemies. . . .To contemporary jihadists, Saddam Hussein is another in a line of dangerous secularists, an enemy of the faith. . . .Saddam Hussein has long recognized that Al Qaeda and like-minded Islamists represent a threat to his regime. Consequently, he has shown no interest in working with them against their common enemy, the United States. . . . Iraq has indeed sponsored terrorism in the past, but always of a traditional variety: it sought to eliminate Iraqi opponents abroad or, when conspiring against others, to inflict enough harm to show the costs of confronting it. But Mr. Hussein has remained true to the unwritten rules of state sponsorship of terrorism: never get involved with a group that cannot be controlled, and never give a weapons of mass destruction to terrorists who might use it against you.

I reiterate here, just as Mark Twain said, ''The reports of my death are much exaggerated,'' the reports of al-Qaida in Iraq are much exaggerated.

Our own intelligence community, in testimony before the Foreign Relations, Armed Services, and Intelligence Committees—that has been declassified—concluded that the probability of Iraq initiating an attack against the United States with weapons of mass destruction is ''low''—l-o-w—low. They also have concluded that ''Baghdad for now appears to be drawing a line short of conducting terrorist attacks . . . with chemical or biological weapons against the United States.''

I believe it is unlikely Saddam Hussein will use weapons of mass destruction against us unless he is attacked. To do so would invite immediate annihilation, and I am skeptical that he would become a supplier to terrorist groups. He would risk being caught in the act or having those weapons turned against him by groups who disdain Saddam as much as they despise us, and he would be giving away what is to him the ultimate source and symbol of his power, the only thing that makes him unique among the thugs in the region.

Of course, Saddam has miscalculated before, and we are right to be concerned about the possibility, however remote, that he will do it again, but we are wrong on this floor to exaggerate

and suggest this is the reason and justification for going against Saddam.

What I do believe is that Saddam's primary goal is to dominate his region. His history, his actions, and his statements make that clear. Weapons are a means to that end for him, a terrible tool of intimidation that he could use to bully his people and his neighbors.

During the gulf war, the knowledge that Saddam Hussein had chemical and biological weapons did not deter us from expelling his forces from Kuwait. We gave him clear warning that using these weapons against our troops would invite a devastating response. Let me remind everybody, he did not use them. But a nuclear weapon could well change Saddam's calculus. It could give Saddam an inflated sense of his invisibility. It could lead him to conclude erroneously that he finally had the great equalizer against American power and that he could fuel a new spasm of aggression against his neighbors or the Kurds in the mistaken belief that we would be deterred for fear that, if we put anyone on the ground, they would be annihilated with his theater or tactical nuclear weapon.

We cannot let Saddam Hussein get his hands on nuclear weapons. In particular, we must deny Iraq the necessary fissile material, highly enriched uranium, or weapons grade plutonium needed for a nuclear weapon.

According to an unclassified letter released by the Director of Central Intelligence this week:

> Iraq is unlikely to produce indigenously enough weapons grade material for a deliverable nuclear weapon until the last half of this decade.

Therefore, if Iraq wants a nuclear capability sooner, it will need to turn to foreign sources for fissile material which could shorten the timetable for an Iraqi nuclear weapon to about a year. This reality underscores the importance of U.S. and international efforts not only to disarm Iraq, but also to reduce and better secure fissile materials in the former Soviet Union, the most logical source of black market purchases or theft.

Concerning Iraq, our first step should be the one the President apparently has chosen: to get the weapons inspectors back into Iraq. There is disagreement about the value of weapons inspections. Skeptics, particularly our Vice President, contend that inspections can never guarantee the complete disarmament of Iraqi weapons, especially given the prevalence of dual-use materials and mobile facilities for the production of chemical and biological weapons.

Proponents believe that inspectors heighten the barrier to development and production of WMD and will buy time until a regime change in Iraq occurs. They point to the success of UNSCOM and IAEA.

For example, the British white paper on Iraq's WMD issued last month, which was quoted by those who wish to move against Iraq, says:

> Despite the conduct of the Iraqi authorities toward them, both UNSCOM and IAEA action teams have valuable records of achievement in discovering and exposing Iraq's biological weapons programs and destroying very large quantities of chemical weapons stocks and missiles, as well as the infrastructure for Iraq's nuclear weapons program.

It has been argued that UNSCOM's most notable achievements were the result of fortuitous defections. In fact, much of UNSCOM's success was due to diligent detective work in Iraq. But let's assume that defections and not detection are the key to success. Isn't the best way to encourage defections, isn't the best way to get firsthand information about Iraq's weapons programs to have inspectors back on the ground talking to the key people?

I agree with President Bush that given a new mandate and the authority to go any place, any time, with no advance warning, U.N. inspections can work. They can succeed in discovering and destroying much of Saddam's chemical and biological arsenals and his missile program. They can delay and derail his efforts to acquire nuclear weapons and, at the very least, they will give us a clearer picture of what Saddam has, force him to focus on hiding his weapons and not building more, and it will buy us time to build a strong coalition to act if he refuses to disarm.

There is no question that with regard to Iraq, we have a real and growing problem. But I also believe we have time to deal with that problem in a way that isolates Saddam and does not isolate the United States of America . . . that makes the use of force the final option, not the first one . . . that produces the desired results, not unintended consequences. That is the course President Bush has chosen, in my view.

Now it is incumbent upon the United Nations and the U.S. Congress to help him stay the course. The United Nations Security Council must deliver a tough new resolution that gives the weapons inspectors the authority they need to get the job done. As the President put it, the inspectors ''must have access to any site at any time without preconditions, without delay, and without exceptions.''

Mr. President, the resolution should set clear deadlines for compliance, and it should make clear the consequences if Saddam Hussein fails to disarm, including authorizing willing U.N. members to use force to compel compliance.

I also agree with the President that a key component of any inspections regime must be the U.N.'s ability to interview those with knowledge of Iraq's weapons programs in a climate free of fear and intimidation, including being able to take them outside of Iraq. Offering sanctuary to those who tell the truth would also deprive Saddam Hussein of their expertise.

To that end, this week, Senator SPECTER and I introduced legislation called ''The Iraqi Scientist Liberation Act'' that would admit to our country up to 500 Iraqi scientists, engineers, and technicians, and their families who give reliable information on Saddam's programs to us, to the United Nations, or to the International Atomic Energy Agency.

It is also critical the Congress send the right message to the United Nations Security Council. Its members must not doubt our determination to deal with the problems posed by Iraq's weapons of mass destruction, including our willingness to use force, if necessary.

The stronger the vote in favor of this resolution, the stronger the likelihood, in my view, that the Security Council will approve a tough U.N. resolution. That is because the U.N. will conclude if we do not act, America will. So we'd better.

The tougher a U.N. resolution, the less likely it is that we will have to use force in Iraq. That is because such a resolution would finally force Saddam to face the choice between inspectors and invaders, between giving up his weapons and giving up power, and there is at least a chance that he might make the right choice.

There is also a chance Saddam will once again miscalculate, that he will misjudge our resolve, and in that event we must be prepared to use force with others if we can, and alone if we must.

The American people must be prepared. They must be prepared for the possible consequences of military action. They must be prepared for the cost of rebuilding Iraq as the President said he is committed to do. They must be prepared for the tradeoffs that may be asked of them between competing priorities. They must be prepared for all these things and more because no matter how well conceived, no matter how well thought out a foreign policy, it cannot be sustained without the informed consent of the American people.

If it comes to that, if it comes to war, I fully expect the President will come back to the American people and tell us what is expected of us. As a matter of fact, when he met with the congressional leadership and the committee chairmen about 10 to 15 days ago—I forget the exact date—we were all around the Cabinet table and at one point he turned to me and he said: Mr. Chairman, what do you think?

And I said: Mr. President, I will be with you if you make an earnest effort to go through the United Nations, if you try to do this with our allies and friends; if in fact the U.N. does not support our effort, as in Kosovo, and if you are willing to be square with the American people, Mr. President, of what sacrifices we are going to ask of them, particularly the need to have a significant number of American forces in place in Iraq after Saddam Hussein is taken down.

In the presence of all my colleagues at that meeting, he said: I will do that.

He has never broken his word.

He has made two very important speeches so far—one at the U.N. and one to the American people—about the danger of Saddam Hussein, but no one yet has told the people of Georgia, the people of Delaware, the people of this country what we will be asking of them because it will be profound. It may be necessary, but it will be profound. As I said, if it comes to war, the President, I am confident, will go to the American people.

In his speech this week, he made a compelling case that Iraq's failure to disarm is our problem as well as the world's, but he has not yet made the case to the American people that the United States may have to solve this problem alone or with relatively few others, nor has he told us of the sacrifices that such a course of action could involve.

I am confident he will do so, if and when it proves necessary, but I also want to be clear about the issues the President must address before committing our Armed Forces to combat in Iraq, as a moral obligation to level with our people.

First, the consequences of military action: Attacking Iraq could and probably will go smoothly. We have the finest fighting force in the world. Our defense budget exceeds that of the next 15 countries combined. According to expert testimony my committee received this summer, Iraq's conventional forces are significantly weaker than they were during the Gulf War. As a leading expert in the Middle East, Mr. Fouad Ajami told the committee there is a strong likelihood the Iraqis will welcome us as liberators.

While it would be reasonable to expect the best, it would be foolhardy not to prepare for the worst. There is a danger in assuming that attacking Iraq will be, as some suggest, ''a cakewalk.'' We should all heed the powerful words of military analyst, Anthony Cordesman, who testified before the Foreign Relations Committee in July. He said to my committee:

> I think it is incredibly dangerous to be dismissive [of the difficulty]. It is very easy to send people home unused and alive. It is costly to send them home in body bags because we did not have a sufficient force when we engaged. And to be careless about this war, to me, would be a disaster . . . This is not a game, and it is not something to be decided from an armchair.

There is a danger in attacking Iraq. There is a danger that attacking Iraq could precipitate what we are trying to prevent: Saddam's use of weapons of mass destruction against our troops.

My friend from Georgia who is presiding is a military man. He is a former marine. He is a tough guy. He is level headed and straight. He might be interested that last Sunday, as I came down to the memorial for firefighters—he knows I commute every day and I never come to Washington on Sunday—but there was a tribute to fallen firefighters which occurs every year and I was asked to speak. As I got off the train, I ran into a four-star—I do not want to identify him too closely—general in one of our branches who held a very high position very recently and still holds a very high position. I asked him what he thought about the possibility of this war, and he said he did not like it.

He said two things to me, and I say this to the Presiding Officer, an ex-marine. He said there are two things that will be fundamentally different from ever before: We have never gone to war in an environment that could possibly be totally contaminated before we get there; and, number two, we have never gone house to house in a city of 4 million people.

This all may work perfectly well. This all may go just so nicely. But to imply to the American people that is a surety would be immoral, disingenuous, and would reap a whirlwind if it does not occur.

The American people are tough. They will do what they think is necessary for our security and they will make sacrifices. But I will have no part if we go to war providing pablum to them that somehow this is going to likely be an overwhelmingly easy undertaking.

If we notice, everybody says the American people support this war. That is not true. They support this war if it is a 100-day war like the last war was. They do not support the President's ability to go to war unilaterally. If we look at all the polling data, what they support is if we go with our allies in response to a genuine threat, which I think exists, and if it is not going to be costly in terms of the loss of human life, American soldiers, then they overwhelmingly support it. Over half still support it even if there is some loss of life, but hardly anyone supports it if it is alone or if there is a significant loss of life.

As CIA Director George Tenet stated in a letter to Senator GRAHAM this week:

> Should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably—

Let me say that again—

> He probably would become much less constrained in adopting terrorist actions. Such terrorism might involve . . . chemical and biological weapons. Saddam might decide that the extreme step of assisting Islamist terrorists in conducting a WMD attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him.

There is a danger that Saddam would seek to spark a wider war. I just did one of the shows we all do with Charlie Rose. He quoted to me what I knew privately from my discussions with him: the former commander of CENTCOM testifying that he saw no need to go into Iraq now, and the cost would be high.

There is a danger that Saddam would seek to spark a wider war. Many experts have expressed concern to my committee that if attacked Saddam Hussein would lash out at Israel. Last month, The New York Times reported that Israeli Prime Minister Ariel Sharon told senior administration officials that Israel would strike back if Iraq attacks Israel. Then, key Arab countries could come under tremendous pressure to break with us and confront Israel. It would be wrong for us to tell Israel what they should or should not do in their self-defense, but it would also be wrong to ignore the risk that a war against Saddam Hussein will ignite a much larger conflagration.

There is a danger that Saddam's downfall could lead to widespread civil unrest and reprisals. There is only one thing I disagree with in the President's speech on Monday. He said what could be worse than Saddam Hussein? I can tell you, a lot.

As I said, there is a danger that Saddam's downfall could lead to widespread civil unrest and reprisal. Chaos could invite the Kurds to seize valuable oil fields; the Turks to cross the border in an effort to prevent a Kurdish state from arising; and Iran and even Syria to move in to fill a vacuum.

Not one of these scenarios is inevitable. None should be used as an excuse for inaction. But each must figure into our planning and into the minds of the American people if we ultimately use force against Iraq. We must be honest with the American people.

In his speech this week, the President made it clear that if military action is necessary, ''the United States and our allies will help the Iraqi people rebuild their economy and create the institutions of liberty in a unified Iraq and peace with its neighbors.''

This is a much more complicated country than Afghanistan. We are not done in Afghanistan. We have not kept our commitment in Afghanistan. We are taking on a big deal here. I know the Presiding Officer and my colleague from Ohio and my colleague from Vermont know Iraq is an artificially constructed nation. When has there been a circumstance in Iraq when there has been anything remotely approaching a democratic republic? I cannot think of it in the history of Iraq as defined now. The Kurds are Indo-European Sunnis, the Sunnis are Arab Sunnis, the Shiites, who make up 60 percent of the population primarily between the Tigris and Euphrates Rivers, are Shiites who have been at war with the Sunnis. The Iranians are Shiite. There are 700,000 Iraqi Shiites in Iran.

This is complicated stuff. But to listen to some of my colleagues on the floor who blow this off like, no problem, take down Saddam, there is a James Madison waiting to step into the vacuum, we will have a democratic republic, it will set a new tone and tenor, as the Vice President said, for all of the Middle East, because we will have a new democracy there, that is a big deal. It is a big undertaking.

Why did the President say this? This is a critical commitment, one I wholeheartedly endorse, but it is not done out of altruism, but out of a hard-boiled calculation that in Iraq we cannot afford to trade a despot for chaos.

None of this will be cost free. It will require a significant investment of military, financial, and human resources.

Let's start with the cost of war. Last month the White House economic adviser estimated the cost of the military campaign in Iraq at between $100 and $200 billion. My friends in the Senate are all economic conservatives. Where are we going to get the money? I say to my friends, as I said in committee, those who want to see a national health insurance policy, forget it for a while. Those who want to make permanent the present tax cut, forget it for a while. As they say in parts of my State, ''you ain't got the money.''

It doesn't mean we shouldn't move on Iraq, but it means we should be honest with the American people, and tell them what the estimated cost by this administration is. By the way, that estimated cost is similar to what the Congressional Budget Office suggested. The higher cost estimates would result from a lengthy campaign and external factors such as a spike in oil prices if that occurs. That is just to win the war. The cost of securing the peace could be significantly higher and could extend years into the future.

On the other hand, maybe we will end up with an Iraqi Government in place. There is plenty of money in Iraq. They can fund their own reconstruction. And that may happen. I am not being facetious. But it is not anywhere near certain.

I say ''could'' because there are those who believe our commitment to Iraq the ''day after'' need not involve exorbitant expenditures. Former Defense Secretary Caspar Weinberger told my committee in August, and Secretary Rumsfeld repeated it last month, that the United States would not have to stay too long in Iraq. They and others argue that Iraq has a talented population and considerable resources to pay for its own reconstruction.

The problem is, one-third of that population hates the other two-thirds of the population. They say Iraq will quickly be able to organize itself politically, economically, and militarily into a peaceful, unified nation, free of weapons of mass destruction.

The American people need to know that most experts believe Iraq will require considerable assistance politically, militarily, and economically. Indeed, they say we should speak not of ''the day after'' but of ''the decade after.'' My committee heard testimony in July from a military expert in post-conflict reconstruction. The fellow who headed up that department in the Pentagon stated that 75,000 troops would be required at a cost of $16 billion for just the first year, to maintain order, preserve Iraq's integrity, and secure its weapons of mass destruction sites. Just to do that. Just to do that. Other experts predict the United States will have to engage substantial resources in Iraq, which has no history of democracy, for many more years.

When my cowboy friends say, ''Why do we need anybody? Let's go get them,'' I don't want all 75,000 of the forces being American. Anybody happen to notice recently that in Kuwait American military personnel are being picked off? Anybody happen to notice that? Anybody happen to notice the targets in Afghanistan? Where have we been? The American people need to know what the experts know. We have an obligation, the President has an obligation, to tell them, if the need arises.

In a recent study in the Atlantic Monthly, James Fallows summed up the significant challenges that Iraqis will not be able to handle on their own. This is overwhelmingly agreed upon by left, right, and center. He says they will not be able on their own to handle the following: Cleaning up the after-effects of battle and malicious destruction Saddam Hussein may create with chemical and biological weapons or by sabotaging his own oil fields; providing basic humanitarian needs in the short term such as food, water, and medical care; dealing with refugees and displaced persons, the 700,000 Shiites in Iran—I remind Members of the 700,000 in Iran; catching Saddam Hussein if he tries to flee—we are still looking for Osama bin Laden. We are still looking for Omar the tent maker. We are still looking for these guys. We don't have them; Providing police protection and preventing reprisal killings; denazification of Baathist officials and security services; aiding in the formation of a new government; ensuring Iraq's territorial integrity and dealing with possible Iranian and Turkish intervention; rebuilding the oil industry while ensuring a smooth reentry of Iraqi oil into the world market.

That is a finite list that everyone acknowledges no new government in Iraq could do quickly. Those who argue most vigorously that a post-Saddam Iraq can be a model and source of inspiration for democracy in the region and throughout the Muslim world must be prepared to back the massive, long term American commitment. To set that objective, but then to believe it can be done on the cheap, is a recipe for failure.

Let me quote from Mr. Gingrich. This is a news report in The New York Times.

> The advisers, who include former House Speaker Newt Gingrich and Mr. Perle, argue the White House should create a high-level interagency group to coordinate military and reconstruction planning before an invasion takes place. That sort of powerful council could overcome the bureaucratic and philosophic divisions that have hindered reconstruction planning, the advisers contend.
>
> ''It was a mistake we made in Afghanistan,'' said Mr. Gingrich who sits on the Defense Policy Board. ''You shouldn't go into a country militarily without having thought through what it should look like afterwards.''

The mere fact that these men on the board are saying we should do this is evidence it has not been done yet.

We must be clear with the American people that we are committing to Iraq for the long haul; not just the day after, but the decade after.

Finally, let's consider the possible tradeoffs here.

The President has argued that confronting Iraq would not detract from the unfinished war against terrorism. I believe he is right. We should be able to walk and chew gum at the same time. But if military action comes, it will take a herculean effort for senior leaders of our Government to stay focused on two major undertakings at once. War is intense. A new front against Iraq must not distract us from job number one—taking down al-Qaida.

Let's also be clear that this could involve sacrifices. For example, the war on terrorism is putting intense demands on Navy Seals, Army Green Berets, Delta Commandos, Air Force ground controllers, and Arabic linguists. Units have been deployed to Afghanistan, Pakistan, Georgia, Yemen, Africa, and the Philippines, and last month the commander of United States special-operation forces requested an additional $23 billion over the next 5 years to prosecute the war against al-Qaida and other terrorist groups. Not—not—Iraq. Our intelligence services have also redirected resources to the war on terrorism.

How are we going to pay for all this? Can we take on Iraq, prosecute the war on terrorism, and maintain the President's tax cut for the wealthiest Americans? Can we afford to repeal the estate tax for the top 2 percent of the population who pay it? What would be the prospects for national health insurance and prescription drug benefits in the near term?

The point is, we will do what we have to do to protect our national security, but let's not kid ourselves that it can come down cost free, without tradeoffs, and without setting priorities.

Setting priorities and making hard choices is what governing is all about. So is being forthright with the American people about what is expected of them. We should not be afraid to ask our fellow Americans to sacrifice for a vital cause if we conclude we should go to war. Generation after generation of Americans has done so willingly and will do it again if that is what they are called upon to do. But we must be straight with them.

In conclusion, few resolutions that come before the Congress are as grave and consequential as the one before us today. We have heard powerful arguments on both sides of the resolution, and concerning the various amendments that have been presented. That is how it should be. We have come a long way during the last year. The administration that many thought would ignore the United Nations, ignore the Congress, has and is seeking the support of both.

We have come a long way in 3 weeks, a long way since the White House first offered its draft resolution. This resolution and the President's words make it clear that the administration's objective is to disarm Iraq and that the

rationale to enforce Iraq's obligations to the United Nations is the reason we would go, and that its determination is to work with others, not alone. The President has made it clear that war is neither imminent nor inevitable.

I am confident that the reason the President, thankfully, disregarded the advice of some in the administration—that he understands the significant need for others to support us—is that fighting two wars, a war in Iraq and a war against terrorism, can be greatly assisted the more the world is with us. We do not need them if it comes to that. But the cost we will pay will be significantly higher.

I compliment the President for recognizing that. I am absolutely confident the President will not take us to war alone. I am absolutely confident we will enhance his ability to get the world to be with us by us voting for this resolution. I am absolutely confident, if it comes time and need to go to war, with others or alone, the President will keep his commitment to make the third most important speech in his life, to come to the American people and tell them what is expected of them, what is being asked of them.

To do any less would be to repeat the sin of Vietnam. And the sin of Vietnam, no matter what our view on Vietnam is, is not whether we went or didn't go. But the sin, in my view, is the failure of two Presidents to level with the American people of what the costs would be, what the continued involvement would require, and what was being asked of them.

We cannot, must not, and, if I have anything to do with it, we will not do that again.

I thank the Chair for its consideration and its patience. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we have exhausted the last unanimous consent order that has been entered here. We have a lot of Senators who have indicated a desire to speak, and they have the right to do that. What I would like to do is this. Both cloakrooms have worked to come up with a list of speakers. We have a very long list, but we have learned from sad experience here this week that we should not make it a really long list.

So what I suggest to my colleague, Senator MCCAIN, is that we go down the list for four or five Senators and then we will come back again and try to get another list. We have a long list, but rather than enter it—we tried that earlier this week, and everyone should understand it will not work because people do not use all their time so others are not here when it is time to start. But if we have a few Senators, it works better.

I ask unanimous consent that the list of speakers start with Senator DEWINE for 35 minutes.

Mr. MCCAIN. For 45.

Mr. REID. OK, that is fine.

Mr. MCCAIN. Forty-five.

Mr. REID. Senator COLLINS for 20 minutes. The reason we have this is we have had a long string of Democrats who have spoken: Senator KOHL, 7 minutes; Senator HARKIN, 7 minutes; Senator SCHUMER, 30 minutes; Senator SPECTER, 45 minutes; and Senator CARPER, 20 minutes. We would end it at that time—not end it, but we would be back to enter another list and find out if we have had any added to it or taken from it.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I am sorry, I will not object, but I couldn't hear.

Mr. REID. What I said is we will come back after this list is completed and see if there are any additions or deletions and try to get another list. We have a very long list here but, believe me, it will not work to stick it in from top to bottom.

The PRESIDING OFFICER. Would the Senator from Nevada repeat the list again?

Mr. REID. DEWINE, 45 minutes; COLLINS, 20 minutes; KOHL, 7 minutes; HARKIN, 7 minutes; SCHUMER, 30 minutes; SPECTER, 45 minutes; CARPER, 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I would say to everyone within the sound of my voice, everyone has time to speak if they can get the floor. We have a list here to make it so people are not trying to get the attention of the Chair.

I hope Senators will be considerate. There is only 30 hours. If somebody comes and takes an hour, it does not leave time for others. Some have already spoken. I think those who have spoken—I hope they will be considerate of a lot of Senators who have not spoken.

The fact that we have allotted all this time doesn't mean everyone has to use every minute of the time allotted. So those Senators who are in this queue, if they would be around in case someone doesn't show up or is stuck in traffic or whatever the case might be, we could finish a lot quicker.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I would like to begin by thanking all my colleagues who have participated in this very crucial and historic debate. I must say I was struck last Friday by the magnificent debate between Senator BYRD and Senator WARNER. I think their debate on Friday represented what the Senate is all about, and I congratulate both of them. Really, every Member who has come down here has had something to contribute.

It is clear that each Member who came down here has thought long and hard about this very important vote.

Throughout my Congressional career, I have believed that the United States must lead in foreign affairs. In doing so, our foreign policy must reinforce and promote our own core values of democracy, free markets, human rights, and the rule of law. And, I am not at all ashamed to say that our most important export to the international community is our ideals and our ideas.

The first U.S. President I remember as a child is Dwight D. Eisenhower. We know that he ran for President because of his strong belief that the United States needed to lead in the world. He believed that by leading and by being involved in the world—and not isolated from it—we would have the best chance of guaranteeing peace, freedom, and stability. As President Eisenhower said in his January 1961 farewell address:

> America's leadership and prestige depend, not merely upon our unmatched material progress, riches and military strength, but on how we use our power in the interests of world peace and human betterment.

He understood that we have a moral obligation, as the leader of the Free World, to use our power to promote freedom and stability and to help alleviate suffering around the globe. And in that process, he understood the importance and the necessity of working with our partners through organizations, such as NATO.

And though it is vital that we be engaged in world affairs and work with other nations whenever possible, ultimately we cannot escape the fact that when the world looks for leadership, it can look to only one place—and that place is, of course, the United States of America.

History has put us here. And, if the United States does not lead, there is no one else who can lead—and frankly, no one else who will lead.

That is why, in the 1980s, when I was in the House of Representatives, I supported efforts to establish stability and democracy in Central America. The United States led—and it made a difference. Significant progress was made in Central America. Democracies emerged.

And, significant progress was made throughout the Western Hemisphere. In 1981, 16 of the 33 countries in our hemisphere were ruled by authoritarian regimes. Today, all but one of those nations—Cuba—have democratically elected heads of government.

They are certainly not all perfect and maybe those nations don't conform exactly with how we see democracy, but they certainly are better off than they were 25 years ago.

The United States led. It made a difference. It paid off.

That is why, throughout my career, I have supported U.S. leadership efforts—efforts to export our democratic values to other areas of the world,

using tools, such as foreign trade and foreign aid.

Speaking of foreign aid, though I wasn't in Congress at the time, I supported U.S. leadership through NAFTA. I voted in favor of Trade Promotion Authority to give the President fast track or enhanced trading abilities with our global partners. I voted in favor of the Andean Trade Preferences Act to expand the economic benefits of trade with the nations of the Andean region. I voted in favor of the African Growth and Opportunity Act and the expanded Caribbean Basin Initiative. And, I support efforts to negotiate free trade agreements within our Western Hemisphere.

All of these efforts require strong U.S. leadership. So, too, does an underutilized tool of our foreign policy—and that is foreign aid.

First, we don't utilize it enough. Currently, our foreign assistance budget comprises less than one percent of our overall budget, and is barely 0.1 percent of our Gross Domestic Product.

Second, we aren't creative enough with the limited resources we do have in our foreign assistance budget. And so, here, too, the United States needs to lead.

There are things we can do with this assistance. We can and we must do more to help end suffering throughout the world. We can and we must do more to help alleviate the worldwide AIDS pandemic. We can and we must do more to feed starving children worldwide. We can and must do more to help implement the rule of law in developing democracies. We can and we must do more to foster agricultural and economic development in poverty-stricken, disease-ridden, war-ravaged parts of our world. And, as the leader of the Free World, we also have a moral obligation to bring stability and peace to volatile, violent regions around the globe.

Candidly, sometimes the only way to do that is through the use of our military. That's why I supported military action in Bosnia in 1995 and in Kosovo in 1999. The simple reality is that the job could not get done without U.S. leadership. We had to go in. We had to lead. It was the right thing to do, and we did it.

And so, Mr. President, it may seem paradoxical now that I have found the decision concerning this Resolution to be very, very difficult. It is difficult, I believe, principally for two reasons.

Let me outline them for the Senate.

First, the resolution before us is an authorization of force to be used by the President—at his discretion—at some point in the future. It is not a declaration of war. And, it does not say that war will take place.

But, it does authorize the President "to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to: Defend the national security of the United States against the continuing threat posed by Iraq; and enforce all relevant United Nations Security Council Resolutions regarding Iraq."

While unusual, this type of resolution is not without precedent. Congress passed the Gulf of Tonkin resolution in 1964, which said this:

> Congress approves and supports the determination of the President as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

I went back to the CONGRESSIONAL RECORD of 1964 and read some of Senator Gruening's and Senator Morse's remarks to get a better understanding of why they dissented—why they voted against this resolution. I also read comments from those who voted "yes."

However, it is noteworthy that the Gulf of Tonkin Resolution was not the first time Congress had passed a resolution to give the President the authority to use force—at his discretion—at some point in the future. Actually, Congress passed two such resolutions during the Eisenhower Administration: one in 1955 regarding Formosa and one in 1957 regarding the Middle East.

So while there is precedent, this type of resolution to grant the President the authority to use force, at his discretion, at some point in the future, is certainly unusual, and so we have an obligation to treat this matter with great caution. Granting the President this kind of power is indeed a very grave matter.

The second reason this decision, for me, has been so difficult is that the consequences of war would be so serious. A possible war against Iraq would have very real and very serious consequences, many of them unforeseen today.

I believe the American people need to understand this. My colleague, Senator BIDEN, who preceded me, made that point very well. I believe we have an obligation during this debate to explain to the American people what war with Iraq might mean. We have an obligation to be brutally frank in telling the American people about these consequences of war.

What are they? What are the risks of war with Iraq?

First, Saddam Hussein may very well use chemical and biological weapons against our troops. If we went to war, we would be attempting to remove Saddam from power. Therefore, unlike the Persian Gulf war, this time he is likely to actually use those chemical and biological weapons against our troops, or at least attempt to.

Second, we know that war with Iraq dramatically increases the possibility of attacks against United States troops stationed in other places abroad and United States civilians throughout the world.

Third, we know that war with Iraq increases the possibility of attacks against Americans right here at home, in our mainland.

This has already been read on the floor and discussed, but I would like to read to my colleagues some information recently declassified by the CIA. In a letter to Senator GRAHAM dated October 7—Monday of this week—the CIA released the following:

> Baghdad, for now, appears to be drawing a line short of conducting terrorist attacks with conventional or biological weapons against the United States.
>
> Should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably would become much less constrained in adopting terrorist actions. Such terrorism might involve conventional means, as with Iraq's unsuccessful attempt at a terrorist offensive in 1991, or [through] chemical or biological weapons.
>
> Saddam might decide that the extreme step of assisting Islamist terrorists in conducting a weapons of mass destruction attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him.

This information is certainly chilling.

We also know that war with Iraq increases the likelihood that Saddam will launch Scud missiles against Israel, this time maybe with biological or chemical agents attached to the missiles. In fact, Iraq has admitted to the weaponization of thousands of liters of anthrax, botulinim toxin, and aflatoxin for use with Scud warheads, aerial bombs, and aircraft.

Furthermore, if attacked, what would Israel do? Would Israel, this time, retaliate? In the Persian Gulf war, Israel held back, but would they this time? And if they did not, in such a scenario, what would other countries do? What would Syria do, for example? What are the chances of the entire Middle East literally going up in flames?

At the conclusion of a war with Iraq—we would win the war; we know that—but at the conclusion of a war with Iraq, there very well may be bloody, fractious battles among the different ethnic groups residing in Iraq. Pent up hostilities among Shiites, Sunnis, and Kurds—just to mention a few—would be difficult to restrain, easily resulting in families warring against families and neighbors against neighbors, all fighting village to village and house to house. And there simply would not be enough United States troops or allies you could place into Iraq to stop that from happening.

What are the unintended global consequences of the United States using preemptive action? How does this change the dynamics of the world? What would it mean for the India-Pakistan nuclear standoff? What would it mean for China and Taiwan? Would these nations be less restrained in using preemptive strikes? These are questions to which we do not know the answers.

Finally, what will Iraq look like after the war? What kind of humanitarian assistance will be needed? How many people will we have to feed? What is our plan now for reconstruction? What does it cost? Who will help? What other countries will we be able to involve in helping us?

We can expect to pay for a large part of this. And we can expect our troops

to be involved for an extended, indefinite period of time—not days, not months, but years. And there could be no doubt about that.

So, yes, Mr. President, there are grave consequences of going to war with Iraq. We cannot predict the future. We do not know exactly how Saddam would react. But it is vital that the American people understand the sobering reality of a war with Iraq; that all Americans understand the uncertainty and the risks and the dire consequences.

Yet we also know that inaction is not a choice when it comes to the situation in Iraq. Inaction is just not a choice. We know the status quo is unacceptable. We know things have languished too long. We know Saddam Hussein's regime is in possession of chemical and biological weapons. And we know they are working, as frantically as they can, to develop nuclear weapons.

The fear is, also, that Saddam Hussein would eventually put these weapons into the hands of other terrorist groups, terrorist groups such as al-Qaida, terrorist groups that have no qualms about targeting U.S. citizens anywhere in the world, terrorist groups that have networks already established around the world. When that handoff would be made, the consequences would be unbelievable.

President Bush made very clear in his speech on Monday night in Cincinnati:

> Saddam Hussein is a threat to peace, and he must disarm.

So I commend President Bush for putting Iraq back on the world stage in his very forceful speech at the United Nations. He has taken Saddam Hussein's evil regime by the throat and dragged it back in front of the eyes of the international community. And he has forced the United Nations to confront Saddam's rampant and flagrant disregard of 10 years' worth of U.N. Security Council resolutions. He has forced the U.N. to confront its failure to enforce past resolutions regarding weapons inspections. And, rightly so, President Bush has forced both the U.N. and our own country to confront this global threat and to deal with it. I commend the President for his leadership.

None of us in this body disagrees about what Saddam Hussein is. We know he is a power-hungry dictator, the embodiment of pure evil. The litany, ably recited here day after day, detailing Hussein's thirst for power, is by no means exaggerated, nor is it understated. And there is simply no logic to his actions. Just think back to his attempt to assassinate former President Bush shortly after President Clinton took office. Even in his perverse view of the world, what in the world could that have accomplished from his point of view?

Clearly, Saddam is ruthless. He is diabolical. He is a cold-blooded killer. He has launched Scud missiles against his neighbors. He has diverted much of the $10 billion worth of goods now entering Iraq every year—money he gets from oil—he has diverted that money he is supposed to use for humanitarian purposes, to help his own people, to develop weapons of mass destruction.

He has murdered his own people. He has killed or injured more than 20,000 Kurds with mustard gas and sarin.

In short, Saddam is a 20th century Adolf Hitler, straddling 21st century weapons of mass destruction. No one in this body disagrees Saddam Hussein is an evil despot, but reasonable people can still disagree about our policy for disarming Hussein; reasonable people can disagree with the wording of the resolution we are debating; reasonable people can disagree about the timing; and reasonable people can disagree about how we proceed at the United Nations.

This is a very difficult decision. There are very legitimate issues of controversy.

Yes, the costs will be high, very high, if we go to war. Again, that is why this decision has for me been so very difficult. It is the most serious vote I have cast in the 8 years I have been in the Senate.

None of us take the gravity of this vote lightly. Over the last several weeks I have spent many hours in Intelligence Committee hearings and briefings and other briefings gathering as much intelligence and information as humanly possible. I have met with numerous current and former high-ranking officials from the military, the CIA, the State Department. I met personally with President Bush.

At the end of the day, we still must weigh all of the costs and all of the consequences of a potential war with Iraq against the potential for peace and stability and lives saved that will come with the disarmament of Saddam Hussein.

Let's be honest, though. The fact is, the ghost of the 1964 Gulf of Tonkin resolution haunts this Chamber, just as the tragedy of Vietnam and the over 58,000 U.S. lives that were lost hang heavy in the heart of America. We should be haunted by the Gulf of Tonkin resolution, and we should be haunted and troubled by the Vietnam war.

However, it is instructive, as I mentioned earlier, to remember that the Gulf of Tonkin resolution was not the first time Congress gave the President the authority to commit U.S. Armed Forces at his discretion at some time in the future.

In January 1955, when Dwight Eisenhower was President, the Chinese Communists were threatening to take over the Chinese nationalists in Formosa. It was a very serious time in our history. Believing that the time had come to draw the line—those are President Eisenhower's words—to draw the line and hold back the Communist aggression, President Eisenhower asked Congress to pass a resolution giving him the authority ''to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa against armed attack.''

Congress granted President Eisenhower this authority with an overwhelming vote, 410 to 3 in the House, and 85 to 3 in the Senate. Later President Eisenhower said that while he went to Congress for several reasons, his real reason was ''to serve notice on the Communists that they are not going to be able to get away with it.''

Because of that resolution, the Chinese Communists in 1955 did not act. War was avoided. There have been problems. There have been tensions ever since. But war at that crucial time was avoided.

By passing the Formosa resolution, Congress sent a clear, unequivocal signal to the Chinese Communists that the United States would defend Formosa, that Congress would support President Eisenhower, and that our country was, in fact, united.

It is instructive that during that debate, there was an attempt in the Senate, in the Congress, to change the wording and to be more specific and to mention President Eisenhower, in defending Formosa, had the specific authority to defend Quemoy and Matsu, two little islands close to mainland China, far away from Formosa, but controlled by Formosa at the time. President Eisenhower said, no, do not do that; do not be that specific in the resolution.

President Eisenhower was looking for the authorization to protect Formosa, but he also wanted the discretion to decide how to do it. And he also did not want to tell the Communist Chinese exactly what he would do.

With the flexibility and discretion to use force as he deemed necessary, President Eisenhower left the Communists guessing about the ways in which the United States would act, but they had no doubt that we would act.

That is why I believe we must pass the resolution before us. We need a tough resolution that gives the President the authority he needs to disarm Saddam Hussein. We need a tough resolution that also gives the President flexibility and discretion. We have that before us. We need a tough resolution that does not tie the President's hands.

Through the resolution before us, this Senate and this Congress is saying to Saddam Hussein that he is on notice. Saddam Hussein, we are saying, you are not going to be able to flagrantly disregard U.N. Security Council resolutions any more. You are not going to be able to get away with building weapons of mass destruction. You are not going to be able to threaten our lives and the lives of our children and the lives of our grandchildren and the peace and security of the world.

In the final analysis, we are left with the sober realization that when it comes to Saddam Hussein, there really are no good choices. When it comes to him, lives are being lost in his own

country now, and many more could be lost around the world in the future if we allow him to continue his weapons of mass destruction obsession. Left unrestrained, Saddam Hussein will only become more dangerous, more diabolical, and certainly more deadly.

So I believe when you weigh the risk of action versus the risk of inaction, we, as the leader of the free world, simply have a moral obligation to act. As I already said, we simply cannot, as a nation, escape the fact that when the world looks for leadership, it can look to only one place today. That place is the United States of America.

We have an obligation to lead the efforts to disarm Saddam Hussein. In the process, we may tragically end up at war with Iraq. But my prayer, my prayer is that by passing this resolution, we will not have to go to war against Iraq. My prayer is that congressional unity will signal to Saddam Hussein and to the international community that we do, in fact, mean business.

My hope is we can get a tough new U.N. Security Council resolution passed, giving weapons inspectors unfettered access to every mile, every square foot, every inch of Iraq. We increase the chances for peace by telling Saddam Hussein and his evil regime that our Nation is united and that we do, in fact, speak with one voice. We increase the chances for peace by giving the President the strongest possible hand, while at the same time giving him flexibility.

Finally, I must say I am convinced President George Bush will do absolutely everything he can to avoid war.

Mr. President, I do not know if war can be avoided, but I do know if we are serious about disarming Saddam Hussein of his weapons of mass destruction, our best chance of avoiding war is through the passage of a tough resolution. That is why I will vote in favor of this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, before I give my speech, I commend my friend, the Senator from Ohio, Senator DEWINE, for a very thoughtful presentation this evening. He and I have had many discussions about how difficult this decision has been for both of us. We have reached many of the same conclusions. But I just want to salute him for a very thoughtful and thorough analysis of the resolution and the challenges before us.

The decision to authorize the use of military force is the most significant vote that a Member of the Senate can ever cast. The Constitution clearly vests this responsibility in Congress, a duty that rests heavily on the shoulders of each and every Member.

As a Member of the Senate Armed Services Committee, I am keenly aware of the sacrifices and dangers faced by our young men and women in the military. They are ready to answer the call to combat, ready to fight the war against terrorism, ready to defend our freedoms around the globe.

In the wake of the attacks on our country on September 11, the Senate vote to authorize the war against terrorism was rapid, unanimous, and clear-cut. By contrast, whether to authorize the use of military force against Iraq is a far more difficult and complex question. It requires a thorough analysis of the nature and urgency of the threat and an evaluation of all possible responses.

As a member of the Armed Services Subcommittee on Emerging Threats, and the Governmental Affairs Subcommittee on International Security and Proliferation, I have received many briefings on the dangers posed by lawless regimes in Iraq, Iran, and North Korea during the past 5 years. And during the past 2 months, I have attended several highly classified, in-depth briefings on Iraq from the CIA, the National Security Agency, the Department of Defense, the State Department, and the White House. I have questioned the experts—I have questioned them closely—including former Defense Secretary James Schlesinger and former National Security Adviser Samuel Berger, as well as Secretary Rumsfeld, at public hearings before the Armed Services Committee.

I have read studies and assessments, both classified and public, conducted by the administration, the British Joint Intelligence Committee, the International Institute for Strategic Studies, and many others. I talked at length with Secretary Colin Powell about the appropriate strategy to respond to Iraq's development of weapons of mass destruction.

Let me first discuss my conclusions about the nature and the extent of the threat posed by the Iraqi regime and its continued defiance of the United Nations resolutions. In 1991, Iraq accepted a cease-fire agreement in the form of United Nations Security Council Resolution 678, to end the gulf war. The Iraqi regime was required to unconditionally accept the destruction, removal, or rendering harmless under international supervision of all of its chemical and biological agents.

In addition, the resolution prohibited Iraq from acquiring or developing nuclear weapons and required the destruction of all ballistic missiles with a range greater than 150 kilometers. From a series of Iraqi declarations to the U.N. subsequent to this resolution, we know that Iraq, by its own admission, had by 1991 produced thousands of tons of deadly chemical weapons, such as mustard gas, sarin, and VX, as well as very large quantities of biological agents, including anthrax and ricin. Most experts believe Iraq's declarations grossly understated the true sense of its chemical and biological programs. But even the admitted amounts were sufficient to kill hundreds of thousands of people.

For a time in the 1990s, the U.N. inspectors succeeded in destroying quantities of these weapons, as well as the associated production facilities, ballistic missiles, and much of the infrastructure for Iraq's nuclear weapons program. Subsequently, however, the Iraqi regime's harassment, obstruction, and deception made it impossible for the inspectors to continue their work, and they were withdrawn.

At the time they left in 1998, the inspectors were unable to account for very large discrepancies between the weapons that were declared and the amounts that were destroyed. For example, at least 1.5 tons of the deadly nerve agent VX were unaccounted for. Just under 10 milligrams of VX can cause a quick and painful death.

The CIA has concluded all key aspects of Iraq's offensive biological and chemical weapons program, including research and development, production and weaponization, are active and, in some cases, larger and more advanced than before the gulf war.

In addition to the weapons unaccounted for in the post-gulf war inspections, there is significant evidence that since 1998, Saddam has expanded his stockpile of chemical and biological weapons; rebuilt and expanded manufacturing sites, including mobile biological production facilities; developed more effective delivery systems, such as unmanned drones; and sought to procure materials for a nuclear bomb.

The reports demonstrating Iraq's violation of U.N. resolutions are numerous, compelling, and indisputable. They are based on the findings of U.N. weapons inspectors, credible reports from Iraqi defectors, sophisticated surveillance equipment, and other strong evidence.

Even more troubling is the evidence compiled by the American and British intelligence agencies that Iraq has converted its L–29 jet trainers to allow them to be used as unmanned aerial vehicles, capable of delivering chemical and biological agents over a large area.

While the evidence of Iraq's pursuit of biological and chemical weapons is overwhelming, it is more difficult to determine the state of Iraq's development of nuclear weapons. Numerous reports suggest, however, a renewed determination by Saddam Hussein to obtain the materials for a nuclear bomb.

A September report by the International Institute for Strategic Studies paints a chilling picture of Saddam's quest for nuclear weapons. Had the gulf war not intervened, Iraq ''could have accumulated a nuclear stockpile of a dozen or so weapons by the end of the decade,'' according to the report.

It further concludes that the scientific and technical expertise of Iraq's nuclear program remains intact, and the British Government has revealed that Iraqi nuclear personnel were ordered to resume work on nuclear projects in 1998.

According to British intelligence, Iraq has also attempted to obtain uranium from Africa. This is extraordinarily troubling. Since Iraq has no

active civil nuclear power program or nuclear powerplants, it simply has no peaceful reason to attempt to secure uranium.

In addition, the Iraqi Government has attempted to procure tens of thousands of high-strength aluminum tubes that could be used in centrifuges designed to enrich uranium to produce the fissile material necessary for a nuclear bomb.

How soon could Iraq acquire nuclear weapons? The International Institute for Strategic Studies estimates that Iraq is probably years away from producing nuclear weapons if it has to rely on indigenously produced material. It points out if Iraq were to acquire nuclear material from a foreign source, the timeframe could be reduced to a matter of months.

This is the scenario the institute calls the nuclear wild card. An independent assessment conducted by Professor Anthony Cordesman of the Center for Strategic and International Studies, confirms the growing threat posed by Iraq. The professor states that Saddam Hussein seeks weapons to offset American superiority and high-tech weaponry. In other words, while the United States has developed conventional weapons to be as surgical as possible and to limit unintended casualties, Iraq develops its weapons to be as blunt and as destructive as possible, to instill fear in its enemies and its neighbors.

In short, Saddam Hussein has continued to develop a stockpile of the deadliest chemical and biological agents known to mankind and has continued to seek nuclear weapons in defiance of his international obligations.

The more difficult question is whether the growing and serious threat posed by Saddam Hussein is sufficiently imminent to warrant the authorization of a military strike by the United States and its allies should diplomatic means of disarming Iraq fail.

The President correctly noted in his recent speech that the passage of this authorization does not mean that war is imminent and unavoidable. In fact, the resolution before us represents a considerable improvement over the administration's earlier draft which I would have opposed because of its insufficient emphasis on pursuing diplomatic means first and working through the United Nations Security Council.

The bipartisan resolution, by contrast, specifically requires a Presidential determination that further reliance on diplomatic or other peaceful means alone would not adequately protect our national security or lead to the enforcement of the relevant U.N. resolutions. But nevertheless, the difficult question remains of whether the threat is so urgent that a military strike may be required and should be authorized by this resolution.

The evidence of Saddam's massive buildup of the most dangerous weapons is compelling, but as Mr. Berger pointed out in his testimony before the Senate Armed Services Committee, the threat is not defined by capability alone. We have to probe Saddam Hussein's intentions, as well as his capability, to determine the threat. In that regard, if, as Shakespeare tells us, the past is prolog, the history of Saddam's regime gives us great cause for concern.

While none of us can predict for certain whether or when Saddam would strike, there are simply far too many warning signs in his past behavior and in his present undertakings. His cold-blooded willingness to use chemical weapons against his own people, as well as his enemies; his aggressive invasion of two nations; his blatant defiance of international sanctions; his continued efforts to procure the materials to build a nuclear bomb; and his determined progress to develop a more effective means of delivering chemical and biological weapons all strongly suggest an intention and an ability to use these weapons.

As the assessment of the British Government states, the evidence shows that Saddam Hussein does not regard these weapons of mass destruction as only weapons of last resort. He is ready to use them and determined to retain them. In fact, British intelligence reports that some of the weapons are deployable within 45 minutes of an order to use them.

The history of Saddam Hussein's rule over Iraq is a history of war and aggression against his enemies, his neighbors, and his own people. Throughout the decade of the 1980s, Saddam Hussein used chemical weapons to kill thousands of civilians, and Iraq has the means, through billions of dollars in oil revenues, to continue to develop, procure, or steal the materials necessary for its weapons.

The risks are simply too catastrophic for the world to allow Iraq to continue on its present course, but is a military response the only answer?

From the beginning of this debate, I have emphasized my belief that military force must be the last resort, not the first alternative. Today I still hold out the hope that military action will not prove necessary to disarm this dangerous regime. A strong United Nations resolution to compel Iraq to declare its weapons and to accept unfettered, rigorous inspections may well be successful in convincing Saddam that he must disarm.

I believe our policy should be focused on disarming Iraq rather than on regime change, much as I would like Saddam Hussein to be deposed.

In making what has been a very difficult decision, I was persuaded ultimately to support this resolution by an extensive discussion with Secretary Powell. He has convinced me the process for effective action by the United Nations to disarm Iraq depends on the credible threat of the use of force, and that is the reason ultimately that I will decide to cast my vote in favor of this resolution.

Secretary Powell told me his ability to secure a strong resolution from the U.N. Security Council will be strengthened enormously by a strong, bipartisan congressional vote for this authorization.

Similarly, as Secretary Schlesinger testified, the greater degree to which the President and the Congress are united in purpose with respect to Iraq, the greater is the likelihood the United Nations will take a firm and appropriate stand toward Iraq.

Only if Saddam understands we are prepared to use military force will a peaceful means of disarming him have any chance to succeed. All Americans share the goal of eliminating this threat without war, but we differ on how to achieve that goal.

In my view, there are times in dealing with a tyrant when the best, indeed perhaps the only, chance to avoid war is to express, in unmistakable terms, our willingness to wage it. And this is one of those times.

Some understandably ask: Why now? Has not our current policy contained Saddam?

It has, only if allowing him to acquire the capability to kill and destroy on a scale that far exceeds his past efforts means that we have contained him. No, the truth is we have not really contained Saddam. We have largely ignored him, a strategy that simply delays the inevitable while the stakes grow ever higher.

The reason we must deal with this threat now is both clear, convincing, and chilling. Given Saddam's insatiable desire to possess chemical, biological, and nuclear weapons, this danger will not disappear on its own, and the price we may have to pay today to eliminate this threat will prove modest compared to the price we will have to pay tomorrow.

As difficult as the decision to authorize military action is, one need only consider how much more difficult it will be when Saddam has a nuclear bomb.

Finally, let me emphasize my strong belief that the United States should act in concert with our allies, as we pursue a new Security Council resolution, or in the event we have to resort to military force. While the United States must always retain the right to defend itself, our prospects for dealing effectively with the Iraqi threat, our standing in the community of nations, and our ability to continue to wage an effective global effort against terrorism depend on our forging a multilateral coalition.

The President deserves great credit for putting together a coalition of some 90 nations to combat terrorism. That same kind of effort must be devoted to building a coalition to confront and disarm the Iraqi regime.

The PRESIDING OFFICER. The Senator's time has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. On the continuing saga of speeches, there have been a couple of changes. Senator CANTWELL will speak in place of Senator HARKIN for 10 minutes. Instead of 30 minutes, Senator SCHUMER will speak for 25 minutes, and Senator SPECTER will speak for 30 minutes rather than 45 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to make a very brief comment. I thought Senator COLLINS' and Senator DEWINE's statements were outstanding. They are to be congratulated. I think it added a great deal to this debate and discussion.

I do not object to the change in the lineup.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise in support of the resolution before the Senate. There is no more serious vote we as Senators take than to authorize war. To do so, we must believe that there is great cause—a great threat to America. I cast my vote today with the great hope that this show of unity from the American Government and from the American people, along with the actions of the international community, will achieve our stated goal of disarming Iraq without war.

I will vote for this authorization because, after great consideration, I believe Saddam Hussein's acquisition of weapons of mass destruction is a great threat. I believe disarming Saddam is a great cause. And I believe that moving to disarm Saddam—in concert with the international community—is the President's great goal.

There is no doubt that the threat Saddam Hussein and his weapons pose to this country and to world peace is real. More than a decade has passed since we defeated Saddam, but he has not changed. He is the same repressive dictator, willing to overrun his neighbors, and to use weapons of mass destruction against his own people.

We know that Saddam's regime has produced and is continuing to produce massive quantities of biological and chemical agents. We know much less about his current nuclear capabilities. But there can be no doubt that he is doing everything in his power to acquire nuclear weapons.

While there is good reason to believe that Saddam Hussein is not interested in jeopardizing his hold on power, we cannot predict what Saddam will do with these capabilities should he have them. The best we can do is to rely on the past as a guide to what the future may hold. And, the future is now colored by the events of September 11 and the subsequent anthrax attacks of last year. These have given us a disturbing glimpse at a possible worst case scenario. Given Saddam Hussein's track record—his ejection of weapons inspectors and his murderous ways—I believe the security of our nation depends on disarming Iraq and containing this regime notorious for its deceptions and ruthlessness.

Let me be clear on that point. My vote today is a vote for disarmament, not a vote for regime change. While it is clear that Iraq is a rogue regime of the worst kind, going into overthrow it would be enormously destabilizing. There are many repressive governments around the world, some of which have access to weapons of mass destruction. There are many ruthless and aggressive nations around the world that have threatened their neighbors. Yet, we cannot be the world's policeman, offering to make the world safe by eliminating each and every tyrant. Should the President choose to use force against Iraq, it should be for the purpose of ensuring unfettered weapons inspections and full disarmament. If Saddam Hussein no longer rules as a result of our actions, then I say—find—but for us to take action with the primary purpose of overthrowing the Iraqi government would be wrong.

The President has vowed to seek the support of the international community against Iraq, and my vote today is cast accepting and supporting that position fully. I Believe we should not commit U.S. troops abroad without the support of the international community. The costs are too great for us to take unilateral action unless we have no other choice. International involvement will strengthen our hand against Saddam Hussein, increasing the likelihood that we will be able to resume inspections and disarm Iraq.

In order for the President to use force, the resolution requires the President to make a formal determination that relying on diplomatic and peaceful means will not adequately protect our national security, or lead to the enforcement of U.N. Security Council resolutions. I am confident that this administration is doing everything in its power to engage the international community, and to work with our allies to contain Iraq. I am comforted to see the Administration working with the United Nations on a stronger resolution. The President has rightly challenged the U.N. to put some teeth in the Security Council resolutions which have been flouted by Iraq, and he has given the international community notice that there must be accountability for the U.N. resolutions to have any meaning.

Mr. President, my vote today is a vote to support the President in his efforts to disarm Saddam Hussein. My vote is not an endorsement of a policy of preemptive war, whether it is initiated by the United States or any other country. My vote today is to authorize the President to gather a world force against the threat of a dangerous regime armed with chemical, biological, and possibly nuclear weapons, and to disarm that regime. And finally, my vote today is to authorize the President to go to war, in the hope that this strong statement of our commitment to disarming Iraq will enable us to do so without war.

Mr. REID. I ask unanimous consent that the time be charged to Senator CANTWELL.

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

Mr. REID. Following Senator SCHUMER is Senator SPECTER. Senator SCHUMER is here and I ask unanimous consent that he be next in order.

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

The Senator from New York.

Mr. SCHUMER. Mr. President, I am honored to be part of this historic debate. Before I get into the substance of my remarks, I thank all of my colleagues on both sides of the aisle for their excellent debate. I have listened to a great deal of it. This is how the Senate ought to work and ought to be. This is a fine day for the Senate.

Today we are faced with the most solemn decision a lawmaker can make: whether or not to authorize the use of military force. I approach this decision with caution, deliberation, and seriousness.

As is our tradition, there has been a great debate on this issue over the last 2 months. We have discussed multiple strategies for dealing with Saddam Hussein, and advanced many arguments for and against the use of military force. Some of these remain under consideration, others have been wisely tabled.

For example, the President's original plan of not consulting Congress or the United Nations has thankfully been abandoned.

In considering our next step, I have spent considerable time listening to experts, attending briefings, talking with constituents, and even praying to arrive at a sound conclusion.

I believe that there are two points—one on each side, standing in equipoise—that focus my attention, and that embody the tension felt by all of us.

On the one hand, going to war is the most serious, even awesome decision—awesome in the biblical sense of angels trembling before God—that a lawmaker is called on to make.

Invasion means that thousands of our sons and daughters, the flowers of their generation, will be put in immediate harm's way should we invade.

I have an 18-year-old daughter, who along with her sister is the joy of my life. When I think of thousands of young people her age who have volunteered to serve, and of the previous generations of Americans who have willingly laid down their lives in past wars, and to whom we are eternally grateful, I am filled with awe and dread.

Poised against the solemnity of war is the fact that a major, if not the primary function of government is to secure the safety of its people—to protect the citizenry from threats, both foreign and domestic.

Discharging this responsibility is the very essence of a state and, if a real danger exists, the government has a

solemn obligation to protect its citizenry.

These two looming issues push and pull against one another and yield the ultimate question we debate today' Does Saddam Hussein threaten the citizenry of America to the point that we must now consider the unthinkable option of authorizing war in order to protect ourselves?

Saddam Hussein is an evil man, a dictator who oppresses his people and flouts the mandate of the international community.

While this behavior is reprehensible, it is Hussein's vigorous pursuit of biological, chemical and nuclear weapons, and his present and potential future support for terrorist acts and organizations, that make him a terrible danger to the people to the United States.

If our other efforts to thwart the threat posed by Hussein do not work, is war justified? If justified, how long can we leave Hussein alone before we need to act?

The struggle for these answers come in a brand new context. Our's is a brave new post 9/11 world, a time and place where things are different and more dangerous than before, much as we wish they weren't.

Those who would use terror—or those who would aid and abet that terror—pose a new danger to every one of us living in the United States, whether in midtown Manhattan or the wheat fields of Kansas.

I have seen firsthand the devastation that comes from being unprepared and unprotected. On September 12, I peered into the dark and smoky crater at the World Trade Center with horror, an image that still burns in my memory. I have met with the families of victims and heard about their losses, and shed tears over the evil and mendacity of our enemies.

I know it is my solemn obligation to do everything I can to ensure that my city, State, and country never again endure such an atrocity. Yet, at the same time, I know that war must be our last resort.

When I consider that Hussein could either use or give to terrorists weapons of mass destruction—biological, chemical or nuclear—and that he might just be made enough to do it—I find, after careful research, the answer to my question: we cannot afford to leave him alone over the next 5 or even 3 years.

I say this with caution and worry. But I have searched my mind and my soul and cannot escape this conclusion: Saddam Hussein left unfettered will at some point create such a danger to our lives that we cannot afford to leave him be.

In the post 9/11 world, inaction is not an option: at some point, Hussein must be de-fanged.

The question is how and when?

Do we mobilize our military for battle? Do we take pains to ensure that other possible options are exhausted first? I say yes to both—proceed on parallel tracks: prepared for the worst and work toward, and pray for, the best; empower the President to act to protect our national security but hope it will not be necessary.

Let me first address the question of how by making three points.

One, we must certainly try less costly, less ultimate options before we choose the last resort, war.

Our first option must be working with our allies at the United Nations to secure a strict resolution that will compel Saddam Hussein to disarm and submit to unlimited and unrestricted inspections.

The administration believes a unified Congress that authorizes the President to wage war will importune the United Nations to take the kind of vigorous and unified action that has eluded that body for the last 11 years: real inspections, real sanctions, real threats of military force. I hope and pray they are right.

Let me repeat: inspections and sanctions backed by the threat of military force. These must come first. These are the reasons to favor this resolution.

And if after exhausting these options, Saddam Hussein remains a threat, I believe other nations will support and follow us as we pursue the last option, war.

Working cooperatively with our allies in the United Nations must be a paramount priority for us all. We need their help not simply to force effective disarmament in Iraq; they are also key players in an historic fight—the war on terror.

They provide us with intelligence to protect ourselves from future attack; they permit us to pursue our enemies in foreign lands so that our foes know that they have no haven from justice; and they cooperate to help us choke off terrorists' financial support.

Without their help and co-operation, the war on terror would be much more difficult to wage. Therefore, their support for our efforts on Iraq is essential for our safety as a nation.

This new resolution puts far more emphasis on international cooperation first and is a substantial improvement over what the President originally proposed.

Unfortunately, time and again, Hussein has shown that the only language he understands is the language of power. By empowering the President to use force, we will send a message to both Hussein and the nations of the world that the threat of force is real and that we are serious about disarming him.

Without this possibility, Hussein will never allow inspections, and the probability of more terror and horror will increase. A determined U.N., backed by the possibility of force, may finally convince Saddam Hussein to submit to the real inspections he has evaded for the last 11 years.

Second, should we go to war, the President must see to it that we don't lose vigilance in other aspects of the war on terror, apart form Iraq, both abroad and at home.

Al-Qaida and other groups will continue to target our citizens; we must not let down our guard. Countries like Syria and Iran will continue to aid and abet terrorists; we must keep a watchful eye.

The President and the Secretary of Defense have assured us that, if war become necessary, our military can launch a successful invasion of Iraq without compromising these efforts.

In addition, if there is a war in Iraq, we must not let it diminish our efforts to make our homeland more secure—our airports, sea ports, rail lines, nuclear facilities, and our communications infrastructure all remain unacceptably vulnerable.

I have been quite critical of the administration on this point and again urge them to refocus their efforts. We are about to spend billions of dollars to reduce threats abroad; we should spend a similar amount to safeguard ourselves at home.

Third, the President must begin to pay attention to our economy. Up to this point, he has failed to do so. The American people are particularly nervous about our economic future and the prospect of war only deepens these fears. The President and Congress must address this issue immediately.

People must have secure, family-supporting jobs, access to quality health care, and the ability to pay for necessities like college tuition and prescription drugs. Our epoque of prosperity has quickly given way to an era of uncertainty.

I believe we can reverse that trend. Our Nation is big enough and strong enough to secure our safety abroad and increase our prosperity at home. I urge the President to pay equal attention to both causes, which he has not done up to now.

As I have discussed, I believe at some point we will have to confront Saddam Hussein. We should coordinate with our allies in the United Nations; maintain focus on terrorist threats at home and abroad; and make a concerted effort to revive our economy.

That is how our Government can secure the safety of its people.

The second question is when to act. Evidence suggests that we probably have some time before the growing threat posed by Saddam Hussein would require military action. If I were President, I would not go to war now. My next step would be, as ours must be, to explore fully the compelling force of a determined United Nations.

Given the President's recent statements of support for action through the U.N.; if he were to invade Iraq now after passage of the resolution, he would have completely misled Congress and the American people.

As he said in Cincinnati on Monday.

Approving this resolution does not mean that military action is imminent or unavoidable. The resolution will tell the United Nations, and all nations, that America speaks with one voice and it is determined to make demands of the civilized world mean something.

I will, therefore, take the President at his word and do my very best to hold him to it.

I realize the resolution before us would allow the President to act sooner than that. If I had drafted the resolution, it would surely have been different. However, if each of us insisted on our own resolution, we would have 535 resolutions, each with one vote, no concensus—only paralysis.

In our post 9/11 world, there are no good choices, only less bad ones. As we move toward final passage, the choice before us is this resolution—imperfect as it is—or none at all.

Saddam Hussein, his pursuit of weapons of mass destruction and the will he has shown to use them, makes the non-at-all option unacceptable.

So I will vote for this resolution. More than anything else we can do, this resolution will show Hussein and nay naysayers in the United Nations that we are serious about this war on terrorism. We understand the challenges of this brave new world and we are prepared to meet them.

We do not want to send our sons and daughters to war, yet we can never again find ourselves unprepared: the risks are far too great.

Certainly action—any type of action—poses real danger and must be taken with great caution and concern. But sometimes doing nothing is riskier than acting. This is one of those moments.

Therefore, I will cautiously cast my vote for the Lieberman resolution. I pray that we shall not have to use the awesome authority it grants.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it cannot be repeated too often in the Chamber of the Senate, the gravity of the action which we are about to take. The House of Representatives has already considered and passed a similar resolution. For some time now it has been apparent the die has been cast.

Of all of the constitutional responsibilities entrusted to Congress, the authority and responsibility to declare war is the most important. This will be the second most important vote which I will have cast in the 22 years I have had the privilege of serving in the Senate. The other vote was the authorization for the use of force against Iraq in 1991. Now, the same situation confronts us because, albeit by 20/20 hindsight, we did not finish the job in 1991.

The question is: What course of action would be most likely to avoid violence—that is, an attack on the United States or other peaceful countries, or an attack on Iraq? The most desirable objective would be to achieve the disarmament of Iraq in accordance with the commitments which Iraq made at the conclusion of the Gulf War: to disarm; not to produce chemical or biological weapons, which Iraq has violated; and not to produce nuclear weapons. Iraq has been doing its utmost to create nuclear weapons.

The coalition, which was formed in 1991 by then-President Bush, is the preferable way to go at the present time. We know Saddam Hussein is cruel, repressive, and evil. There are hardly sufficient adjectives in the lexicon to adequately describe his vicious character. That has long since been recognized and was the point of a resolution which this Senator introduced on March 3, 1998, to constitute a war crimes tribunal and to try Saddam Hussein as a war criminal because he had violated the basic laws against humanity. He had engaged in reprehensible conduct. That resolution passed the Senate by a vote of 93 to 0 on March 13, 1998.

Rather than take time to delineate all of his acts of barbarism and cruelty, I ask unanimous consent that a copy of this resolution be printed in the CONGRESSIONAL RECORD at the conclusion of my presentation.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, all the rules have changed since September 11 of last year. We now know that in the United States, we are no longer invulnerable to attack by outside powers. The breadth of the Atlantic and the Pacific no longer protect us. We learned a very bitter lesson on September 11 that has to be taken into account in our current conduct.

By 20/20 hindsight, it is apparent that we should have acted against Osama bin Laden and al-Qaida long before September 11. Osama bin Laden was under indictment for killing Americans in Mogadishu in 1993. Osama bin Laden was later indicted for the embassy bombings in Africa in 1998. We knew Osama bin Laden was implicated in the terrorism against the destroyer USS *Cole*. We knew Osama bin Laden had carried on a worldwide jihad aimed at the United States, and we have not yet determined the full extent of our knowledge of bin Laden. However, it is my personal view, having served as chairman of the Intelligence Committee of the 104th Congress, that had we put all of the so-called dots together on one screen, we would have had a virtual blueprint as to what al-Qaida and Osama bin Laden would do.

Now we have the risk as to what to do about Saddam Hussein and what to do about Iraq. There is considerable unrest in the United States today about whatever course of action we take.

In a series of town meetings for the last 3 months, I have had many constituents say to me: Why does the United States want to start a war? The United States has never started a war in the past. The United States has only finished wars. Certainly were it not for the experience on September 11 last year, I think we would not have considered preemptive action. However, the authorities and international law do contemplate action where there is a threat—a significant threat.

Hugo Grotius, considered the father of international law, said in his 1925 book ''The Law of War and Peace'' that a nation may use self-defense in anticipation of attack when there is ''present danger.'' He said, ''It is lawful to kill him who is preparing to kill.''

There is no doubt that there is present danger. Is Saddam Hussein preparing to attack the United States or other peace-loving nations? There is a real question as to why he would amass chemical weapons in great quantity, biological weapons in great quantity, delivery systems capable of reaching the United States, and search for nuclear weapons which we are not sure of, but he may be very close.

Another foremost authority on international law, Elihu Root, said in 1914 that international law did not require a nation to wait to use force in self-defense until it is too late to protect itself.

This is the essential legal backdrop where we must consider what should be done. There are a number of alternatives we can take.

First, we can do nothing—no resolution, no action—and simply let Saddam Hussein continue to flout his commitments made to the United Nations. However, my view is, after a lot of careful deliberation, analysis, and study, that the risk of inaction is worse than the risk of action. There are major risks in action.

We have to consider what losses there will be on United States personnel, British personnel, or whoever may join us. We have to consider the risk to Israel, which is in the neighborhood of Iraq. Iraq is still at war with Israel. During the Persian Gulf War in 1991, some 39 Scud missiles were rained down on Israel. While they have a missile defense system, it is not adequate to protect the whole nation. Notwithstanding that, Prime Minister Sharon has made public announcements that he endorses United States military action against Iraq.

The risks of not doing anything may subject the United States to a repeat of September 11, which could be even more cataclysmic. We continue to worry about al-Qaida, which has shown a ruthless disregard for human life and the most barbaric kind of conduct. The risks with Saddam Hussein are comparable.

Then how do we approach the matter to have the best likelihood of producing the kind of coalition put together by President Bush in 1991? President Bush, in 1991, was able to motivate the Arab world to move against Saddam Hussein, as well as the traditional allies.

I gave very careful consideration to the amendment proposed by the Senator from Michigan, Mr. LEVIN, where he proposed that we ought to grant the President authority to use force, but only after a United Nations resolution authorizing the use of force.

The advantage of the Levin amendment was that we would have multilateral action, very much like the Gulf War in 1991. The disadvantage would be that we would be subject to the veto of Russia, China, or even France, and that ultimately the United States would be ceding a considerable quantum of national sovereignty if we gave up our right to decide what course of conduct we should take, which is in our national interest.

I carefully considered an amendment which had been prepared and circulated by Senator LUGAR and Senator BIDEN. That resolution emphasized that the President should exhaust all possible means for an international coalition. However, if the President found it impossible to organize an international coalition and believed that the interests of the United States were threatened, in self-defense the President could act on his own or in conjunction with Great Britain. However, the President would not have to await U.N. action.

It would seem to me the proposal of Senator BIDEN and Senator LUGAR was the best idea, and I had agreed to cosponsor that resolution or an amendment offered which contained the essence of that resolution.

Madam President, I ask unanimous consent that the text of the Biden-Lugar resolution be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. When Senator BIDEN and Senator LUGAR decided not to offer that amendment, I decided to offer it myself. I was surprised that the Biden-Lugar amendment was not offered before 1 o'clock yesterday, which was the deadline. I worked with the Parliamentarian to structure a procedure to offer this as a second-degree amendment, and for reasons which were detailed in an earlier speech on the Senate floor, a unanimous consent agreement, in my absence, was entered into, and the pending first-degree amendments, to which this would have been amended, were withdrawn.

I do not want to get too much into the arcane details of our Senate procedure, but I was foreclosed from offering that amendment, and I think it is very unfortunate the Senate did not have an opportunity to consider the Biden-Lugar amendment. I am not sanguine to say it would have been enacted, but, on a matter of this importance, I felt very strongly that procedural rules should not bar the Senate from consideration, especially when those procedural rules had been complied with until, as I say, the unanimous consent agreement, in my absence, in effect, pulled the rug out from under me.

I am concerned that the scope of the present resolution goes a little far in authorizing the President to use ''all means that he determines to be appropriate,'' which is a subjective test, contrasted with the 1991 authorization which said the President was authorized to use force in order to implement Security Council resolutions. It is too late in the day to press that distinction, but I think it is important to note.

Similarly, I think it is important to note the potential historical impact of the pending resolution which, in effect, delegates to the President the authority to declare war.

Make no mistake about it, this resolution for the use of force is the equivalent of a declaration of war, and Congress has the authority to declare war. However, we are saying in effect that the President may decide at some future time whether war should be declared.

In an earlier presentation on the Senate floor, I detailed, to substantial extent, the considerations and concerns I had about the constitutionality of that kind of a delegation of power.

So, in sum, we are faced with a tough decision for the first time in the history of this country to use preemptive action. I commend President Bush for coming to Congress. Originally he said he did not need to do so and would not do so. Later, he modified that, saying that while he might not have to, he was coming to Congress. He initially talked about unilateral action, and since has worked very hard in the United Nations.

It may be that the practical effect of what the President is doing now, through Secretary of State Colin Powell, amounts to what was sought in the Biden-Lugar resolution, and I do believe the likelihood of getting UN action is better if we proceed to give the President the authority to act without UN support because if we said, as Senator LEVIN proposed, that his authority to use force would be conditioned on a UN resolution, it would be, in effect, an open invitation to the UN not to act, knowing the President and the United States, were limited from acting if the UN did not, and subjecting our national interests to China, Russia, or France's veto.

So I do believe, of all the alternatives, giving the President this power without conditioning it on previous UN resolutions is the best way to get the United Nations to act to enforce the obligations which Iraq has to the United Nations, running since 1991, which have been in desperate breach.

So I do intend to vote for the pending resolution. I supported the amendment by Senator BYRD to the effect that nothing in this resolution should be deemed to impede or affect the constitutional authority of the Congress to declare war. Ordinarily you would not think a statute or a resolution would jeopardize constitutional authority, which is paramount, but I am concerned about the issue of erosion, and that is why I supported Senator BYRD in the amendment that nothing in this resolution should undercut the authority of Congress to declare war.

On this solemn occasion, when it appears now highly likely—or perhaps more accurately, virtually certain—that this resolution will be enacted by both the House of Representatives and the Senate, and that we are on a very difficult course, it is hoped that the tremendous power of the United States, in conjunction with other countries, will be sufficient to bring Saddam Hussein to his senses, if he has any, that he ought to submit to inspections. If he does not submit to inspections, then it is confirmation that he, in fact, has something to hide and there is something really at risk.

So among the very many complex considerations, it is my considered judgment the adoption of this resolution is the best course for our country.

I yield the floor.

EXHIBIT 1

S. CON. RES. 78

Whereas the International Military Tribunal at Nuremberg was convened to try individuals for crimes against international law committed during World War II;

Whereas the Nuremberg tribunal provision which held that ''crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced'' is as valid today as it was in 1946;

Whereas, on August 2, 1990, and without provocation, Iraq initiated a war of aggression against the sovereign state of Kuwait;

Whereas the Charter of the United Nations imposes on its members the obligations to ''refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state'';

Whereas the leaders of the Government of Iraq, a country which is a member of the United Nations, did violate this provision of the United Nations Charter;

Whereas the Geneva Convention Relative to the Protection of Civilian Persons in Times of War (the Fourth Geneva Convention) imposes certain obligations upon a belligerent State, occupying another country by force of arms, in order to protect the civilian population of the occupied territory from some of the ravages of the conflict;

Whereas both Iraq and Kuwait are parties to the Fourth Geneva Convention;

Whereas the public testimony of witnesses and victims has indicated that Iraqi officials violated Article 27 of the Fourth Geneva Convention by their inhumane treatment and acts of violence against the Kuwaiti civilian population;

Whereas the public testimony of witnesses and victims has indicated that Iraqi officials violated Articles 31 and 32 of the Fourth Geneva Convention by subjecting Kuwait civilians to physical coercion, suffering and extermination in order to obtain information;

Whereas, in violation of the Fourth Geneva Convention, from January 18, 1991, to February 25, 1991, Iraq did fire 39 missiles on Israel in 18 separate attacks with the intent of making it a party to war and with the intent of killing or injuring innocent civilians, killing 2 persons directly, killing 12 people indirectly (through heart attacks, improper use of gas masks, choking), and injuring more than 200 persons;

Whereas Article 146 of the Fourth Geneva Convention states that persons committing ''grave breaches'' are to be apprehended and subjected to trial;

Whereas, on several occasions, the United Nations Security Council has found Iraq's

treatment of Kuwaiti civilians to be in violation of international law;

Whereas, in Revolution 665, adopted on August 25, 1990, the United Nations Security Council deplored ''the loss of innocent life stemming from the Iraq invasion of Kuwait'';

Whereas, in Revolution 670, adopted by the United Nations Security Council on September 25, 1990, it condemned further ''the treatment by Iraqi forces on Kuwait nationals and reaffirmed that the Fourth Geneva Convention applied to Kuwait'';

Whereas, in Resolution 674, the United Nations Security Council demanded that Iraq cease mistreating and oppressing Kuwaiti nationals in violation of the Convention and reminded Iraq that it would be liable for any damage or injury suffered by Kuwaiti nationals due to Iraq's invasion and illegal occupation;

Whereas Iraq is a party to the Prisoners of War Convention and there is evidence and testimony that during the Persian Gulf War, Iraq violated articles of the Convention by its physical and psychological abuse of military and civilian POW's including members of the international press;

Whereas Iraq has committed deliberate and calculated crimes of environmental terrorism, inflicting grave risk to the health and well-being of innocent civilians in the region by its willful ignition of 732 Kuwaiti oil wells in January and February, 1991:

Whereas President Clinton found ''compelling evidence'' that the Iraqi Intelligence Service directed and pursued an operation to assassinate former President George Bush in April 1993 when he visited Kuwait;

Whereas Saddam Hussein and other Iraqi officials have systematically attempted to destroy the Kurdish population in Iraq through the use of chemical weapons against civilian Kurds, campaigns in 1987–88 which resulted in the disappearance of more than 182,000 persons and the destruction of more than 4,000 villages, the placement of more than 10 million landmines in Iraqi Kurdistan, and ethnic cleansing in the city of Kirkuk;

Whereas the Republic of Iraq is a signatory to international agreements including the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, and the POW Convention, and is obligated to comply with these international agreements;

Whereas section 8 of Resolution 687 of the United Nations Security Council, adopted on April 3, 1991, requires Iraq to unconditionally accept the destruction, removal, or rendering harmless, under international supervision of all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support, and manufacturing facilities;

Whereas Saddam Hussein and the Republic of Iraq have persistently and flagrantly violated the terms of Resolution 687 with respect to elimination of weapons of mass destruction and inspections by international supervisors;

Whereas there is good reason to believe that Iraq continues to have stockpiles of chemical and biological munitions, missiles capable of transporting such agents, and the capacity to produce such weapons of mass destruction, putting the international community at risk;

Whereas, on February 22, 1993, the United Nations Security Council adopted Resolution 808 establishing an international tribunal to try individuals accused of violations of international law in the former Yugoslavia;

Whereas, on November 8, 1994, the United Nations Security Council adopted Resolution 955 establishing an international tribunal to try individuals accused of the commission of violations of international law in Rwanda;

Whereas more than 70 individuals have faced indictments handed down by the International Criminal Tribunal for the Former Yugoslavia in the Hague for war crimes and crimes against humanity in the former Yugoslavia, leading in the first trial to the sentencing of a Serb jailer to 20 years in prison;

Whereas the International Criminal Tribunal for Rwanda has indicted 31 individuals, with three trials occurring at present and 27 individuals in custody;

Whereas the United States has to date spent more than $24 million for the International Criminal Tribunal for the Former Yugoslavia and more than $20 million for the International Criminal Tribunal for Rwanda;

Whereas officials such as former President George Bush, Vice President Al Gore, General Normal Schwarzkopf and others have labeled Saddam Hussein a war criminal and called for his indictment;

Whereas a failure to try and punish leaders and other persons for crimes, against international law establishes a dangerous precedent and negatively impacts the value of deterrence to future illegal acts;

Resolved, by the Senate (the House of Representatives concurring),

That the President should—

(1) call for the creation of a commission under the auspices of the United Nations to establish an international record of the criminal culpability of Saddam Hussein and other Iraqi officials;

(2) call for the United Nations to form an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other violations of international law; and

(3) upon the creation of such an international criminal tribunal, week the reprogramming of necessary funds to support the efforts of the tribunal, including the gathering of evidence necessary to indict, prosecute and imprison Saddam Hussein and other Iraqi officials.

S.J. RES

Authorizing the use of the United States Armed Forces pursuant to a new resolution of the United Nations Security Council seeking to enforce the destruction and dismantlement of Iraq's weapons of mass destruction program and prohibited ballistic missiles program or pursuant to the United States right of individual or collective self-defense if the Security Council fails to act.

Whereas under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

Whereas on numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

Whereas on numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Whereas Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Whereas since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Whereas Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by 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,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SECTION 2. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution that after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SECTION 3. CONSULTATION AND REPORTS.

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparaing to take, to protect

key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.— The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SECTION 4. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that I be allowed to speak for 30 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, just so the record is clear, he is filling the spot Senator CARPER had.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from Nevada very much.

Madam President, we are here today to debate one of the most difficult decisions that I, at least, have ever had to make in my 18 years in the Senate. There is no doubt in my mind Saddam Hussein is a despicable dictator, a war criminal, a regional menace, and a real and growing threat to the United States. The difficulty of this decision is that while Saddam Hussein represents a threat, each of the options for dealing with him poses a threat—to America's service members, to our citizens, and to our role in the world at large.

It is clear none of the options that confront us are easy or risk free. For all of us, the upcoming vote on this critical issue will reflect our best judgment on which path will minimize the risk to our fellow Americans because we all know the risk cannot be eliminated. And that judgment will, in turn, depend on a complex interaction of many factors, some of which we do not know and perhaps cannot know.

It is clear military operations against Saddam Hussein, of the sort that are being discussed, pose serious risks, and we should all admit to that. Any military campaign runs very serious risks to our service members. On paper, we surely have an overwhelming advantage against Saddam Hussein—in the skill, the technology, and, of course, dedication of our Armed Forces.

We defeated Saddam quickly and conclusively in 1991. In the decade since, our force effectiveness has improved dramatically, while many of Saddam's capabilities have deteriorated. But a new battle against Saddam Hussein, if it comes to that, will be very different and much more difficult.

A U.S. victory might be quick, and it might be painless. One hopes that will be the case, but it may not be so. The American people need to know a war against Saddam will have high costs, including loss of American lives. Our confident assertions that Saddam Hussein will quickly be deposed by his own people have in the past been too optimistic.

Presumably, Saddam Hussein will be more determined to use all the weapons and tactics in his arsenal, if he believes that our ultimate goal is to remove him from power. The administration assures us our troops have equipment and uniforms that will protect them from that risk, should that risk arise. We can only hope to God they are right.

We also acknowledge that any military operations against Saddam Hussein pose potential risks to our own homeland. Saddam's government has contact with many international terrorist organizations that likely have cells here in the United States.

Finally, we also need to recognize that should we go to war with Iraq, it could have a serious impact on America's role in the world and the way the rest of the world responds, therefore, to America's leadership.

We are told that if Saddam Hussein is overthrown, American soldiers would be welcomed into Baghdad with liberation parades. That may be true. But it is true the people who have suffered most at Saddam's hands are, of course, his own citizens.

For many people around the world, an American-led victory over Saddam Hussein would not be cause for celebration. No matter how strong our case, there will inevitably be some who will see a U.S.-led action against Iraq as a cause for concern. At its most extreme, that concern feeds the terrorist paranoia that drives their mission to hurt America. We can affect how deep that sentiment runs by how we conduct ourselves—whether we work with allies, whether we show ourselves to be committed to the reconstruction of Iraq and to the reconciliation with the Arab world. But we ignore all of that at our peril.

Clearly, there are many risks associated with the resolution we are considering today, but it is equally clear that doing nothing and preserving the status quo also poses serious risks. Those risks are less visible, and their frame of time is less certain. But after a great deal of consultation and soul searching, I have come to the conclusion that the risks to our citizens and to our Nation of doing nothing are too great to bear.

There is unmistakable evidence that Saddam Hussein is working aggressively to develop nuclear weapons and will likely have nuclear weapons within the next 5 years. He could have it earlier if he is able to obtain fissile materials on the outside market, which is possible—difficult but possible. We also should remember we have always underestimated the progress that Saddam Hussein has been able to make in the development of weapons of mass destruction.

When Saddam Hussein obtains nuclear capabilities, the constraints that he feels will diminish dramatically, and the risk to America's homeland, as well as to America's allies, will increase even more dramatically. Our existing policies to contain or counter Saddam will become, therefore, irrelevant.

Americans will return to a situation like we faced in the cold war, waking each morning knowing that we are at risk from nuclear blackmail by a dictatorship that has declared itself to be our enemy, only back then our Communist foes—in those so-called good old days, which, of course, they were not, but in making the comparison between now and then, our Communist foes were a rational and predictable bureaucracy. This time our nuclear foe would be an unpredictable and often irrational individual, a dictator who has demonstrated that he is prepared to violate international law and initiate unprovoked attacks when he believes it serves any of his whims or purposes to so do.

The global community in the form of the United Nations has declared repeatedly, through multiple resolutions, that the frightening prospect of a nuclear-armed Saddam cannot come to pass, but the U.N. has been unable to enforce these resolutions. We must eliminate that threat now before it is too late. But that isn't just a future threat. Saddam's existing biological and chemical weapons capabilities pose real threats to America today, tomorrow.

Saddam has used chemical weapons before, both against Iraq's enemies and against his own people. He is working to develop delivery systems like missiles and unmanned aerial vehicles that could bring these deadly weapons against U.S. forces and U.S. facilities in the Middle East. He could make these weapons available to many terrorist groups, third parties, which have contact with his government. Those groups, in turn, could bring those weapons into the United States and unleash a devastating attack against our citizens. I fear that greatly.

We cannot know for certain that Saddam will use the weapons of mass destruction that he currently possesses or that he will use them against us. But as we do know, Saddam has the capability to do that. We know that very

well. Rebuilding that capability has been a higher priority for Saddam than the welfare of his own people, and he has ill will toward Americans.

I am forced to conclude on all the evidence that Saddam poses a significant risk. Some argue it would be totally irrational for Saddam Hussein to initiate an attack against the mainland United States and believe he would not do so. But if Saddam thought he could attack America through terrorist proxies and cover the trail back to Baghdad, he might not think it is so irrational. If he thought, as he got older and looked around an impoverished and isolated Iraq, his principal legacy to the Arab world to be a brutal attack on the United States, he might not think it is so irrational. If he thought the U.S. would be too paralyzed with fear to respond, he might not think it was too irrational.

Saddam has misjudged what he can get away with and how the United States and the world will respond many times before. At the end of the day, we cannot let the security of the American citizens rest in the hands of somebody whose track record gives us every reason to fear that he is prepared to use the weapons he has used against his enemies before.

As the attacks of September 11 demonstrated, the immense destructiveness of modern technology means we can no longer afford to wait around for a smoking gun. The fact that an attack on our homeland has not occurred since September 11 cannot give us any false sense of security that one will not occur in the future or on any day. We no longer have that luxury.

September 11 changed America. It made us realize we must deal differently with the very real threat, the overwhelming threat and reality of terrorism, whether it comes from shadowy groups operating in the mountains of Afghanistan or in 70 other countries around the world or in our own country.

There has been some debate over how ''imminent'' a threat Iraq poses. I do believe Iraq poses an imminent threat. I also believe after September 11, that question is increasingly outdated.

It is in the nature of these weapons that he has and the way they are targeted against civilian populations, that documented capability and demonstrated intent may be the only warning we get. To insist on further evidence could put some of our fellow Americans at risk. Can we afford to take that chance? I do not think we can.

The President has rightly called Saddam Hussein's efforts to develop weapons of mass destruction a grave and gathering threat to Americans. The global community has tried but has failed to address that threat over the past decade. I have come to the inescapable conclusion that the threat posed to America by Saddam's weapons of mass destruction is so serious that despite the risks—and we should not minimize the risks—we must authorize the President to take the necessary steps to deal with that threat. So I will vote for the Lieberman-McCain resolution.

This is a difficult vote, but I could not sleep knowing that, faced with this grave danger to the people of my State and to all Americans, I have voted for nothing more than continuing the policies that have failed to address this problem over the years.

Two months ago, or even a month ago, I would have been reluctant to support this resolution. At the time, it appeared that the administration's principal goal was a unilateral invasion of Iraq, clear and simple, without fully exploring every option to resolve this peacefully, without trying to enlist the support of other countries, without any limitation on the use of United States force in the Middle East region.

The original use of force resolution that the White House sent to the Congress was far too broad in its scope and ignored the possibility that diplomatic efforts might just be able to resolve this crisis without bloodshed. Moreover, it appeared that the administration planned to cut back its efforts in the war on terrorism and shift all of its attention and resources to Iraq, and that would have been a tragic mistake.

I believe the war against global terrorist networks remains the greatest current threat to the security of America over the long term and to our forces overseas. We have seen that in Kuwait in just the last week. America cannot be diverted or distracted from our war on terrorism. In the past month or so, in my judgment, we have begun to see an encouraging shift in the administration's approach. The President stated earlier this week that war is neither imminent nor unavoidable. The administration has assured us that whatever action we take toward Iraq, it will not be permitted to divert resources or attention from the war on terrorism internationally.

Secretary Powell has been working with the U.N. Security Council to put together a new resolution to make clear that Iraq must disarm, or face the consequences. We have already begun to see some encouraging movement on the issue of Iraqi disarmament. Other Security Council members—I mentioned France and Russia, as well as other Arab States in the Middle East—have begun to talk seriously about forcing Saddam to comply with the U.N. resolutions. Saddam Hussein has begun to make offers on inspections and disarmament, offers that, while inadequate so far, indicate that he has at least begun to move off his hardline position against inspections.

Obviously, much important and very hard work remains to be done. That will take tough negotiating with the other members of the U.N. and a firm line with Iraq. We need to be realistic about how best to move forward.

Any headway we are making toward getting Saddam to disarm has not occurred in a vacuum. U.N. members did not just suddenly decide to debate a new resolution forcing Iraq to disarm. Saddam Hussein did not just suddenly decide to reinvite U.N. inspectors and to remove the roadblocks that had hindered their efforts in the past. Progress is occurring because the President told the United Nations General Assembly that if the U.N. is not prepared to enforce its resolution on Iraqi disarmament, the United States will be forced to act.

At this point, America's best opportunity to move the United Nations and Iraq to a peaceful resolution of this crisis is by making clear that the United States is prepared to act on our own, if necessary, as one nation, indivisible. Sometimes, the rest of the world looks to America not just for the diversity of our debate, or the vitality of our ideals, but for the firm resolve that the world's leader must demonstrate if intractable global problems are to be solved—and dangerous ones at that. So that is the context in which I am approaching this vote.

This resolution does authorize the use of force, if necessary. Saddam Hussein represents a grave threat to the United States, and I have concluded we must use force to deal with him if all other means fail. That is just the core issue. It is the only core issue. And whether we vote on it now, or in January, or in 6 months, or in 1 year, that is the issue we will all have to confront.

War—if it comes to that—will cost money. I and the Presiding Officer dearly wish we could use that money for other domestic purposes—to address the very real needs that West Virginia, Michigan, and other States face in this tough economy. But, ultimately, defending America's citizens from danger, their safety, and their security is a responsibility whose costs we must bear because this is not just a resolution authorizing war; in my judgment, it is a resolution that could provide a path to peace. I hope that by voting on this resolution now, while the negotiations at the U.N. are continuing, this resolution will show to the world that the American people are united in our resolve to deal with the Iraqi threat, and it will strengthen the hand of the administration in making a final effort to try to get the U.N. to deal with the issue. Given the difficulty of trying to build a coalition in the United Nations, I could not, in good conscience, tie the President's hands.

The administration is in negotiations on which the safety and security of all Americans depend. I believe we must give the President the authority he will need, if there is any hope to bring those negotiations to a successful conclusion. So I will vote for the Lieberman-McCain resolution. Preventing a war with Saddam Hussein—whether now or later—must be a top priority. I believe this resolution will strengthen the President's hand to resolve that crisis.

By my vote, I say to the U.N. and our allies that America is united in our resolve to deal with Saddam Hussein and that the U.N. must act to eliminate the weapons of mass destruction.

By my vote, I say to Saddam Hussein: Disarm or the United States will be forced to act. We have that resolve.

September 11 changed our world forever. We may not like it, but it is the world in which we live. When there is a grave threat to Americans' lives, we have a responsibility to take action to prevent it.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, we have had a number of unanimous consent requests granted that listed the order of speakers. In effect, now, we have a new one that will make more sense. We have cleared this with both cloakrooms:

Senator SESSIONS will be recognized for 30 minutes; Senator CARPER will be recognized for 20 minutes; Senator ENSIGN will be recognized for 20 minutes; Senator CANTWELL will be recognized for 30 minutes; Senator BOB SMITH will be recognized for 15 minutes; Senator BOB GRAHAM will be recognized for 30 minutes; Senator CONRAD will be recognized for 30 minutes.

Following these speakers, I ask unanimous consent that the Senate vote on final passage of H.J. Res. 114, as under the previous order. After that, if anybody else wishes to speak—and we have a number of people who have indicated they would like to—they can do that. It will be probably 12:30 or 1 o'clock if everybody uses their time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, people have been granted this time. If they could read a little bit faster or eliminate a paragraph or two, some people would appreciate that.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, very briefly, I thank the Senator from Nevada. As I understand it, I ask the Senator from Nevada, we have Senator GORDON SMITH, Senator SHELBY, Senator FITZGERALD, Senator SANTORUM, Senator SARBANES, Senator DAYTON, Senator MURKOWSKI, and Senator MIKULSKI who are still scheduled to speak after that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the Chair, and I thank the leadership for the work they have put into this bill. I thank Senator MCCAIN. It is great to see Senator JOHN WARNER here. He helped write the 1991 gulf war resolution and led its successful vote in this body, which served the body exceedingly well. That was a courageous act that he led at that time.

Mr. WARNER. Madam President, I thank my colleague for his kind remarks.

Mr. SESSIONS. Mr. President, any contemplation of the use of military force is a very serious matter and calls for the Congress, the peoples' representatives, to be engaged and to discuss and debate the issue. I do not believe the Lord is pleased when his children fight—and according to my faith, all people are creatures of one Lord and precious in his sight.

In my view the resort to war can never be considered something to glory in but must be viewed as an act that is taken as a result of human failure, and where after serious consideration, it is concluded that alternatives are worse.

When the status quo presents more dangers than the war the most just, the most logical, the most moral thing is to fight. I wish it were not so but my experience and my best judgement tells me this is the way we live in this transitory world. I truly respect the pacifist—it is a position with a long and honored tradition in my faith—but whether it is by judgement or lack of faith, I do not go there.

To have a just war one must reasonably believe the ultimate goal of the violence will be to produce a good result—a better condition than existed before. And while as leaders of the people of the United States we must focus primarily on the just national security interests of our country, we, as enlightened, moral and decent people, ought to ask ourselves, whether our actions will ultimately benefit the world and even our adversary. Will the future for all be better or not?

Further, we should consider our national heritage of promoting peace, freedom and prosperity. War obviously destroys peace, but if the result can be to create a safer and more peaceful world, war can be an instrument of peace.

Afghanistan has had two decades of war. Our strong military action to totally defeat the Taliban government has given that brutalized country its best chance for peace, freedom and prosperity in generations. We cannot guarantee it, but great optimism exists for a positive future that could never have been possible under the oppressive, hateful, bigoted Taliban.

The practitioners of the art of ''realpolitic'' may sneer at the concept of free countries in the Arab world, but I am proud of the results of our military action in Afghanistan, not only because it represented just retribution for their support of attacks on the United States but also because we have left that oppressed country better than we found it. We liberated the people of Afghanistan from the most brutal circumstances.

Can anyone forget the scenes of men beating women on the streets for the most insignificant or imagined acts? No, I am proud of our wise and brilliant use of force.

I also remember such actions played a positive role in our nation's founding. Indeed, one can go down to Yorktown, as I did recently, and visit the site of the final American victory over the British. As one considers that climactic victory, after years of war and many defeats inflicted by the skilled British military, one learns that our victory would not have been possible but for the intervention of the large French fleet at Yorktown, and that fleet's victory over the British in a major battle.

With no ability to retreat or resupply, the cornered General Cornwallis had no choice but to surrender. This French action aided our liberation immensely and have served as a bond of loyalty between our nations even to this day. If the French were justified in the use of military force to help liberate us, may not our use of force in years to come be seen by the world and the people of Iraq in the same positive way. Can such a positive result be guaranteed? Of course not, but I and many others believe the chances for any improved Iraq's government are greater than some think.

Still, we must clearly remember that we cannot guarantee any nation, so liberated, future success. There are limits on our power, our reach and our resources. I am very pleased that under the leadership of President Bush and Secretary of Defense Rumsfeld, we have only a few more soldiers in Afghanistan than we have in Kosovo. The fate of Afghanistan will be up to their people ultimately. We can help, and we have, but their final fate will be in their hands—as it should be.

It is also important to consider that the threats to the United States do not come from free and prosperous states but failing ones. They fail because of flawed governments.

Thus, I say the President is right to reject a half century of valueless, cynical, diplomatic wordplay, words that sound good but are totally disconnected from reality, and to establish a new foreign policy based on our venerable heritage of honest and direct discussion of issues and values.

I am somewhat puzzled that those who have long advocated our taking steps to aid poor countries in the world do not recognize the possibilities for good that can come from a change in government. It seems there is still a strong strain of ''blame America first'' about. Many had rather complain about our imperfections, real or imagined, than to see the possibilities for a better world.

I strongly believe that America is a force for good in the world. The London based ''Economist'' magazine has recently produced a special insert for that magazine called ''Present at the Creation: A Survey of America's World Role''. It concludes that a strong America is good for the world and notes that America's national interest, ''offers the clearest match there is to a world interest. The desire for unimpeded trade, the rule of law, safety and security, the protection of property and the free movement of property and capital match world needs, not just American ones.''

We are a good, decent and, yes, powerful world leader. I am proud of our history of being, time after time, on the right side of world issues and am very pleased we have a President that understands the new world we are in and who has the courage worthy of the great people he leads.

It is important to point out that if force cannot be avoided, our action will not be against the people of Iraq or the nation of Iraq, but it will be against the brutal, illegal, Saddam Hussein regime. It is a regime that has caused more destruction than any existing in the world today. The people of Iraq will be the greatest beneficiaries of our victory. At this moment, pursuant to U.N. resolutions, our forces are attempting to enforce an embargo against Iraq. It has been only partially successful and it is leaking more and more. The Arab world complains, with much truth, that the embargo only hurts the people, the children of Iraq. Saddam Hussein continues to build places and weapons of mass destruction while his people suffer.

It has been eleven years. How long must the United States continue to carry this burden to enforce a policy that is not significantly hurting the regime but hurts innocent civilians? How can we justify this morally?

There are certainly dangers in military action. While we can hope and believe that if war commences it will go well and that our people will be viewed as liberators and that many Iraqi forces will not fight but defect to our side. We cannot know that. While I am certain we will prevail, I cannot know for certain how tough this war will be. We must recognize there are dangers. The American people understand there are risks and so do all of us. One thing is sure, our magnificent military will work tirelessly to prevail in this conflict with the lowest possible number of personnel killed or injured. But, we know the risks are great and losses could be great. While our forces will work to minimize civilian casualties and to solicit Iraqi military units to defect, such is not certain. There could be civilian losses.

As to the risk of an attack on Israel, cited by many, we should ask what Israel has to say about it. They are clear. It is a decision that is left to the United States. If you must act, do so. Israel is prepared to take the risk.

Well, that's the big picture as I see it. Our motive is good, our goals positive and realistic, and our leaders honest, careful, principled and have the courage to act on those beliefs. Some jaded politicos sneer and say that this is just politics, but I know it is not. I know the vision that President Bush has to protect his people and improve the world. His courage has already placed him at personal risk. These people, after all, have tried to assassinate one former President of the United States. In addition, in acting on his beliefs, he is laying it all on the line. He has told us repeatedly he would not look to polls to decide what actions he should take as our leader.

President Bush is acting honorably and with integrity. He is informing the American people, consulting with Congress, conferring with world leaders and trying to work with the U.N. apparatus. He has altered his tactics to win support from others, but his goal has not changed. Ultimately, if his views are proven false, and all the predicted disasters come true then he will surely pay the price at the ballot box. But, I don't think so. Neither do most of those in this body. I think he is correct and though the road may be difficult and dangerous, I am confident his Iraq policies will succeed as have his policies in Afghanistan. I truly believe that peace, freedom, security and prosperity will be enhanced not reduced as a result of our actions.

It is important to recognize that while this resolution could lead to war, it also offers the best chance we have to avoid war and to achieve security. The distinguished Democratic Chairman of the Foreign Relations Committee has objected to the President's statement that he has not decided to go to war while he asks for a resolution to allow war. But, this is not contradictory. This Congress knows the score. We know Saddam Hussein's deceitful manipulations, his lies, his violence against the Iraqi people and their neighbors, and the constant attacks against our aircraft, even firing on them with missiles this last week. We know he only allowed inspectors into Iraq in 1991 to save his regime. He did it out of fear.

I agree with former President Clinton's National Security Advisor, Sandy Berger, who said at an Armed Services hearing, that he thinks it is unlikely that Saddam will ever accept ''unfettered'' inspections. A strong resolution is essential so that Saddam Hussein knows there will not be another Congressional session to meet and discuss these same issues again. He must know without the slightest doubt, that the man he is dealing with, President George W. Bush, has full and complete authority, as commander-in-chief, to use our armed forces to protect our security and to remove him from power, if need be, if he does not comply and disarm.

Who knows, in that case maybe he will relent. Nothing clears the mind so well as the absence of alternatives.

Maybe he would choose to abdicate and allow a new government to be formed. Maybe parts of his army would defect, or parts of his country would revolt. Indeed, the ''Washington Times'', running an article from the ''London Daily Telegraph'' reports yesterday that

> Members of Saddam Hussein's inner circle are defecting to the opposition or making discreet offers for peace in the hope of being spared retribution if the Bagdad dictator is toppled, according to Iraqi exiles.

One defector came from the Iraqi security services, which form the regime's nerve center. Kurdish groups say:

> They have received secret approaches from military commanders offering to turn their weapons on Saddam when the war begins.

Columnist Morton Kondracke wrote today that there are many possibilities for a regime change without a war. He notes Idi Amin took exile. As the pressure mounts, as the circle tightens, these are among possibilities for achieving our goals short of a full scale conflict.

Yes, it is quite true that the President has requested our authorization to use force, but he still hopes he will not have to use it. For us to not grant him that authority would be only to allow the President to continue negotiations but require him to come back to Congress another time (while we are in recess perhaps) for an authorization to use force. To state that position is to expose its fatal flaw. Such an action would eliminate any chance for a real agreement.

Saddam Hussein will know what we have done. He will know that the President cannot until Congress meets again. He will know that the fateful moment has not come, and that he can continue to delay and maneuver. Clearly, we must authorize the use of force if the President finds it necessary. Otherwise this whole process is a charade. I am confident a majority in this body understand this fundamental concept, or else, the strong vote that is coming would not occur.

Some say, we are acting unilaterally, ''upsetting'' the little nations. But, it was not the United States that invaded Iran resulting in a prolonged and brutal war costing over one million lives. It was not the United States that invaded Kuwait, precipitating an international effort, overwhelmingly led by America, to roll back Saddam's conquest. It was not the United States that has systematically violated 16 U.N. resolutions—resolutions Saddam Hussein agreed to in order to save his regime.

The unilateralist is Saddam Hussein. The United States, on the other hand, has worked assiduously with our allies, Arab nations, other nations and the United Nations to develop a policy that will end the menace presented by Saddam Hussein.

Only the ''blame America first crowd'' would make such an argument. Indeed, we have been patient many times over these eleven years. So patient, so docile, that it has encouraged Saddam Hussein to miscalculation.

Amazingly, several Senators have objected to the resolution because they believe we must have the full support of the United Nations. This is suggested in several ways.

They argue, ''Why now?'' Why not let the United Nations vote first. Why not have the Congress ''come in behind a U. N. resolution?''

This argument is dangerous and counter-productive to our goals. Unless, of course, one's real goal is simply

to wish the whole matter to go away and to not bring it to a head.

First, a U.N. Resolution is very hard to obtain. The primary problem is that any resolution can be vetoed by any one of the permanent security council members, which includes China, Russia and France. These countries may demand concessions in exchange for their votes. They may just refuse. No reason is required.

Secondly, this is our military. Funded, built and staffed by Americans. The American people did not sacrifice to create the greatest military in history to allow China, Russia or even France to have a veto over its use. It is no wonder that these nations would like, through the mechanism of the United Nations, to seize control over our military and to use it as they will. The wonder is why we are even discussing it seriously. Of course, we want to solicit the United Nation's support and aid. After all, Saddam Hussein is in violation of sixteen U.N. Resolutions. Why is the U.N. not anxious to act to bring him into compliance? Former Secretary of Defense James Schlessinger said recently in an Armed Services hearing that,

> This is a test of whether the United Nations—in the face of perennial defiance by Saddam Hussein of its resolutions, and indeed by his own promises—will, like the League of Nations a century ago, turn out to be an institution given only to talk.

The President has frankly and courageously framed the question to the U.N. He has stated plainly that Saddam Hussein is in violation of sixteen U.N. Resolutions and is a danger to the region and the world. He has made it clear that it is his duty to protect the American people from this threat and that he intends to do so. But, he expressed support for the U.N. programs and urged the U.N. to take action, to be a relevant player in this crisis. He urged the U.N. not to sit on the sidelines. He made it clear that no change was unacceptable. Since then he has worked steadfastly to win the necessary support in the U.N. and the Security Council. He has humored, maneuvered, pleaded and, I am sure ''promised'' to gain support. Maybe the U.N. will arouse itself and take action. Nothing could do more for its credibility.

But there are limits. This Congress must not crawfish or we will thereby tell Russia or France that they have a veto over our actions. It will encourage their resistance. If Russia knows Congress has allowed them to decide the issue, their power is even greater—it is absolute.

Now, if members of this body oppose bringing the Iraq matter to a head and oppose any use of military force then let them come out and say so. It is wrong, however, and harmful to America to take an indirect approach that gives the appearance of support but which would undermine the execution of our policy.

Yes, it would be very desirable to have U.N. support to deal with the Iraq problem. But, the best way to get it is to let them know we will act even if they don't.

I agree with former Secretary of Defense James Schlessinger that while the doctrine of prevention is sound and historical and has been applied in tougher cases than this, it is not necessary here. Schlessinger rightly says that,

> In an ongoing conflict, the issue of pre-emption is close to meaningless.

The truth is, we have been at war with Iraq since 1991. In essence, Saddam Hussein sued for peace to save his regime. The world in effect said we will end hostilities, but you must give up your weapons of mass destruction and agree to full inspections to prove that you have.

Since then, we fly missions every day to enforce the northern and southern no-fly zones. Iraq fires surface-to-air missiles at our planes almost daily and we bomb in response regularly. Iraq has shot down three of our predator, unmanned aircraft, in recent months. We defend the Kurds. We keep forces in Kuwait and in the region to deter another attack by Iraq. The war has never ended. In 1988, the Congress voted for the ''Iraq Liberation Act''. We declared it U.S. policy to effect a regime change in Iraq and authorized the President to carry out that policy. In fact, it gave five million dollars to Iraqi resistance forces and called for trying Iraqi leaders for war crimes.

Those who are reluctant to use force have focused on concerns about the idea of using pre-emptive force to protect our security. They have forgotten the war has never ended, that our aircraft pilots are being fired at daily.

It is undisputed that our actions are taken as part of a U.N. program to protect the world from Saddam Hussein's aggression.

Thus, we have every basis to use force to enforce the agreements Saddam Hussein made and to react to the hostile fire he brings to bear against us.

My fear is that the President is being forced to deal with the tendency to move to the lowest common denominator that always results from U.N. negotiations, and will not be able to obtain the clarity we need from any resolution approved by the Security Council. So far, he has been courageous and effective. Let us stand with him so we can enhance the chances of a good resolution, not undermine his efforts with a lack of support.

Regardless, it must continue to be clear that no one nation or group of nations will be allowed to block our duty to defend our people. Especially when we are dealing with a regime that violates U.N. resolutions and continually directs hostile fire at U.S. forces.

This is an important time for America. We have a duty to protect our nation and our deployed forces from attack. We have the ability to do so. Our superb military personnel stand ready to put themselves at risk to promote our just national interests.

We are fully justified in acting under the venerable doctrine of preventing an attack upon ourselves. When there is a smoking gun or a mushroom cloud it is too late.

For those who have anxiety about the pre-emption doctrine, and I do not in this case, I urge them to remember that we have been in an actual state of military hostilities with Iraq almost since 1991. He shoots at our pilots and aircraft regularly. He has violated, in 16 ways, the conditions that he agreed to save his evil regime.

Let's not waiver, let's not delay, let's not go wobbly. Let us produce a strong vote for this strong resolution. Then the situation will become clear. We will say to Saddam Hussein, once and for all, you will disarm or, like the Taliban, you will fall.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I come before the Senate this evening to join in this debate, to express my support for our Nation's effort to address the threat Saddam Hussein poses, and to lay out the concerns that I believe must be addressed if we are to succeed in disarming Iraq. The President has called upon Congress and the American people to support his administration in its effort to eliminate Saddam Hussein's hold on weapons of mass destruction. The Congress has responded by taking up this resolution authorizing the use of force, if needed, to strip Iraq of those weapons and the ability to deliver them. A number of serious questions have been raised in this historic debate. It is critical that President Bush and the Congress fulfill our obligation to all Americans, and to the international community, by ensuring that those questions are faithfully addressed.

Saddam Hussein has shown himself to be an implacable foe of the United States. It is essential that we confront the threat that he represents. The question is not whether we confront it, but how we confront it. We must make every effort to build a multilateral coalition. If we do so, we raise the likelihood of bringing a measure of stability to a turbulent part of the world. If we do so, we can minimize the impact of any conflict on the Iraqi people, on Iraq's neighbors and on American and allied forces. And if we do so, we will serve to strengthen, not undermine, the international laws and institutions that have served us well in the years since World War II.

Leadership is a responsibility that cannot be taken lightly. Leadership in deciding whether to resort to military force requires the greatest deliberation and consideration. Secretary of Defense Donald Rumsfeld, in recent testimony before the House Armed Services Committee, said that ''no one with any sense considers war a first choice—it is the last thing that any rational person wants to do. And it is important that the issues surrounding this decision be discussed and debated.''

It is clear to me that millions of Americans are discussing and debating the issues (that are before us this evening. I have heard from Delawareans throughout my state. I have heard from veterans who know the harsh realities of war. I have heard children who can scarcely imagine it. I am comforted by the fact that the American people, and their representative in Congress, have been thoughtful and deliberate in discussing the challenges that we face and how we might confront those challenges.

This is not the first time that I have faced the question of how we ought to deal with Saddam Hussein's intransigence in the facet of international law. As a Member of the House of Representatives, I voted in 1991, along with many members of this body, to authorize President George Herbert Walker Bush to use military force to expel the armed forces of Iraq from Kuwait. I am proud of that vote, and I am prouder still of the American and allied forces that went on to liberate Kuwait.

Having engaged in that debate, and witnessed Saddam Hussein's refusal to yield except when confronted with the threat of force, I have no illusions about the danger he poses to regional stability and international security today. I am concerned that Iraq remains in violation of more than a dozen Security Council resolutions. I am alarmed that the regime of Saddam Hussein continues to develop weapons of mass destruction in violation of the international agreements it promised to comply with at the end of the gulf war. Above all, I feel strongly that we must not allow Saddam Hussein to develop the capacity to acquire or deploy nuclear weapons.

This past Monday night, President Bush addressed our Nation. He reminded us that there are significant risks to the United States both in acting and in not acting. If we choose not to act, we must remember that, in Saddam Hussein, we are talking about a man who has invaded his neighbors, showing a reckless disregard for the stability of a volatile region. We are talking about a man who has risked his own survival, and that of his regime, to indulge his own vengeance. Finally, we are talking about a man who has used weapons of mass destruction before, even against his own people.

The need for action, however, does not preempt the need for an objective and open debate on the course of action we choose and the consequences of our subsequent actions. Bringing the weight of the world's disapproval to bear on Iraq; demanding unfettered inspections of every potential weapons site; and preparing for any military or diplomatic contingency offers us the best chance to face down our foe now and to ensure his permanent disarmament.

Like many in this chamber, I believe that it is essential for us to work closely with the international community to reinstate inspections that will lead to Iraq's disarmament. But it's imperative that such inspections be unhindered. Inspectors must have the freedom to go where they want, when they want. They must have the right to talk to whomever they wish and to provide immediate amnesty to any Iraqis who provide information that might place them at risk of reprisal from the regime. Inspections are only valuable if they are truly a means of stripping Saddam Hussein of his weapons of mass destruction and his ability to deliver them. If Saddam Hussein's regime is unwilling to accept this level of intrusion, both he and Iraq must be prepared to accept the consequences, including the likelihood of a war they will lose.

Looking back, one of the principal reasons we were so successful in the gulf war was because former President Bush and his administration did the hard work necessary to build a broad, strong international coalition before unleashing our military might. Our current President and his aides similarly did the hard work necessary to build such a coalition after the attacks on our country last fall. This up-front investment has paid off in the arrests of Al Qaeda operatives throughout the globe, as well as in the elimination of the regime that was harboring them in Afghanstan—though the war on terror is far from over. These are prime examples of America's global leadership in action at its very best. They are examples that we should emulate now.

If we fail to uphold our international leadership responsibilities, and act without regard to the views and interests of our allies, we invite our isolation in the world. We undermine our position as a preeminent force in global policy and order. We make more difficult the task of securing the assistance of the international community in helping Iraq to return as a responsible member of the community of nations. We invite additional terrorist attacks on Americans at home and abroad, as well as put the fragile governments of many Muslim nations further at risk. Moreover, if we are perceived to act without the sanction of international law or authorization of the United Nations, we further fuel anti-American resentment in the Arab world, thereby increasing the threat to Israel. On the other hand, if we make an effort to work in concert with our allies, we have the opportunity to strengthen the international institutions that will be critical in addressing future threats.

At a time when 24-hour news networks have made the images of war instantly accessible, our nation's recent military successes have made the awful realities of war appear ever more remote: images of laser-guided bombs falling on indistinguishable targets; missiles lighting up the night sky. For an entire generation of Americans, our military efforts have come to be seen almost as a casualty-free video game, where no one gets hurt and few families face the knowledge that their son or daughter will not be coming home.

But like a handful of my colleagues here in the Senate, I have known a different side to war, having seen if firsthand. During my 23 years in the Navy, including service in Southeast Asia, we witnessed soldiers, sailors, and airmen leaving for missions from which they would never return. I've met countless veterans who left part of themselves on the battlefield. Some of those heroes serve in this very body today.

War can—and often does—enact a terrible price. It should be entered into as a last resort. So, the decision we face this week, which may lead to war, is not one that I take lightly. Nor do any of us.

For the past 11 years, people in this country and elsewhere have second-guessed the decision of former President Bush to stop short of entering Baghdad in 1991. I have never criticized that decision. That flat, open sands on which our soldiers fought and won is a far different—and less dangerous—terrain than the streets of major Iraqi cities. There, our enemy's tactical advantage likely would have enacted a far heavier toll on American lives.

If the course of events in this decade ultimately leads to another conflict with Iraq, and I hope it does not, the risks associated with urban warfare may well become a reality this time. Before they do, it is critical that we prepare ourselves, and the American people, for the losses we may endure in a military campaign of that nature.

We must also face head-on the fact that, if war should occur, liberating Baghdad from Hussein's power will not solve every problem in the region. It will, however, force us to find answers to a difficult set of new questions. Among them, how will we operate in Iraq after a military victory? A number of competing factions will vie for control if Saddam Hussein is removed from power. Who will we support? How will we convince them to work together? We will need a coherent policy to help Iraq make the transition to political and economic stability. We will also need a great deal of patience and fortitude. Otherwise, we risk creating a less stable and more explosive Iraq than we face today and, worse yet, an even more volatile region.

We have learned from our missions in Bosnia, Kosovo, and Afghanistan that bringing meaningful change to unstable nations requires enormous time, resources, and effort. We have been relatively successful in restoring stability in Bosnia and Kosovo, but it has not been without a painstaking commitment over many years. Indeed, the U.S. and our NATO allies continue to maintain a significant troop presence in both of those nations.

Afghanistan, on the other hand, has demonstrated how minimal troop commitments can impair efforts to restore peace in a war-ravaged nation. Hamid Karzai and his coalition government continue to express Afghanistan's ongoing need for adequate support and resources from the U.S. and other nations if the Afghan people are to realize

the peace and democracy of which they dream.

In a post-war Iraq, the need for ongoing U.S. and allied intervention is likely to be far greater and far more costly. Experts in military operations maintain that creating a more stable Iraq will require the continued presence of between 50,000 to 100,000 troops. Not for a few weeks or months, but for several years.

There is another question that I believe must be addressed as we move forward: How will we bear the financial burdens of such a mission? It is impossible to place a price tag on the lives that might be saved by disarming Saddam Hussein. At the same time, it would be fiscally irresponsible to take on such an operation without at least considering the impact of a potential war on our already fragile economy. Over the past 2 years, we have watched the stock market plummet, making its sharpest decline in 70 years. The budget surplus that we worked so hard to achieve in the 1990's is gone. All the while, current estimates project the likely cost of U.S. military action in Iraq to be in the range of $100 billion. These estimates do not include the prospect of long-term peacekeeping operations in the event of a regime change. The presence of tens of thousands of U.S. troops for months—maybe years—once the fighting has ended will cost billions more. This is a cost we should not bear alone.

I believe the principles and questions I have laid out today were best embodied in, and addressed by, the bipartisan resolution drafted earlier this month by Senate RICHARD LUGAR and my fellow Senator from Delaware, JOE BIDEN—two Senators of intellect and skill in the area of international diplomacy. The Biden-Lugar draft resolution focused on the most critical task at hand—disarming Saddam Hussein. Senators BIDEN and LUGAR carefully crafted this resolution to give President Bush the flexibility he needs to garner international support now for a tough, new U.N. Security Council resolution. Their draft resolution also provided the President with the authority to unleash U.S. military force against Iraq should he determine that Iraq's continued intransigence makes such action necessary. I'm disappointed that we will not have the opportunity to vote on that alternative this week. Having said that though, I do believe that the Biden-Lugar proposal contributed appreciatively to the change in direction that this debate has taken in recent weeks, particularly in its emphasis on acting together with our allies. That change in tone was clearly evident in the address of President Bush to the American people this past Monday night. What he said encouraged me and served to reassure much of our nation.

The President spoke of the importance of working with the United Nations to craft a tough inspection regimen in Iraq. I agree with him. The President said that the U.N. must be ''an effective organization that helps keep the peace.'' I agree with him. The President told the American people that our primary goal in this endeavor is to strip Saddam Hussein of his ability to manufacture and deploy weapons of mass destruction. Again, I agree with him. We also heard the President state that he hopes the policy he has laid out will not require military action, although he acknowledged that it might. I hope it will not. We all share that hope in the Senate as members of this body prepare to cast our votes and to authorize the use of force if certain conditions are met.

In closing, let me say for much of our Nation's history, the United States has been an instrument for peace and justice and a better life for the people of many nations throughout the world. That is our heritage. It is one of which we can be proud.

There have been times in our history when we have had to go it alone. But history has shown that we have been most successful when we provided the leadership that compelled other nations to join us in a just cause—two World Wars, the Cold War, the Persian Gulf War, Bosnia, Kosovo, Afghanistan, and the war on terrorism. Stripping Saddam Hussein, once and for all, of the weapons that would enable him to create havoc and great loss of life is a just cause. Other nations know that, too.

If we make the case to them forcefully, skillfully, and persistently in the weeks ahead, they will join us. I am certain of it. The burden before us—disarming Iraq—is one we should not bear alone. If the President uses the powers inherent in this resolution authorizing the use of force with great skill and diplomacy, we will not have to bear this burden, and face this challenge, alone. An armada of nations, again, will join us, and together we will make this world, at least for a little while, a safer and saner place in which to live.

I yield back my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 20 minutes.

Mr. ENSIGN. Madam President, as our nation appears to draw closer to war, I rise with full consciousness of the burden that each of us has to help guide our nation during this time of peril. It is indeed a heavy burden to bear, but nothing compared to the burden of those who serve in our military.

The vote to authorize the use of force in Iraq is one of the most difficult and important votes any of us will ever cast. We need to approach this issue as if we are sending our very own children to war because, in effect, we are voting to send our nation's children to war.

Secretary of Defense Donald Rumsfeld recently told Congress that ''a decision to use military force is never easy. No one with any sense considers war a first choice.'' The risks of war are real but the risks of inaction may be even greater. As Ronald Reagan put it in his first inaugural address, ''I do not believe in a fate that will fall on us no matter what we do. I do believe in a fate that will fall on us if we do nothing.''

The threat posed by Saddam Hussein's regime is growing with each passing day. He has, at this moment, chemical and biological weapons he could use against us or share with terrorist networks that threaten us. He is pursuing nuclear weapons. He has used chemical weapons against his own people, and against foreign forces. He has invaded two of his neighbors and fired ballistic missiles at four of his neighbors. He supports terrorist networks, and has harbored senior al-Qaida terrorists in Baghdad since September 11. He has a long-standing hostility toward the United States, because we have denied him his ambition to occupy the territory of his neighbors and dominate the Persian Gulf region. He has openly praised the September 11th attacks, and his state-run press has called them ''God's punishment.'' He has warned that Americans should understand that ''every Iraqi [can] become a missile.''

Each of us needs to carefully weigh the risks posed by his regime the risk of acting and the risk of doing nothing in the face of this threat. And Mr. President, I submit that the risk of inaction far outweigh the risk of war in Iraq. Here is why:

For most of our history, America has been able to rely on our geography to protect us. Two oceans, and friendly neighbors, provided a buffer against enemies who might want to attack us. After September 11th, we now know our invulnerability has passed away. We are not only vulnerable to terrorists who use airplanes as missiles we are vulnerable to terrorist networks and terrorist states that want to use weapons of mass destruction against us.

As Secretary Rumsfeld has pointed out, when the threats came from conventional weapons, our country could afford to wait for an attack to happen, absorb the first blow, regroup, and then respond militarily. In the age of weapons of mass destruction, however, we can no longer afford to wait.

In this new security environment, we must become more proactive in our efforts to prevent attacks that have the potential to be far worse than that of September 11. We must make sure when possible that those who have the desire to attack us are prevented from having the means with which to carry out those attacks. We have a right and an obligation to take anticipatory action in our own self-defense.

This certainly would not be the first time that our nation engaged in preventative military action in defense of our homeland. During the Cuban Missile Crisis, President Kennedy ordered a military blockade of Cuba in 1962, an act of war under international law. This was done even though the Soviets were not engaged in an armed attack, nor were the missiles an imminent threat.

Today, Saddam Hussein poses a similar threat. And we should give this President the authority he needs to

deal with the Iraqi threat now, before it reaches our shores.

Saddam Hussein poses a very real and imminent danger to the United States. According to the CIA, Iraq ''has broad capability to attack'' the U.S. ''with chemical or biological weapons and could build a nuclear bomb within a year if it obtains fissile material from abroad.'' Iraq ''probably'' has ''stockpiled more than 100 tons of mustard gas and other chemical weapons. Iraq has developed 'large scale' capability to produce anthrax and other bioweapons in mobile facilities that are easy to hide and hard to destroy.''

The longer we wait, the stronger he becomes, and the harder he will be to defeat. Saddam Hussein's regime hosts terrorist networks and has directly ordered acts of terror on foreign soil. He has used weapons of mass murder before, and would not hesitate to use them again.

Moreover, Saddam Hussein's ongoing defiance of U.N. Security Council resolutions has made clear that he has no intention of disarming or discontinuing his weapons of mass destruction programs.

Remember, our goal is not to get weapons inspectors back into Iraq. Our goal is disarmament. And Saddam Hussein has shown that he is not willing to disarm. To the contrary, he has proven willing to pay an enormously high price to maintain his weapons of mass destruction aspirations. Under U.N. sanctions, he has given up about $180 billion in oil revenue to keep his weapons of mass destruction. As Richard Butler, a former U.N. chief weapons inspector has said, ''The fundamental problem with Iraq remains the nature of the regime, itself. Saddam Hussein is a homicidal dictator who is addicted to weapons of mass destruction.''

Congress recognized that fact in 1998 when it passed The Iraq Liberation Act stating that, ''It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.'' We knew then what we know now—that regime change and disarmament are inextricably linked.

Just like there are career criminals there are career criminal regimes. Leniency only incites them to more violence. They are driven; they are compulsive. And unless they are constantly thwarted they will continue to prey on the weak and defenseless.

We cannot stake the lives of tens of thousands of innocent American citizens on the hope that Saddam Hussein will never use his weapons of mass destruction against us. He has already proven that he cannot be trusted, and that he poses a great threat to the peace and stability of the world. This is a critical moment for the United States. If Saddam Hussein is appeased with more talk of weakened, compromised weapons inspections, which he has repeatedly defied, we risk leaving our country open for another catastrophic attack, one potentially far worse than the heinous acts of September 11th.

As we debate how to deal with the Iraqi threat, we must never forget that in Saddam Hussein we are dealing not just with a homicidal dictator; we are confronting Evil that is akin to Stalin and Hitler.

Just ask former Iraqi general, Najib Salhi. He defected from Iraq and was living in Amman, Jordan when one day he came home to find a package from Saddam Hussein's intelligence service. He opened it to find a video tape.

When he put it into the VCR, he saw what he thought was a pornographic film—till he realized, to his horror, that he was watching the rape of one of his closest female relatives. The message was clear. They wanted to blackmail him into silence.

That is the face of Evil.

Or consider the fact that Saddam Hussein's regime has admitted to having weaponized aflotoxin—the only country in the world known to have done so. As former CIA Director Jim Woolsey has stated, ''The only use of aflatoxin is that it creates cancer, long-term cancer, especially in children.''

Aflatoxin has no military value. It has no battlefield use. It takes tens of years to kill its victim. It is a weapons whose only purpose is to kill innocent people for murder's sake. Richard Spertzel, the former chief biological weapons inspector for UNSCOM, declared that aflatoxin is ''a devilish weapon. From a moral standpoint, aflatoxin is the cruelest weapon—it means watching children die slowly of liver cancer.''

That is the face of Evil.

Look at the attacks Saddam Hussein has ordered on his own people—on thousands of innocent men, women, and children—in Halabja, using a chemical weapons cocktail. Those attacks are causing cancer and genetic mutations that will be felt in this generation and the next.

That is the face of Evil.

Saddam Hussein is a man who has personally shot and killed members of his own cabinet; who has ordered his opponents to be burned alive in vats of acid; who forces those suspected of disloyalty to watch the gang rape of their mothers, daughters, wives, and sisters; who not only tortures dissidents, but tortures their children in front of them.

He is the living incarnation of an Evil that cannot be appeased and cannot be deterred, and must be confronted and defeated.

He has murdered hundreds of thousands of innocent people—and is pursuing weapons that will allow him to extend his deadly reach across oceans and continents—that will give him the capability to kill our people—our children, our families.

The President has rightly called Saddam Hussein ''a student of Stalin.'' And I applaud him for his resolve in confronting the dangers posed by the Iraqi Regime.

The President has awakened the world to the existence of evil in our midst—and challenged the world to confront that evil before it confronts us, at the cost of millions of lives.

It is a natural reaction to flee in the face of evil. It is little wonder that much of the world has been reluctant to stand its ground and face down Saddam Hussein, which is why the President's leadership has been critical, and why it is so important for the United States Congress to show similar resolve, and demonstrate our unity with the President.

In showing steadfastness and steely determination, the President made clear to the Iraqi regime, and the world, that we were not going to repeat the tired old pattern of meeting Iraq's threats with inaction. And that leadership has had an impact. One by one we have seen nations join the U.S. in recognition that Saddam must go. Some have said so publicly, others privately. Let there be no doubt: if we go to war, we will not be going it alone.

Thanks to our President, the world understands that there is a price to be paid for defying the United States when our survival is at stake. And I believe that a strong show of support by Congress will strengthen the President's hand at the United Nations.

While we greatly value the support of our allies in the war on terror, we must never give other nations the authority to stop us from defending our freedom or from acting in our own self-defense. We must do what we feel is right in protecting America, whether or not we have the approval of France, Russia, China or any of the other nations which currently sit on the U.N. Security Council.

None of us takes the prospect of war lightly. War is difficult and dangerous, and lives will be lost. I understand the concerns many Americans have about war in Iraq, and I fully appreciate the sacrifice American families make when they lose a loved-one in the fight to keep America and the rest of the world free from tyranny and oppression.

This country lives, freedom lives, because brave men and women were willing to die for it—willing to risk their lives, and give their lives, for a cause greater than themselves. As scripture teaches ''there is no greater love than this: that a man lay down his life for his friends.'' We are all concerned for the well being of our troops, and we thank them for their willingness to keep America safe from the evil that has been made so apparent in the last year.

While I value diplomacy and rhetoric, there comes a time when force is inevitable—when our choice is not between war and peace, but between war today, when our enemy is weaker, or war tomorrow, when our enemy is stronger. That is the choice we face today.

We have tried diplomacy. We have imposed sanctions. We have sent inspectors. All attempts to reason with the Iraqi Regime have failed. The only language Saddam Hussein understands is force.

Indeed, in a way, we are already at war with Iraq. Since hostilities ended in 1991, Iraq has repeatedly violated the ceasefire conditions which were set out at the close of the Gulf War. Just ask our brave pilots who are being shot almost every day as they patrol the no-fly zones over Iraq.

After President Bush's speech to the U.N., Saddam Hussein sent a letter to the U.N. promising to ''allow the return of United Nations weapons inspectors to Iraq without conditions.'' He went on to say that Iraq ''based its decision concerning the return of inspectors on its desire to complete the implementation of the relevant Security Council resolutions and to remove any doubts that Iraq still possesses weapons of mass destruction.''

Hours after that letter arrived at the U.N., Iraq was shooting at U.S. aircraft implementing those same relevant U.N. Security Council resolutions. Since 1992, the Iraqis have used anti-aircraft artillery, or Triple-A, against our aircraft in the northern and southern no-fly zones. In fact, over the last three years Iraqi Triple-A has fired at coalition aircraft over 1,000 times. This year to date they have fired on us over 400 times—and since that September 16 letter where Saddam pledged his support for U.N. resolutions they have fired on coalition aircraft more than 70 times. It appears that Iraq has actually stepped up its firing on U.S. and British planes since he agreed to cooperate with the U.N. Actions speak louder than words. And for 11 years Saddam Hussein's actions have shown that he is bent upon pursuing weapons of mass destruction at all costs.

After all, three days after Saddam Hussein's September 16th letter pledging the unconditional return of weapons inspectors, Iraq's foreign minister stated U.N. resolutions were ''unjust and at odds with the U.N. charter and international law.'' He further declared, ''Iraq demands that its inalienable rights are met, including respect for its sovereignty, security and the lifting of the blockade imposed on it.'' Then Baghdad stated that the 1998 Memorandum of Understanding which exempted certain presidential palaces must stand. I am sure we will hear from time to time that Baghdad is once again stating that unconditional inspections could take place. The words change, but the actions stay the same. They keep right on firing at our pilots.

Madam President, on September 11, 3,000 innocent citizens were killed. If their deaths are to have any meaning, our nation must not forget the lesson they gave their lives for us to learn. The era of our invulnerability is over. Evil exists—it is real, it is out there, and it seeks our destruction. If we ignore it, it will not go away. It will continue to stalk us, and kill more of our people.

It must be confronted and it must be defeated.

''There is a time for all things,'' the Rev. Peter Muhlenberg told his congregation on the eve of the Revolutionary War, ''a time to preach and a time to pray. But those times have passed away. There is a time to fight, and that time has now come.''

We have listened and we have prayed. Now we must fight.

For the best honor we can bestow on those who have died for our nation, and those who will die for our nation, is victory. Victory over terrorism. And if the President believes it is necessary to secure our freedom, victory over the regime of Saddam Hussein.

Madam President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that Senator GRAHAM's and Senator CANTWELL's time be changed. Senator GRAHAM will go before Senator CANTWELL.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Florida is recognized for 30 minutes.

Mr. GRAHAM. Thank you, Madam President.

Madam President, I rise this evening to speak to my colleagues, more importantly to speak to the people of the United States and, especially, my fellow Floridians.

In my service in the Senate I have not shied away from authorizing the use of force when I believed it was in our Nation's interests.

I voted to use force in the Persian Gulf in 1991. I voted to use force in Bosnia in 1992. I voted to use force in Kosovo in 1999.

I have given the President of the United States a presumption of correctness in his assessment of our national security interest.

But, Madam President, tonight I am going to vote no on this resolution. The reason is this resolution is too timid. It is too limiting. It is too weak. This resolution fails to recognize the new reality of the era of terrorism. And that reality is that war abroad will, without assertive security actions, increase the prospects of terrorist attacks here at home.

In fact, war on Iraq alone leaves Americans more vulnerable to the No. 1 threat facing us today, those international terrorist organizations that have the capability to inflict upon us a repeat of the tragedy of September 11.

The resolution I had hoped we would pass would contain what the President has asked for relative to the use of force against Saddam Hussein's regime in Iraq, and more.

It also should provide the President all necessary authorities to use force against the international terrorist groups that will probably strike the United States as the regime of Saddam Hussein crumbles.

I offered an amendment on this floor yesterday that would have given the President the authorities he needs to deal with the threat posed by the five deadliest terrorist organizations in addition to al-Qaida—that would gladly join Saddam Hussein in his retaliatory strike.

Those five organizations have already killed hundreds of Americans. Those five organizations have ties to countries that could provide them with weapons of mass destruction. Those five organizations have the capability to strike within our homeland. They have recruited, trained, and placed operatives in our hometowns.

I argued that the President should have the option to set priorities and choose our targets, and to be able to preempt terrorists before they can order strikes against us in our homeland. Unfortunately, that amendment was rejected.

Some said I was incorrect in my contention that the President, as Commander in Chief, lacks the power to expand the war on terrorism beyond al-Qaida. I disagree. But I will not repeat the legal arguments that I made yesterday.

But even accepting the fact that others may disagree, how is it in the interest of our Nation's security to leave the question in doubt as to whether the President has the authority to attack these international terrorist organizations that represent such a lethal threat to the people of the United States?

There have been some past administrations which have allowed leaders of rogue states to be uncertain as to how America would respond if they used weapons of mass destruction. This administration should not repeat that fundamental error.

If we want to deter the world's terrorists and madmen, shouldn't we tell them, in the most explicit terms, what they will face by U.S. retaliation to their action?

I also want to restate my conviction that this resolution forces the President to focus our military and intelligence resources on the wrong target. A historical example, which has been used repeatedly in this debate, is the example of the 1930s: that England, France, and other nations, which would eventually join in the world's greatest alliance, slept while Hitler's power grew.

They say the equivalent of passing this resolution is to have declared war on Hitler. I disagree with that assessment of what this lesson of history means. In my judgment, passing this resolution tonight will be the equivalent of declaring war on Italy. That is not what we should be doing. We should not be declaring war just on Mussolini's Italy. We should also be declaring war on Hitler's Germany.

There are good reasons to consider attacking today's Italy, by which I

mean Iraq. Saddam Hussein's regime has chemical and biological weapons and is trying to get nuclear capacity. But the briefings I have received suggest our efforts, for instance, to block him from obtaining necessary nuclear materials have been largely successful, as evidenced by the recent intercept of centrifuge tubes, and that he is years away from having nuclear capability.

So why does it make sense to attack this era's Italy and not Germany, especially when by attacking Italy, we are making Germany a more probable adversary?

The CIA has warned us that international terrorist organizations will probably use United States action against Iraq as a justification for striking us here in the homeland. You might ask: What does the word ''probably'' mean in intelligence speak. ''Probably'' means there is a 75 percent or greater chance of the event occurring. And the event is that international terrorist organizations will use United States action against Iraq as a justification for striking us here in the homeland.

Let me read a declassified portion of a CIA report recently presented to the Senate Select Committee on Intelligence:

> Baghdad for now appears to be drawing a line short of conducting terrorist attacks with conventional or [chemical and biological weapons] against the United States.
>
> Should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably would become much less constrained in adopting terrorist actions.
>
> Such terrorism might involve conventional means . . . or [chemical and biological weapons].
>
> Saddam might decide that the extreme step of assisting Islamic terrorists in conducting a [weapon of mass destruction] attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him.

In other words, the odds of another strike against the people of the United States by al-Qaida or one of the international terrorist groups goes up when we attack Baghdad.

The President should be in the most advantageous position to protect Americans, to launch preemptive strikes and hack off the heads of these snakes. With the resolution before us, we are denying the President that opportunity, and we are sending confusing signals to our people and our allies as to the sincerity of our commitment to the war on terrorism.

The American people and our allies gave President Bush their wholehearted support in the war on terrorism after September 11. They cheered our efforts to remove Osama bin Laden and the Taliban government from Afghanistan. A year after we commenced that war, action in Afghanistan has ground to a virtual halt. Osama bin Laden remains at large, and we have not moved aggressively beyond Afghanistan to take on the cells of al-Qaida operatives in other parts of the world.

We also know of sanctuaries, training camps where the next generation of terrorists are being trained and that those sanctuaries are going unattacked.

With sadness, I predict we will live to regret on this day, October 10, 2002, we stood by, and we allowed those terrorist organizations to continue growing in the shadows. It may be days, weeks, months, or years before they strike Americans again, but they will, and we will have allowed them to grow that capability.

If we are going to pass this resolution—and I expect we will—there are several things we should say about the need to protect the American people. Within the region of the Middle East and central Asia, we have a constellation of challenges, threats, and commitments of the United States. We need to use this period of time to begin to reduce the threat environment in that area by active, sustained U.S. diplomacy on two half-century-old disputes: The dispute between Israel and Palestine, and the dispute over Kashmir, the festering sore between two nuclear powers, India and Pakistan.

Second, the President a year ago should have ordered all of the law enforcement agencies under his control to design a comprehensive means of determining the number, location, and capability of terrorists who are living among us. But tonight, no one in our government can fully tell us which, when, where, and how terrorist organizations might hurt us. This I consider to be a stunning admission and an unnecessary vulnerability.

At this late hour, such action should be of the most urgent priority. This should be done, of course, within the confines of the protections afforded to all American persons by the Constitution of the United States.

Third, we should be moving to detain all those who can be legally detained who represent a threat to the United States.

Fourth, the President should direct the military forces of our country to prepare to execute a full-fledged war on terrorism. We must complete our mission in Afghanistan and then move to the next targets of al-Qaida cells.

Finally, I would advise the President to request of the Congress the authorities he needs to execute the war on terror and to protect Americans. Specifically, this should include the authority to use force against those international terrorist organizations with the greatest capability to kill Americans here at home, with the greatest history of having used their evil intent against Americans, and with the largest number of terrorist operatives located within the United States.

Our people need to know their government is doing all it can to keep them safe. Tonight many Americans are anxious and frightened, and they have cause to be. One year ago letters carrying anthrax killed five Americans, including one in my home State, and created great concern. That case has not yet been solved.

One year later, here in the Capital region, a sniper is randomly taking lives of innocent people going about their daily activities. Just hours ago, police confirmed the man who was shot last night while pumping gas into his car at a service station is the eighth victim, six of whom are dead. And in today's Washington Post, a front page article has the headline ''Probe Less Cohesive Than Advertised.''

It states:

> Behind the scenes at the command central, however, interviews with leading investigators suggest that while some aspects of the massive effort are working well, others are fraught with the same turf battles, politics, leaks and confusion that historically have characterized manhunts of this size.

Are these acts that we are trying to unravel those of a madman, a mad scientist, a terrorist? The honest answer is that we do not know. In these frightening times, it is irresponsible to add to the anxiety of the American people by going to war with Iraq—without taking the additional steps required to curtail the possibility of more horrors being inflicted upon us here in our homeland. This resolution fails to take those steps.

Different people have different opinions of what our national security priorities should be. Clearly, some—including the President—believe the first priority should be regime change in Baghdad. Others believe our first priority should be to disarm Iraq by removing its weapons of mass destruction. As important as they may be, I have a different view.

The United States has many challenges, threats, and commitments to respond to, particularly in the region of the Middle East and central Asia. These include the Israel-Palestine conflict, the India-Pakistan standoff, and the threats posed by weapons of mass destruction. Even if we say the No. 1 issue in the region should be containing weapons of mass destruction—especially nuclear weapons—I frankly do not believe Iraq should be our first concern. We do not know the full capabilities of the State of Israel, although we believe it has the full capacity to defend itself against attacks, or the threat of an attack. We are aware of the significant capacity possessed by India, Pakistan, and Iran. I can say without fear of contradiction that all of these possess substantially greater capabilities and means of delivering nuclear or other weapons of mass destruction than Iraq.

Of all the issues we care about, and those issues over which we have some capability to determine the outcome, in my judgment, the No. 1 priority should be the war on terrorism and its threat to the people of the United States in our homeland. Our top targets should be those groups that have the greatest potential to repeat what happened on September 11, killing thousands of Americans. Passing this

timid resolution, I fear, will only increase the chances of Americans again being killed. That is not a burden of probability I am prepared to accept. Therefore, I will vote no.

I close with the words spoken in one of the darkest periods of the history of the Western World. In 1941, Winston Churchill said:

> Never, never, never believe any war will be smooth and easy, or that anyone who embarks on the strange voyage can measure the tides and hurricanes he will encounter.
>
> The statesman who yields to war fever must realize that once the signal is given, he is no longer the master of policy, but the slave of unforeseeable and uncontrollable events.

Mr. REID. Madam President, how much time did the Senator from Florida use?

The PRESIDING OFFICER. The Senator used 20 minutes.

Mr. REID. And he had 30 allocated to him. Therefore, I ask unanimous consent that Senator MIKULSKI be recognized for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, after careful consideration, I have decided to oppose the Bush resolution on Iraq. This resolution would give President Bush the unilateral authority he seeks to go to war against Iraq without international support or international resources. The resolution includes only tepid language supporting diplomatic efforts at the United Nations.

The Senate is making a grave decision: Whether to give the President unlimited authority to go to war and send American military men and women into harm's way.

I take this responsibility very seriously. I have listened to the President and his advisors. I have consulted with experts and wise heads. I have participated in hearings and briefings as a member of the Senate, and particularly as a member of the Intelligence Committee. I have listened intently to my own constituents.

The American people are deeply ambivalent. The American people want a safer world, a world in which distant tyrants can't threaten us and our bases and our embassies and our treasured allies. The American people are counting on us to assess the Iraqi threat and to confront it with our allies. They and I firmly believe that Saddam Hussein is duplicitous, deceptive, and dangerous.

Iraq has grim and ghoulish weapons to carry out his evil plans. As part of the Gulf War cease-fire agreement, Saddam Hussein committed to destroying its chemical and biological and nuclear weapons programs and longer-range missiles. Instead, Saddam Hussein is trying to add nuclear weapons to an arsenal that already includes chemical and biological weapons and ballistic missiles.

These threats cannot be ignored and allowed to grow. But these are not only threats to us. These are threats to the international community, and the international community must share the responsibility of addressing them.

I support a robust multinational response to the Iraqi threat. That's why I supported the Levin resolution, urging the United Nations Security Council to fulfill President Bush's request to demand Iraqi disarmament, verified by unfettered inspections, and to authorize the use of multinational force if Iraq refuses to comply.

If the UN refuses to act, then Congress would consider a request from the President to authorize acting alone against Iraq.

Let me be very clear on one point. The United States always has the authority to take military action in self-defense. That is our right under international law, included as Article 51 of the United Nations Charter, and I support that.

President Bush says he has not yet decided whether the use of military force is necessary, and I take him at his word.

The United States should first exhaust all diplomatic and other non-military means.

The United States should give the United Nations the opportunity to fulfill its responsibility to address the Iraqi threat.

The United States should fully pursue whether the UN Security Council will authorize the use of multinational force.

The Bush resolution, the White House resolution, would authorize the President to send our Armed Forces to war against Iraq without any further consideration by Congress.

Under the Levin resolution, which I cosponsored, Congress would remain in session, standing ready to promptly reconsider if the UN does not meet the challenge.

I have had to ask myself, 'Why should the Senate wait to see what the United Nations will do before deciding on the unilateral use of force?

The answer is this:

Voting now in support of unilateral action would take the international community off the hook.

Why would the other members of the United Nations Security Council make the tough decision to effectively authorize war against a member state if they know the U.S. will do it by ourselves?

I believe this resolution would actually weaken the negotiating position of the President and the Secretary of State at the United Nations.

Why would other nations send their troops into harm's way if America is ready to send our troops without them?

Why would other nations join us to rebuild Iraq after a war if Uncle Sam is willing to bear the financial burden, as well as the dangers?

I'm concerned about the prospect of America going it alone because I've thought about the risks and consequences.

The risks and consequences of acting alone are so much greater than they would be for multinational action.

The risks to our troops are greater if allied forces do not join the mission.

The challenge in post-conflict Iraq is greater if other nations do not share the burden and the cost.

The consequences for the war on terrorism are greater if we lose the essential cooperation of other nations in the effort to pursue al-Qaida and other terrorist groups. The consequences on our economy would be severe.

A mandate from the United Nations would mean the international community against Saddam instead of the United States against Iraq, and other countries in the region would join our coalition rather than obstructing or opposing us.

I recognize that I will likely be in the minority on this vote. The Senate and House of Representatives will probably grant the President the broad authority he now seeks.

I will vote differently than the majority, but I want my constituents, particularly our men and women in uniform, to know that I believe my vote represents the wisest, most prudent course with them in mind.

America's soldiers, sailors, airmen, and marines will always have my full and steadfast support. I stand accountable to the oath I took to defend the Constitution against all enemies, foreign and domestic. I hold myself accountable to my constituents, and I am prepared to defend this vote because I think when history is written, it would have been wiser not to give authority to go it alone right now.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 15 minutes.

Mr. SMITH of New Hampshire. I thank the Chair.

Madam President, I can recall 11 years ago—12 years ago actually—I made my maiden speech on the floor of the Senate. It was about Saddam Hussein and going to war with President Bush in office. Here we are 12 years later doing the same thing.

I rise today to again support the President in his duty, I believe, to stop Iraq from bringing weapons of mass destruction throughout the world. When I addressed this topic in January of 1991, I said then that there was a lot of talk about George Bush—President Bush 41—leading us into war. What I said then, and I will say now, is that was wrong. It is Saddam Hussein who is leading us into war. The same holds true today as it did 12 years ago.

Those voices against the Desert Storm operation, some of whom are repeating this same antiwar rhetoric today, are simply wrong. The warmonger is Saddam Hussein. He is now moving us toward another major military engagement with the stakes even higher than they were 12 years ago.

Unfortunately, Desert Storm did not finish the job. There has been some

criticism about that. Given the data and facts President Bush had at the time and with the U.N. resolution, he did what he had to do.

If we calculate the costs of air operations, no-fly zones, and other activities over these past 12 years, containment has not worked. In this age of weapons of mass destruction, relying on a policy of containment and deterrence is a risk we cannot and must not take.

I pulled out a copy of the speech I made in 1991. I do not know anyone in this body who wants war. I do not know anyone in America who wants war. I certainly do not. The President does not. Nobody wants war. Yet we heard today on the floor that President Bush is leading us into war, and that is wrong.

Thomas Paine, who is often quoted, over 200 years ago said: These are the times that try men's souls. This is the time that American service men and women are keenly aware of the enormous burden which the world events have placed upon us. I said that in 1991, and it is true today.

Unfortunately, Saddam Hussein is still with us. The stakes are high. We are in a virtual state of war now with Saddam Hussein and with Iraq, but it has not produced the necessary results. Saddam is again developing the potential to threaten us with weapons of mass destruction and with terrorist attacks.

This threat has to be met. It just simply has to be met head on. And the only answer is the overthrow of Saddam's regime one way or the other—domestically if possible, militarily if necessary. The stakes are simply too high not to do it.

I served in Vietnam. Others have served in war. We all know the stakes. If we do not do this, people may die. If we do this, people will die. Imagine the tremendous burden that is placed now upon the President of the United States.

Democracies do not threaten democracies, and democracies do not start wars. We would all be much safer nations if everybody believed the way we did, but that is not the way it is.

We have learned much in the wake of the vicious attack upon our country on September 11. Frankly, we were pretty much asleep. We were complacent. The terrorist attacks in Africa, the U.S.S. *Cole*, Khobar Towers, our barracks in Saudi Arabia—these losses were largely inflicted on our military and on our State Department personnel, but we were still largely oblivious to the risks we faced right here on American soil. We were not prepared for the devastation of 9/11 and the lives of nearly 3,000 innocent Americans lost. The total costs are immeasurable. Some say as much as a trillion dollars, but how about in the human loss? All the children orphaned, young people, men and women who were embarking on careers—what they might have contributed to America over the next several years we will never know.

What Saddam Hussein is doing has to be met. He is a threat to the people of the world. He is indeed a threat to the world. I know. I have seen enough intelligence on this over the past several years to know—not only to believe it but to know it. Weapons of mass destruction—nuclear, biological, and chemical, whatever they may be—can kill millions in insidious ways throughout the world. We simply cannot let this stand.

I know, having been there, the enormous burden felt by young men and women in uniform who will be there when and if this happens. They need our support. Have the debate, get the debate behind us, and get behind our men and women because they are going to have to do the work, and they deserve our support, unlike Vietnam when the troops did not get that support.

We need to find out where the links to al-Qaida are. They annihilate innocent people by virtue of their religious faith or their national identity. That is what they are doing. They will do it with terrorist bombs on their backs. They can do it with nuclear missiles or biological or chemical missiles as well.

If there are some in doubt, I urge them to go down to the Holocaust Museum and take a look and see what the cost of doing nothing is: 6 million innocent lives annihilated because we stood by as a world and let it go too long, and then we finally stopped it. We cannot let this go too long. Six million lives lost the way Hitler took them is horrible, and as despicable as it was, it is nothing compared to the number of lives that can be taken in more evil and despicable ways now.

Some say we should not take preemptive action. Preemptive action? There is already action taken against the United States of America. Remember the 3,000 people dead. This is not preemptive. We are reacting.

Our survival as a nation is at risk. Earlier this year in the wake of the unprecedented and vicious attack in the United States and world by al-Qaida, President Bush came before the American people in his State of the Union Address and unveiled his advocacy for regime change in Iraq.

That is a sound policy. And this is a terrible dilemma. How would you like to be the President of the United States today, sitting in the White House contemplating what has to be done? Criticized if you take action, criticized if you don't; risking death if you do, risking death if you don't.

There is no time in American history where a decision has been more important. There is no more important debate, ever, in my view, in American history where the stakes are higher than they are right now.

I am standing right now at the desk of Daniel Webster. He probably from this desk made some of the greatest speeches in the history of this body, but none of them, whether they were about slavery or all the great issues of the day of the 1830s and 1840s, even come close to the impact of what could happen by allowing this man, this despot, to move forward in the world unchecked.

We cannot rely on the United Nations, weapons inspectors, or Saddam's word that he is going to comply with inspections and disarm. I wish we could. Neville Chamberlain thought that about Hitler, didn't he?

Saddam Hussein's brutal dictatorship has reigned for 30 years. During these three decades, we have seen him attack Iran in a war that took a million lives; we have seen him repress, through murder and terror, ethnic and political elements in Iraq; We have seen him use weapons of mass destruction on 250 occasions against the civilian population. He had come close to producing a nuclear device before the gulf war and is successfully continuing these efforts despite several years of failed weapons inspections. He has breached international law. He has invaded Kuwait. He set oil wells on fire. He has threatened the stability of the world. He prompted the use of military force to contain him, and Saddam Hussein has tried to assassinate a former President of the United States of America.

He is a sponsor of Islamic terrorism throughout the world, and his regime has harbored the likes and established relations with Osama bin Laden's al-Qaida. What more evidence do we need to act?

This resolution also touches my heart in another way. This resolution makes very brief mention that Iraq has failed to account for an American serviceman. It might be a small matter compared to the big issue of war with Iraq, but Captain Speicher, who was shot down over Iraq, was the first pilot lost in the war. He was pronounced dead by the Pentagon, but there is no evidence that he is dead. The information was incorrect. His status changed in January 2001. I worked for 7 years to change that status and President Clinton, to his credit, prior to leaving office, changed that status. I give him great credit for that because he very well may be a prisoner held by Saddam Hussein today. In short, whether he is a prisoner or not, Saddam Hussein knows what happened to him. We do not. This is simply unacceptable.

By not seeking a regime change in Iraq, by not backing our policies with military force, by not dismantling Saddam's regime and weapons of mass destruction, I am concerned America will repeat its folly and give Saddam the breathing room to produce a nuclear device, proliferate it, threaten to use it, or use it. He will continue to support terrorism which devastated our Nation.

I supported the resolution on Iraq during the administration of President Bush 41, and I will support the resolution of this President Bush to give him the power to authorize the use of military force against Iraq.

I will close with a comment I made in my closing remarks in 1991:

Stand with the Commander in Chief. Have the courage to stand with him who was elected by all of the American people. Stand with him, and stand with our sons and daughters in the Persian Gulf. Do not give Saddam Hussein a reason to doubt our resolve. Stand together. Let us discard Saddam Hussein on the garbage heap of history along with the other despots like Khrushchev, Stalin, and Hitler. That is where he belongs, and that is where we are going to put him sooner or later.

Unfortunately, it is a little bit later than we expected. We need not fear. We are the greatest Nation in the world, with the greatest people, and I believe it is the right thing to confront this monster and do it now. That is why I will be supporting President Bush.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Washington is recognized for 30 minutes.

Ms. CANTWELL. Mr. President, I come to the floor today to discuss S.J. Res. 46, the Lieberman, Warner Bayh-McCain resolution, and the issue that everyone of my colleagues agree on—that Iraq is in serious violation of its U.S. and U.N. agreements prohibiting its possession of weapons of mass destruction.

What my colleagues cannot agree on is how we should go about disarming Iraq.

Let me add my views.

I believe that the best way to deal with the threat posed by Saddam Hussein is to build a multinational coalition and engage the United Nations.

But we can't ask the United Nations to disarm Saddam Hussein if we are not willing to disarm him ourselves.

Today's vote for S.J. Res. 46 is a statement of national resolve to disarm Saddam Hussein. By showing our unity as a nation, we help the United States unite the world against his continued effort to use weapons of mass destruction.

History has shown that we have been very patient with Saddam Hussein.

First, let us remember that the United States and 34 other nations were at war with Iraq in 1991.

After 3 months of war in which the U.S. coalition lost 556 lives and 502 wounded—including seven young men from my home State—not to mention the estimated 100,000 Iraqis killed—we negotiated a cease-fire agreement with Iraq that ended our military campaign.

This cease-fire was approved in return for Saddam Hussein's promise that he would unconditionally accept the destruction and removal of all biological, chemical and nuclear weapons and to allow U.N. inspectors to verify the elimination of these programs.

This cease-fire agreement was even signed by the Iraq government.

We staked lives, resources, and diplomatic weight on that promise, and yet here we are today because of the noncompliance of that issue.

If military action is eventually taken by a UN-backed effort or multinational US effort, that military action would not be a pre-emptive strike, but the enforcement of the Iraqi government cease fire agreement.

In fact, I would say we have been in a constant battle of enforcement for 11 years on this enforcement issue.

Shortly after the cease-fire agreement in 1991, Saddam Hussein started to thwart the cease fire agreement.

For 7 years, inspectors were sent to Iraq to verify his promise to disclose and destroy his cache of chemical, biological and nuclear weapons, and for 7 years Hussein obstructed the inspectors efforts.

Saddam Hussein did hide and inspectors did find weapons of mass destruction—literally tons of them—most of which were unaccounted for in the final reports'' and in clear breach of the cease-fire agreement.

Saddam Hussein even bugged the UNSCOM offices in Bahrain and New York, disguised weapons and hid them in various places. He leaked false intelligence and blatantly lied over, and as Sandra Mackey outlines in her book, ''The Reckoning, Iraq and the Legacy of Saddam Hussein,'' ''Hussein's tactical war of cheat and retreat with UN arms inspectors gave him power to remain a world figure and gain a hold over his own people.''

What has been our response and the response of the United Nations?

We have tried economic sanctions to get Iraq to comply with the disarmament agreement—and they have failed miserably.

It is the innocent Iraqi people that feel the effects of sanctions, including hunger and a lack of medical care.

Saddam Hussein not only continues to eat well—hoarding much of the aid and food imported into Iraq through the oil-for-food program—but he builds palaces, and he devotes substantial riches toward developing weapons of mass destruction.

We have tried sending a strong signal to the United Nations.

In 1994, I joined my colleagues in the House of Representatives in calling for the United Nations to take action on Iraq's noncompliance.

The House resolution went even further and urged the President and the United Nations to establish a tribunal to charge Saddam Hussein as a war criminal.

That vote showed a clear consensus eight years ago when members of the House agreed that Saddam Hussein was neither a legitimate ruler nor an honest actor in the ceasefire and UN agreements.

In 1998, we increased military pressure in the region and even conducted a military strike under President Clinton called Operation Desert Fox—hoping that the threat of force and the destruction of military installations would bring Hussein to reason and allow the inspectors back in.

While this limited military pressure produced some initial results, as soon as the United States turned down the heat Saddam Hussein went back to his old ways.

Where are we today.

For 11 years since our cease-fire agreement with Iraq we have tried to stop Iraq's effort to develop weapons of mass destruction.

In reality, our efforts have failed to stop his continued build-up of weapons of mass destruction.

The United Nations should never have allowed Saddam to negotiate the terms of inspections.

When he crossed the line in the sand that separated Iraq from Kuwait, Hussein demonstrated to the world his absolute disregard for international law; and his defiance of the will of the international community.

He also displayed, on a world platform, his utter disdain for the principles of human rights and a free society; and revealed to the world a frightening weapons capacity, including chemical and biological weapons and substantial progress towards developing a nuclear weapon—all of which he intended to use to advance his regional ambitions and threaten enemies.

Saddam Hussein is a global menace that we cannot simply wish away.

By doing nothing the world is not only failing to enforce the terms of a cease-fire that we fought for; but it is allowing a dangerous threat to grow that deserves renewed immediacy.

This immediacy was demonstrated 13 months ago, when we witnessed the devastating steps that terrorists were willing to take and we know that this problem is not going away; and Saddam only increases the danger.

Some citizens say there are other countries in the world producing weapons of mass destruction and could be a source of aid to terrorists. Why worry about Iraq?

I know of no other country that has posed such a unique threat by: Violating of US/UN cease-fire agreement to stop development of weapons of mass destruction; Using weapons of mass destruction in war or against its own people; and Refusing to help the U.S. in the Afghanistan war on terrorism and actually applauded the efforts of Al Quida of 9/11.

We are now considering a resolution that I believe will take a positive step towards effectively dealing with the threat of Saddam Hussein, his failure to comply with the terms of the 1991 ceasefire agreement.

The best way to do that is to bolster the President's and the U.S. efforts by sending a message to the U.N. Security Council that we must act. This vote tells the President of the United States we agree Saddam Hussein and his failure to comply with the cease-fire agreement constitutes a serious breach and a threat to global stability.

The vote tells the President we firmly support his promise to go to the United Nations Security Council and live up to the responsibilities to enforce a cease-fire agreement that Iraq has continued to try to subvert. This vote is a statement of national resolve that Saddam Hussein must be disarmed

by peaceful means, if necessary, but by showing our unity as a nation, that we, the United States, will help eliminate this threat and will unite the world behind it.

Some have called this unconditional authorization. That is not the case. Senators LIEBERMAN, WARNER, BAYH, and others have made great progress on this legislation. There are conditions. It requires a limited scope of operations in the Iraq theater, continued consultation with Congress on military action, and serious reporting requirements to inform Congress of the commencement progress and plans of both operations and postwar strategies.

I make clear this resolution does not endorse a unilateral action. If for some reason the U.N. Security Council does not act, I expect the President to make a major and aggressive diplomatic effort to enlist other partners around the globe in doing the right thing to stop Hussein's efforts. The President has promised Members of Congress, including the chairman of the Foreign Affairs Committee, that he would be committed to developing a coalition of allies for military action. We know how important these coalitions are. We expect the President to fulfill this promise.

My vote for this resolution does not mean I am convinced the administration has answered all the questions. In fact, I believe the following issues must be addressed—there are several—before the U.N. or the United States takes military action: First, it is clear we need a continued, multilateral approach. The President must continue to make the disarmament of Iraq a global issue. The rhetoric surrounding Iraq earlier this summer was unilateralist. It offended our allies and others who might have been with us. It brandished the view around the world that the United States is an arrogant power, and did serious damage to our relationship with many important powers in the Middle East region.

The President's September speech to the United Nations reflected a new chapter and much needed improvement in the administration's efforts to confront Saddam Hussein. He made clear that the priority of the administration was to mobilize an international effort to enforce the cease-fire.

Second, we must understand what our successful military strategy is. This vote is not an endorsement of the President's military strategy, mainly because we have not been given what it is. However, there is good reason to believe that this operation, which may require force to enter Baghdad, will prove substantially more complex and difficult and costly than Operation Desert Storm—not only in its economic cost, but most important, in the lives of soldiers and innocent Iraqi citizens. This is, indeed, a troubling scenario. And if the administration ultimately acts within the scope of this authorization, it must be up front and honest with Congress and the American people in explaining what we are up against.

Third, we must have a postwar commitment strategy. This vote is not an endorsement of the President's postwar scenario either, largely because I have not seen details on that. We have heard some broad outlines, if, in fact, action by the U.N. or U.S. troops were taken. But we need to realize the process of creating a peaceful and stable post-Saddam Iraq will be huge and expensive and politically volatile.

If the President does not commit to multilateral military action, we must similarly commit ourself to a serious long-term strategy to bring about freedom, representative democracy, and prosperity to the people of Iraq. This will require a substantial obligation and commitment.

Fourth, fighting the broader war on terrorism cannot be left behind. And while the President has made the point that this effort is related, we need to make sure if we commit troops to the Persian Gulf, that we will not be diminishing our other efforts on the war on terrorism.

Fifth, and probably the challenge that most of my colleagues have tried to address, maintaining the Middle East stability. I do remain very concerned about the effective military action and the volatile situation that may occur in the Middle East. The Israeli-Palestinian conflict remains in a disappointing and potentially volatile state. We must be aware that any action in Iraq and the possible extension to Israel poses a serious threat to the future peace in this region.

If the administration or the U.N. selects military action against Iraq within the scope of this resolution, we must work aggressively through diplomatic channels to ensure that such action is kept separate and distinct from the Israeli-Palestinian conflict.

And lastly, we must protect Iraqi civilians. We cannot diminish the serious concerns regarding the effective potential military action on that population. They have been the victims of a brutal, harsh and inhumane dictator who has not only stripped away their political liberty and free expression but also distributed to Iraqi populations economic deprivation, malnutrition, lack of medicine, and diverted billions of dollars into other programs.

If the President of the United States or the U.N. determines that we should move forward within the framework of this resolution and military action must be taken, it must be used as a last resort.

The President needs to take leadership and work with Congress to incorporate the issues I have just mentioned and come back to Congress and consult with them.

I take this vote very seriously. The men and women in the Armed Forces from Washington State may very well be called into action. Whether it be our troops at Fort Lewis, our refueling tankers flying out of Fairchild Air Force Base in Spokane, our cargo planes from McChord, our radio jammers or P–2 aircraft out of Whidbey Island, or even the men and women of the U.S.S. *Abraham Lincoln* who were recently in the Persian Gulf, or the thousands of men and women serving in Washington State—I hope our vote tonight with the President's multilateral effort will lead to a successful result where we would not need to use these personnel. But if we do, I know these men and women will be ready to meet the task with conviction, resolve, and professionalism.

I do not now, nor have I ever believed, that military action is our preferred method to address international conflict. But I have seen over the last 11 years, Saddam Hussein has consistently failed to live up to the 1991 cease-fire agreement, and his noncompliance is a dangerous failure that this body must address. This problem is not going away. If anything, it will grow increasingly more dangerous as Saddam Hussein increases his chemical, biological, and nuclear weapons stockpile.

There is no question that we are looking for a strong and effective response from the United Nations Security Council, and I believe this vote sends an important message to the United Nations Security Council and gives the President the domestic backing he needs to get that international support. By being serious, forceful, and resolute in expressing our dissatisfaction with Saddam Hussein for his continued noncompliance, I think we are charting the best course for an international response. We are taking action in this body tonight, and we want the international community to take action with us.

I yield the floor.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Chair recognizes the Senator from North Dakota for 30 minutes.

Mr. CONRAD. Mr. President, in a few moments we will make one of the most fateful decisions for our country. We will decide if we authorize the President to take this Nation to war. As with every momentous debate in this Chamber, our deliberations will resonate long into the future. Few decisions will have greater consequences to the people we represent and to the future of our Nation.

Before I ask young men and women to put themselves in harm's way, I must be convinced we have exhausted every other possibility, pursued every other avenue. For me, and I believe for the people I represent, war must be the last resort.

As we debate the course this Nation will take, some facts are clear and unassailable. Saddam Hussein is a menace to the whole region of the Middle East and a vicious tyrant who harms and oppresses his own people. He has waged war against neighboring nations, and he has attacked the people of his own country. He has acquired

chemical and biological weapons. He is attempting to acquire nuclear weapons and the means to deliver those weapons using ballistic missiles.

There is no question that Saddam Hussein is ignoring the will of the United Nations and that he has not honored the agreements he made following the Gulf War. Saddam Hussein is a dangerous force in the world.

I agree that we must take action. The question is, What course do we take? How do we best protect the national security of our country?

A decade ago in the gulf war, Saddam Hussein launched a surprise attack on Kuwait and we rallied a powerful international response to defeat him. Today, we debate a much different scenario. Saddam has not directly threatened his neighbors since the gulf war. In a recent threat assessment from the Central Intelligence Agency, it concludes that Iraq is not likely to initiate a chemical or biological attack on the United States. Yet the President is contemplating a preemptive invasion of Iraq with the goal of ousting Saddam Hussein and installing a new regime. Never before in the history of this Nation has the Congress voted to authorize a preemptive attack on a country that has not first attacked us or our allies.

Let me be clear. I do not oppose the use of force against this lawless and dangerous tyrant, but I cannot support the resolution before us as it stands. It is too broad and open-ended, and I do not believe it is in the national security interest of the United States. In my judgment, an invasion of Iraq at this time would make the United States less secure rather than more secure. It would make a dangerous world even more dangerous.

First, we have unfinished business with the terrorists of al-Qaida. For the past year we have all agreed that combating al-Qaida was our first priority. News reports just this morning warned us of the danger of renewed terrorist attacks against our country, organized and orchestrated by al-Qaida. I believe defeating the terrorists who launched the attacks on the United States last September 11 must be our first priority before we launch a new war on a new front. Yet today the President asks us to take action against Iraq as a first priority. I believe that has the priority wrong.

Second, a unilateral invasion could prompt the very attack we seek to preempt. In just the last few days, the CIA has reported that there is a very low probability Saddam Hussein would launch a biological or chemical attack against the United States or our interests in the region. However, if we launch a unilateral invasion, the risk rises dramatically that a desperate Saddam would use biological and chemical weapons.

Brent Scowcroft, National Security Adviser to former President Bush, wrote that in the wake of an invasion:

> Saddam would be likely to conclude he had nothing left to lose, leading him to unleash whatever weapons of mass destruction he possesses.

Third, an invasion of Iraq for the purposes of regime change would necessitate a march on Baghdad. Such a course would expose our forces on the ground to serious risks in hand-to-hand, street-by-street urban warfare in a foreign capital. We would lose much of our advantage in superior airpower and technology. The military and civilian casualties could be substantial.

The former Commander in Chief of the U.S. Central Command, retired Marine Corps General Joseph Hoar, testified before Congress:

> In urban warfare you could run through battalions a day at a time. All our advantages of command and control, technology, mobility . . . are in part given up.

Those are sobering words—battalions a day at a time.

Fourth, a unilateral attack by the United States could destabilize an already volatile and dangerous region and inflame anti-American interests around the globe. An American invasion could doubtless impact the Israeli-Palestinian conflict. The backlash in Arab nations could further energize and deepen anti-American sentiment. Al-Qaida and other terrorist groups could gain more willing suicide bombers and raise even greater financial resources from the wealthy nations of the region.

General Wesley Clark, the former Supreme Allied Commander, Europe, put it succinctly: ''If we go in unilaterally or without the full weight of the international organizations behind us, if we go in with a very sparse number of allies. . . . we're liable to super-charge recruiting for al Qaeda.'' Let me repeat that. ''We're liable to super-charge recruiting for al Qaeda.''

Fifth, if this nation asserts that preemptive military attacks are justified in this conflict, what are the consequences for other conflicts around the globe? Would India or Pakistan claim the same justification in Kashmir, raising the prospect of nuclear war in South Asia? Could China use this precedent to attack Taiwan, potentially drawing the U.S. into a major war with China? Could Russia use this justification to re-occupy parts of the former Soviet Union?

And sixth, while the financial costs of this effort should not drive this debate, we cannot ignore them. The Congressional Budget Office has just estimated that an invasion of Iraq could cost this nation $6 billion to $9 billion a month. That is a significant financial toll at any time, but particularly when we are still engaged in conflict in Afghanistan. The economic downturn makes the expense even harder to bear.

CBO estimates that the costs of an invasion plus a five-year occupation would reach some $272 billion. How will we pay for this? Does the White House propose new taxes? Or are we to assume that this will be paid for out of the Social Security trust funds? Will we go deeper and deeper into debt? Or does the President suggest cuts in key domestic programs, such as education, highways, or healthcare.

Which brings me to my final point. If our goal is to topple Saddam, what is our responsibility for the regime that follows:

Forming a new government in Iraq is far from simple. There is no clear successor to Saddam Hussein. Iraq is a country filled with competing ethnic groups and religious and tribal factions with no history of democracy.

I do not want to see our forces mired in a long occupation, in dangerous territory, in a destabilized region, subject to violence within Iraq. I do not want to see the United States responsible for the stability of Iraq, the economy of Iraq, and the political future of that nation.

I began by saying that while I do not oppose the use of force against this dictator, war must be our last resort. I believe history has important lessons for us.

Many other dangerous dictators have acquired weapons of mass destruction, or tried to. Yet we successfully contained the Soviet Union, Communist China, and North Korea and others without resorting to a pre-emptive first strike. Again and again, we have seen the scenario. A vicious dictator amasses weapons of mass destruction, threatens his neighbors, and threatens the United States.

Always in the past, we have chosen containment and deterence—not invasion. In the past, we have contained the dictator, rallied international support to isolate him, and together with our allies carried out a disciplined, forceful and effective strategy of deterrence. We did not launch an invasion.

Even when the Soviet Union placed nuclear missiles just 90 miles off our coastline, we did not invade. Rather, President John F. Kennedy issued an ultimatum—a successful ultimatum. We demanded the removal of those missiles. We succeeded, and we brought the world back from the brink of a nuclear conflict that might have engulfed the world.

Historian Arthur Schlesinger, Jr., recently asked: ''Why not . . . try the combination of containment and deterrence that won us the Cold War? Saddam is not likely to attack other countries. He knows that he would be playing into Bush's hands. Retaliation would be prompt and overwhelming, and Saddam has no interest in suicide. The one situation that might induce him to use his weaponry is a U.S. attack on Iraq.''

The historical lesson is clear. There are disciplined and forceful actions we can take against dictators and aggressors short of invasion, actions that can succeed.

Clearly, if Saddam Hussein were to attack this country—or if we had strong evidence that an attack on this country were imminent—we would have every right to defend ourselves. In that case, Saddam should have no

doubt that the United States would obliterate him.

If the President has new knowledge on an imminent threat from Iraq that contradicts the statement of his CIA Director just this week that an attack is unlikely, he should reveal it to this Congress. I believe in protecting our people and our allies from imminent danger. But I believe the President must present stronger evidence to the Congress and the American public before he reverses a strategy that has worked well against dictators around the world. Before this nation strikes first, strikes unilaterally, strikes preemptively, we must know how this threat is different from those that have come before.

Inaction and appeasement are not options. We must be prepared to use force to defend out national security interests, with or without the support of the UN. And I support the use of force against Iraq in the following circumstances.

We need no one's permission to fight back when attacked, and force would be fully justified in the case of an Iraqi attack against this country or our allies. Force would also be justified if we were presented with clear and compelling evidence Saddam was preparing an imminent attack on this nation, or on our allies.

Additionally, the use of force would be justified if we were provided with credible evidence that Saddam was linked to the September 11th attacks on this nation or if Saddam were to provide weapons of mass destruction to terrorists.

Finally, I believe we must be prepared to use force in concert with our allies to destroy, Iraq's weapons of mass destruction if Saddam refuses to comply with UN resolutions ordering him to disarm.

I support the use of force when it is in our national security interest. I voted for the Levin amendment to authorize the use of force to disarm Saddam Hussein and affirm our right to self defense. I also voted for the Durbin amendment to authorize the use of force to destroy Iraq's weapons of mass destruction.

For all the reasons I have cited, I believe an invasion of Iraq must be a last resort, not a first response. Instead, I believe we can and should take a phased approach.

First, we should exhaust every option available to us at the United Nations. Saddam has defied the U.N. in the past, but the growing U.S. and international pressure, and the imminent threat of military action may give the process new life. Further, our allies will be more willing to join with us if we exhaust every option at the U.N.

Next, we should make every attempt to forge the same strong coalition of nations that brought Saddam to his knees during the Gulf War. The knowledge that he is an outlaw in the eyes of the world community will send a powerful message to Saddam to comply with the U.N. resolutions he agreed to after the Gulf War.

I believe we should issue an ultimatum to Saddam to allow weapons inspections and immediately disarm. If he does not comply we can then take swift military action to force his compliance and deprive him of his weapons. But I do not believe we should authorize an invasion of Iraq tonight.

I know this vote will place me with a small minority of colleagues here, but I must vote my conscience.

I say to the President and to my colleagues that while I do not support this resolution, I know it will pass. And if the President exercises the authority it grants him to launch a unilateral invasion of Iraq, I will stand with him. I will do everything in my power to support our troops and ask for the support of our allies. Like every American on that day, I will pray for the safety of our soldiers in battle, the wisdom of our leaders, a swift victory, and the lasting peace that has so far eluded the troubled peoples of the region.

Mr. LEVIN. Mr. President, I would like to explain why I am voting against final passage of the Lieberman amendment. I have already explained much of my reasoning during the debate on my earlier amendment, but I wanted to state my opposition in one place.

Section 4 of the Lieberman amendment authorizes the President to use the Armed Forces of the United States, one, ''against the continuing threat posed by Iraq;'' and, two, to ''enforce all relevant United Nations Security Council Resolutions regarding Iraq.''

This grant of authority under (1) above, with its threshold of ''continuing threat,'' is virtually the issuance of a blank check to the President to use U.S. military force, since the Findings section of the amendment already contains the statement that ''Iraq poses a continuing threat to the national security of the United States.''

The only limitation on the President's authority is found in section 4 of the amendment which requires that the President submit his determination to the Congress, within 48 hours after he exercises such authority, that further diplomatic or other peaceful means alone will not protect our national security or is not likely to lead to enforcement of all relevant Security Council Resolutions and that exercising such authority is consistent with the continuation of the United States and other countries actions against international terrorism.

This grant of authority is also unacceptable since it empowers the President to initiate the use of U.S. military force although the threat against which it is used is not imminent. International law has required that there be an imminent threat before one initiates an attack under the rubric of self defense. The resolution's language regrettably, therefore, serves to implement the President's desire, as expressed in his September 2002 National Security Strategy, to ''adapt the concept of imminent threat to the capabilities and objectives of today's adversaries.'' This unfortunate precedent, if followed by, for example, nation A as a justification to use aggressive military force in the name of self-defense against nation B that nation A perceives poses a continuing threat to it, although the threat is not imminent, could lead to an increase in violence and aggression throughout the world. And it could have extraordinary consequences for the world if one or both of such nations possess nuclear weapons, such as India and Pakistan.

The grant of authority under (2) above, to enforce all relevant U.N. Security Council Resolutions regarding Iraq is also unacceptable. For instance, Iraq is presently in default on its obligations under relevant Security Council Resolutions that require it to return Kuwaiti archives and property. It is exceedingly unwise to provide such a broad grant of authority when the real threat that Iraq poses is because of its refusal to destroy its weapons of mass destruction and prohibited delivery systems.

The Lieberman amendment also sends the wrong message to the United Nations. It contradicts the thrust of the President's speech to the U.N. General Assembly on September 12 when he said ''We will work with the U.N. Security Council for the necessary resolutions'' and ''We want the United Nations to be effective, and respectful, and successful.'' That is so because, at the same time that Secretary of State Powell is trying to negotiate with the U.N. Security Council for the very resolution that the President said he wants, the Congress would be vesting extraordinary authority in the President of the United States to ''go it alone,'' to use U.S. military force whether or not the Security Council authorizes Members States to use military force to enforce its resolutions. By telling the Security Council, if you don't act, we will, we are letting them off the hook. We should, instead, as we did at the time of the Gulf War, be putting all of our focus on having the Security Council adopt the requisite resolution and committing forces to implement it. We should be working to unite the world community, not divide it.

Finally, and perhaps most importantly, the Lieberman amendment compounds all of these problems by authorizing the use of U.S. military force at this time unilaterally, i.e., without U.N. Security Council authorization. The unilateral, go-it-alone use of U.S. military force carries with it all of the risks that could be avoided or, at least, reduced by acting multilaterally, i.e., with the strength and world-wide political acceptance that flows from U.N. authorization. If we act unilaterally, will we be able to secure the use of airbases, supply bases, and overflight rights that we need; will there be a reduction in the international support we are receiving for the war on terrorism;

will it destabilize an already volatile region and undermine governments such as Jordan and Pakistan; will Saddam Hussein and his generals be more likely to use weapons of mass destruction against our forces and other nations in the region; will we be undercutting efforts to get other nations to help us with the expensive, lengthy task of stabilizing a post-Saddam Iraq? These are serious short- and long-term risks that will be exacerbated if we act unilaterally rather than multilaterally.

Accordingly, and for all of these reasons, I will cast my vote against final passage of the Lieberman amendment.

VOTE ON AMENDMENT NO. 4856, AS MODIFIED

The PRESIDING OFFICER. Under the unanimous consent agreement, the question now occurs on agreeing to amendment No. 4856, as modified.

The amendment (No. 4856), as modified, was agreed to.

Mrs. BOXER. Mr. President, in 1991, just prior to the Persian Gulf war, I was the author of legislation that would have allowed one parent of a dual military couple to receive a waiver from deployment to areas where combat is imminent.

I remain very concerned about this issue and fear that if the President decides to use force against Iraq, minor children may face a situation in which both parents are deployed. The Military Family Resource Center estimates that there are approximately 35,000 dual military couples with children serving in the military today.

According to the Department of Defense, request for combat exceptions can be submitted at any time and military personnel may apply for reassignment for humanitarian or compassionate reasons. However, there are no specific policies restricting both parents from being assigned to a war zone.

I hope the Senator from Virginia, the ranking member of the Armed Services Committee, will join me in urging the Secretary of Defense to do everything possible to see that dual military couples are not deployed concurrently to a war zone.

Mr. WARNER. I understand the Senator's concerns, and I believe that the Department of Defense is already very sensitive to this situation, as reflected in the assignment policies of the military services. I trust the Department will continue to make every reasonable effort, through existing practices and policies, to avoid situations in which both parents would be deployed to a combat zone.

I thank the Senator from California for once again focusing attention on this issue.

Mr. REID. Mr. President, this is an important issue that Senator BOXER has raised and that she has been concerned about for many years; that is, when both parents of minor children are in the military, the Secretary of Defense should make every effort to ensure that both parents are not deployed in combat at the same time.

If we do indeed go to war against Iraq, this is an important issue that needs to be addressed, and I thank the Senator from California for raising it.

Mr. SHELBY. Mr President, I rise today in support of the resolution authorizing the use of military force against Iraq.

I support this resolution because the threat posed by the brutal dictatorship of Saddam Hussein is real, immediate, and growing.

The threat is real because Saddam possesses conventional, chemical, and biological weapons. He also is doing everything in his power to acquire the means to construct and field nuclear weapons.

The threat is real because Saddam has used his conventional and chemical weapons to attack his neighbors and his own people.

The threat is real because Saddam has openly defied the world and has made no secret of his enmity toward the United States and our allies. Saddam even attempted to assassinate a former American President.

The threat is immediate and growing because Saddam has extensive and growing ties to terrorist organizations that have either attacked the United States or declared the United States to be a legitimate target of their twisted crusade that they call ''jihad.''

The threat is immediate and growing because Saddam has developed the ability to deliver his poisons and pestilence by unmanned aerial vehicles that can easily be smuggled into the United States.

The threat is immediate and growing because Saddam has circumvented the sanctions regime to such an extent that he is virtually unrestrained by resources in his pursuit of weapons of mass destruction.

Let me put this in a historical context.

Following its bloody war with Iran, Hussein's Iraq was heavily in debt. While continuing to spend billions on weapons of mass destruction and long-range missiles, Saddam, in 1990, invaded and plundered Kuwait in order to help pay his bills. With that act, he made it clear that his priority was to feed the war machine which kept him in power.

In 1991, Kuwait was liberated and the Persian Gulf war ended when Saddam Hussein committed to abide by U.N. Security Council resolutions. Since then, he has broken those commitments. He ignored U.N. weapons prohibitions and ruthlessly crushed rebellions of the Shia and the Kurds.

Today, he continues to violate U.N. resolutions, the very commitments he made to save his regime. His actions continue to impose terrible hardships on his own people. After a decade of sanctions, Saddams's unwillingness to relinquish his prohibited weapons programs continues to cost his country tens of billions of dollars.

There are those who believe that a new U.N. Security Council resolution and renewed inspections are the answer. In reality, inspections will accomplish little, delay the inevitable and provide Saddam with yet more time to field additional weapons of mass destruction.

U.N. Security Council Resolutions have required much of Saddam and produced very little.

Starting in April 1991, Resolution 687 requires Iraq to declare destroy, remove, or render harmless under U.N. or International Atomic Energy Agency supervision and not to use, develop, construct, or acquire all chemical and biological weapons, all ballistic missiles with ranges greater than 150 kilometers, and all nuclear weapons-usable material, including related material, equipment, and facilities. What has happened?

Saddam has refused to declare all parts of each WMD program, submitted several declarations as part of his aggressive efforts to deny and deceive inspectors, and ensured that certain elements of the program would remain concealed. The prohibition against developing delivery platforms with ranges greater than 150 km allowed Baghdad to research and develop shorter-range systems with applications for longer-range systems.

Additionally, the prohibition did not affect Iraqi efforts to convert full-size aircraft into unmanned aerial vehicles for use as potential WMD delivery systems with ranges far beyond 150 km.

Resolution 707 enacted in August 1991, requires Iraq to allow U.N. and International Atomic Energy Agency, IAEA, inspectors immediate and unrestricted access to any site they wish to inspect. it also demands that Iraq provide full, final, and complete disclosure of all aspects of its WMD programs; cease immediately any attempt to conceal, move, or destroy WMD-related material or equipment; allow UNSCOM and IAEA teams to use fixed-wing and helicopter flights throughout Iraq; and respond fully, completely, and promptly to any Special Commission questions or requests. What has happened?

In 1996, Saddam negotiated with the UNSCOM Executive Chairman modalities that it used to delay inspections, to restrict to four the number of inspectors allowed into any site Baghdad declared as ''sensitive,'' and to prohibit them from visiting altogether sites regarded as sovereign. These modalities gave Iraq leverage over individual inspections. Iraq eventually allowed larger numbers of inspectors into such sites but only after time consuming negotiations at each site.

Resolution 715 adopted in October 1991, requires Iraq to submit to long-term monitoring of Iraqi WMD programs by UNSCOM and IAEA; approved detailed plans called for in United Nations Security Council Resolutions 687 and 707 for long-term monitoring.

In reality, Iraq generally accommodated U.N. monitors at declared sites but obstructed access and manipulated the monitoring process.

Beginning in March 1996, Resolution 1051 established the Iraqi export and import monitoring system. This system requires U.N. members to provide IAEA and UNSCOM with information on materials exported to Iraq that may be applicable to WMD production, and requires Iraq to report imports of all dual-use items.

In reality, Iraq is negotiating contracts for the procurement, outside of U.N. controls, of dual-use items with WMD applications. The U.N. lacks the staff needed to conduct thorough inspections of goods at Iraq's borders and to monitor imports inside Iraq.

In June 1996 the following resolutions were adopted: Resolutions 1060, 1115, 1134, 1137, 1154, 1194, and 1205. These demand that Iraq cooperate with UNSCOM and allow inspection teams immediate, unconditional, and unrestricted access to facilities for inspection and access to Iraqi officials for interviews. U.N. Security Council Resolution 1137 condemns Saddam for his refusal to allow entry into Iraq of UNSCOM officials on the grounds of their nationality and for his threats to the safety of U.N. reconnaissance aircraft.

Throughout the inspection process in Iraq, Saddam consistently sought to impede and limit UNSCOM by blocking access to numerous facilities, sanitizing sites before the arrival of inspectors and routinely attempting to deny inspectors access to requested sites and individuals. At times, Saddam would promise compliance to avoid consequences, only to renege later.

Resolution 1154 enacted in March 1998, demands that Iraq comply with UNSCOM and IAEA inspections and endorses the Secretary General's memorandum of understanding with Iraq, providing for ''severest consequences'' if Iraq fails to comply.

Resolution 1194 adopted in September 1998, condemns Iraq's decision to suspend cooperation with UNSCOM and the IAEA.

Resolution 1205 adopted November 1998, condemns Iraq's decision to cease cooperation with UNSCOM.

These resolutions were meaningless without Iraqi compliance. Baghdad refused to work with UNSCOM and instead negotiated with the Secretary General, whom it believed would be more sympathetic to Iraq's needs.

Finally, in December 1999, Resolution 1284 established the United Nations Monitoring, Verification, and Inspection Commission, UNMOVIC, replacing UNSCOM. The resolution demanded that Iraq allow the commission's teams immediate, unconditional, and unrestricted access to any and all aspects of Iraq's WMD programs.

Iraq repeatedly has rejected the unrestricted return of U.N. arms inspectors and claims that it has satisfied all U.N. resolutions relevant to disarmament. Compared with UNSCOM, Resolution 1284 gives the UNMOVIC chairman less authority, gives the Security Council a greater role in defining key disarmament tasks, and requires that inspectors be full-time U.N. employees.

Saddam has manipulated the U.N. before, and if permitted, he will do it again. Right now, Saddam is ''shuffling the deck'' to hide his prohibited items in anticipation of the return of inspectors.

I believe that inspectors will not set foot in Iraq until Baghdad is ready for them. If they were to return, they would be starting from square one in a hostile and deceitful environment.

In a June 11, 2000 article, Charles Duelfer, the former deputy executive chairman for UNSCOM, noted that, ''. . . the attempt to disarm Iraq of its weapons of mass destruction was doomed from the start. This failure repeats the same mismatch between disarmament goals and disarmament mechanisms that frustrated efforts to disarm Germany . . .'' after the First World War.

In the Versailles Treaty of 1919, the victorious allies imposed disarmament obligations upon a defeated Germany. An international organization called the Inter-Allied Control Commission was created to implement those provisions. The Germans, however, were very adept at denial and deception. Consequently, Germany was able to preserve illicit armaments and weapons production. The Germans argued that the inspectors were too demanding and acted like spies. Does this rhetoric sound familiar?

The lessons of appeasement are not intended solely for history classrooms. These lessons are to be learned and where relevant, applied. Saddam Hussein's priorities have not changed and I do not believe that they ever will, so we must act before his alliance with terror finds it way to our shores.

Much has been said about how unprecedented it would be to engage in anticipatory self defense by taking military action against Iraq. In one respect, this is true: it is a step that our country has historically tended to shy away from taking.

But ''unprecedented'' is not the same thing as illegal or improper. Scholars have debated the idea of anticipatory self-defense for many years, and while there is no consensus upon its exact meaning, the idea is clearly not foreign to international law.

Under article 2 of the United Nations Charter, countries may not use the ''threat or use of force'' in a manner inconsistent with the purposes of the United Nations. Article 51 of the charter also recognizes that countries have an inherent right of both individual and collective self-defense.

Reading articles 2 and 51 together, it is clear to me that the right to self-defense can arise not only in response to the ''use'' of force but also in response to the threat of the use of force.

That this must be the case should be clear to anyone familiar with the dangers of the modern world. At some point in the past, it might have been possible to wait until an attack actually occurs before striking back. Today, however, such a rule would clearly be unworkable, so dangerously unworkable as to imperil the inherent right of self-defense in the first place.

Today, the proliferation of weapons of mass destruction make it madness to wait until one is attacked first. These basic military realities compel us to understand the idea of self-defense in response to a threat in broader ways than before.

To paraphrase U.S. Supreme Court Justice Robert Jackson, the law is not a suicide pact.

The law does not require us to wait for a biological weapon such as smallpox or a genetically engineered anthrax strain to be used to kill potentially millions of Americans before we have the right to attack the would-be user.

Especially in this age of modern transportation, biological weapons know no boundaries. From 1918 to 1919, the influenza pandemic killed between 20 and 40 million people worldwide. Today's biological weapons scientists have the capacity to cause even worse mayhem, not just to any single target country, but perhaps to everyone on the planet.

We have long recognized such principles in our domestic law. A policeman, for instance, need not wait for a criminal to actually shoot at him before he can use lethal force in self-defense.

The United States has been involved in Iraq for years in attempting to enforce the many Security Council resolutions violated by Iraq. Throughout this entire period, Iraq has continually fired upon our forces, and those of our allies, with conventional weapons.

Iraq has a large and expanding biological and chemical weapons program. And he is doing everything in his power to add nuclear weapons and long-range ballistic missiles to his arsenal.

The law does not require us to wait to be attached with the other weapons in Saddam's arsenal before completing the task the Security Council has set for ending the threat Iraq poses to international peace and security. The law does not require this, and our security, and that of other countries in the region, and around the world, does not permit it.

I will close with these final thoughts. There are those at home and abroad who criticize U.S. intent to take action. I remind them that the United States did not pick this conflict. The United States doe not want this fight, Saddam Hussein forced our hand by not complying with his obligations under the 1991 cease fire. He forced our hand by not complying with U.N. resolutions. He forced our hand by building alliances with terrorists.

We do not make this decision lightly, we are very aware of the potential costs of taking action, but we are much more aware of the costs of not taking action. As said by Edmond Burke, ''All that is necessary for the triumph of evil is that good men do nothing.''

I urge my colleagues to support this resolution.

Mr. DORGAN. Mr. President, I have decided that I will cast a vote tonight to authorize the President to use force if necessary to find and destroy any weapons of mass destruction under the control of Saddam Hussein in Iraq.

Some of my colleagues have expressed the ease with which they will vote to authorize the use of force. For me it has been very difficult.

When we cast a vote that could send our sons and daughters to war, it is deadly serious business. It requires us to ask tough questions and demand good answers.

And while I will vote to authorize the President to use force if necessary, I do so with reservation because I believe very strongly that force should be an option that is used only as a last resort, after all other diplomatic and peaceful means have been exhausted. And, if force is necessary , it ought to be carried out with a coalition of countries in whose interest it is to rid Iraq of weapons of mass destruction.

I want to stress that I would never have voted for the resolution in the form that the White House originally asked Congress to approve. That proposal asked Congress to give the President a blank check to use force, with or without the backing of other nations, not just to disarm Iraq, but also to deal with unspecified threats to American interests anywhere in the region.

However, the Joint Resolution that Congress will vote on tonight is fundamentally different from the one the President sent to us. It was narrowed substantially in scope through bipartisan negotiations.

First, this resolution focuses specifically on the threat posed by Iraq, instead of giving the President broad and unfocused authorization to take action in the region, as the Administration originally sought. Second, the resolution expresses the conviction that President Bush should continue to work through the United Nations to secure Iraq's compliance with U.N. resolutions. Third, this resolution makes it clear that the President must exhaust diplomatic and peaceful efforts before he can use force against Iraq. And fourth, this resolution protects the balance of power by requiring the President to comply with the War Powers Act.

I believe it is the right course to go to the United Nations, extract from the Security Council the tough new resolution requested by the President, and then coercively enforce that resolution with a coalition of countries who will not only bear the burden of fighting along side us if it is required, but who will also bear the expensive burden of occupation, peace keeping and nation building following any military action.

My fervent hope is that the Joint Resolution we pass tonight authorizing the President to use force if necessary to disarm Iraq will spur the United Nations Security Council to take similar action. And I hope that the action of Congress and the United Nations together will convince Saddam Hussein to allow complete and unfettered inspections and to cooperate in the elimination of any weapons of mass destruction that he still possesses.

With a backdrop of the September 11 terrorist attacks on the United States and the clear and present danger to our country of future terrorist attacks, coupled with the evidence that Saddam Hussein is aggressively trying to acquire nuclear weapons, I finally concluded that, if we err in this matter, we must err on the side of our national security interests. The stakes are too high, and the consequences too deadly to do otherwise.

The final point I will make about this resolution is that our confrontation with Iraq is dramatically different from our confrontation with any other ''rogue'' country. Saddam Hussein has consistently defied the terms of surrender to which he agreed at the end of the Gulf War in 1991. We know that he lied about his weapons of mass destruction and hid them from United Nations inspectors. We know that he secretly continued to produce chemical and biological agents. We know that he is still trying to acquire nuclear weapons.

I've been to the Incerlik Air Base in Turkey where American fighter pilots fly air cover over the Northern Iraq no-fly zone. I know firsthand that Iraq continues to fire on our pilots who are just doing what Saddam Hussein promised to allow under the terms of the Gulf War surrender.

I know there are some who say, ''well, let's not be so hasty. There's another way, let's explore other options.'' But the fact is we have worked for 10 years without success to force Iraq to comply with the terms of its surrender following the Gulf War. So, to those who say let's give them more time, I say this situation is unique. Iraq has had a decade to comply, and the tyrant who runs it has demonstrated that he has no intention of complying without the threat of the use of force.

I will vote for this resolution because I think that it is important that we unite behind our President to deal with the clear and present danger that Iraq poses to our national security. But I want to point out a few concerns about aspects of this administration's foreign policy which I consider to be very troubling.

Recently the Bush administration released a new 33-page National Security Policy document that has alarmed even our closest allies because it declares that it is America's new policy to maintain overwhelming military might and to use preemptive force whenever and wherever it suits our national interests.

Few would deny that the United States has the right to go after terrorists or rogue states preemptively if we are in serious danger of being attacked by a weapon of mass destruction. So what in the world was the administration thinking when it decided to release this document at the same time that our diplomats around the world are seeking the support of the international community for action against Saddam Hussein?

In my judgment, this is an example of the Bush administration's approach to foreign policy that has largely abandoned the successful strategies we've employed for decades to weld together alliances and coalitions of our allies to tackle the threats and challenges of an unstable world.

Another issue that relates to this debate is America's role in the international effort to stop the proliferation of nuclear weapons.

One of the centerpieces of the debate about the danger Iraq poses for the rest of the world is that Saddam Hussein might soon possess a nuclear weapon. I acknowledge the danger that would pose for the region and the rest of the world, but I want to ask those who are experiencing seizures over that prospect: where is their concern about the larger danger posed by the spread of nuclear weapons to other countries and to terrorists?

Year after year, and time after time those who now appear most alarmed about the prospect that Iraq would possess even one nuclear weapon, are the same people who are unwilling to exert U.S. leadership in the international effort to stop the proliferation of nuclear weapons.

For example, President Bush has appointed John Bolton to be the Assistant Secretary of State responsible for arms control even though Bolton's stated position is that he doesn't believe in arms control. This administration, and its supporters in Congress, have demonstrated a lack of interest in making any effort to stop the spread of nuclear weapons.

They oppose the Comprehensive Nuclear Test Ban Treaty even though a blue-ribbon panel of the National Academies of Science recently concluded that the treaty would significantly enhance U.S. security by slowing the spread of nuclear weapons.

And this administration and its supporters want to deploy a new generation of ''designer'' nuclear weapons that could be used like conventional weapons. Nothing would do more to undermine international efforts to stigmatize countries that aspire to become nuclear powers.

Perhaps now the prospect of a country like Iraq acquiring one nuclear weapon will convince the Bush administration that safeguarding the nuclear weapons that exist around the world, reducing nuclear stockpiles, and stopping the proliferation of nuclear weapons to other countries and to terrorists must be among this country's top priorities.

There are somewhere in the neighborhood of 25,000–30,000 nuclear weapons in the world today. A fair number of them are not very well controlled,

particularly in Russia, which has thousands of nuclear weapons in storage facilities that fall far short of American security standards. Russia also has enough highly enriched uranium and weapons-grade plutonium for 80,000 nuclear weapons. Much of it is poorly protected against theft or diversion.

One nuclear weapon in the wrong hands will make the devastating tragedy of 9/11 seem like a small incident by comparison. That is why this issue is so critical, and it is why I raise it now to point out the inconsistency of those who are pushing so hard to use force against Iraq but who are so unwilling to exhibit any muscle in dealing with the broader and potentially more devastating problem of the proliferation of nuclear weapons.

So I will vote for this Joint Resolution because I am convinced it is time for the United States to assume leadership in the effort to disarm Saddam Hussein and make Iraq live up to the commitments it made after the Gulf War. But I hope that President Bush will help prevent further Iraqs by stepping forward and exerting US leadership in the international effort to prevent the proliferation of nuclear weapons and other weapons of mass destruction.

Mr. EDWARDS. Mr. President, I am here to speak in support of the resolution before us, which I cosponsored. I believe we must vote for this resolution not because we want war, but because the national security of our country requires action. The prospect of using force to protect our security is the most difficult decision a Nation must ever make.

We all agree that this is not an easy decision. It carries many risks. If force proves necessary, it will also carry costs, certainly in resources, and perhaps in lives. After careful consideration, I believe that the risks of inaction are far greater than the risks of action.

Saddam Hussein's regime represents a grave threat to America and our allies, including our vital ally, Israel. For more than two decades, Saddam Hussein has sought weapons of mass destruction through every available means. We know that he has chemical and biological weapons. He has already used them against his neighbors and his own people, and is trying to build more. We know that he is doing everything he can to build nuclear weapons, and we know that each day he gets closer to achieving that goal.

Iraq has continued to seek nuclear weapons and develop its arsenal in defiance of the collective will of the international community, as expressed through the United Nations Security Council. It is violating the terms of the 1991 cease-fire that ended the Gulf war and as many as 16 Security Council resolutions, including 11 resolutions concerning Iraq's efforts to develop weapons of mass destruction.

By ignoring these resolutions, Saddam Hussein is undermining the credibility of the United Nations, openly violating international law, and making a mockery of the very idea of collective action that is so important to the United States and its allies.

We cannot allow Saddam Hussein to get nuclear weapons in violation of his own commitments, our commitments, and the world's commitments.

This resolution will send a clear message to Iraq and the world: America is united in its determination to eliminate forever the threat of Iraq's weapons of mass destruction.

The United States must do as much as possible to build a new United Nations Security Council coalition against Saddam Hussein.

Although the administration was far too slow to start this diplomatic process, squandering valuable time to bring nations to our side, I support its recent efforts to forge a new U.N. Security Council resolution to disarm Iraq.

If inspectors go back into Iraq, they should do so with parameters that are air-tight, water-tight, and Saddam-tight. They should be allowed to see what they want when they want, anytime, anywhere, without warning, and without delay.

Yet if the Security Council is prevented from supporting this new effort, then the United States must be prepared to act with as many allies as possible to address this threat.

We must achieve the central goal of disarming Iraq. Of course, the best outcome would be a peaceful resolution of this issue. No one here wants war. We all hope that Saddam Hussein meets his obligations to existing Security Council Resolutions and agrees to disarm, but after 11 years of watching Hussein play shell-games with his weapons programs, there is little reason to believe he has any intention to comply with an even tougher resolution. We cannot trust Saddam Hussein, and we would be irresponsible to do so.

That is why we must be prepared to use force, if necessary, to disarm Saddam Hussein, and eliminate Iraq's weapons of mass destruction once and for all.

Almost no one disagrees with these basic facts: that Saddam Hussein is a tyrant and a menace; that he has weapons of mass destruction and that he is doing everything in his power to get nuclear weapons; that he has supported terrorists; that he is a grave threat to the region, to vital allies like Israel, and to the United States; and that he is thwarting the will of the international community and undermining the United Nations' credibility.

Yet some question why Congress should act now to give the President the authority to act against Saddam Hussein's weapons of mass destruction.

I believe we should act now for two reasons: first, bipartisan congressional action on a strong, unambiguous resolution, like the one before us now, will strengthen America's hand as we seek support from the Security Council and seek to enlist the cooperation of our allies.

If the administration continues its strong, if belated, diplomacy, backed by the bipartisan resolve of the Congress, I believe the United States will succeed in rallying many allies to our side.

Second, strong domestic support and a broad international coalition will make it less likely that force would need to be used. Saddam Hussein has one last chance to adhere to his obligations and disarm, and his past behavior shows that the only chance he will comply is if he is threatened with force.

Of course, there is no guarantee that he will comply even if threatened by force, but we must try.

Others argue that if even our allies support us, we should not support this resolution because confronting Iraq now would undermine the long-term fight against terrorist groups like al-Qaida. Yet, I believe that this is not an either-or choice. Our national security requires us to do both, and we can.

The resolution before us today is significantly better than the one the president initially submitted. It is not a blank check. It contains several provisions that I and many of my colleagues have long argued were required.

First, it gives the administration the authority to use all necessary means to eliminate the threat posed by Saddam Hussein's weapons of mass destruction.

Second, it calls on the administration to do as much as possible to forge a new U.N. Security Council mandate, understanding that if new Security Council action proves impossible, the United States must be prepared to act with as many allies as will join us.

Third, it requires the administration to report to Congress on its plans to assist with Iraq's transition to democracy after Saddam Hussein is gone.

It is in America's national interest to help build an Iraq at peace with itself and its neighbors, because a democratic, tolerant and accountable Iraq will be a peaceful regional partner. Such an Iraq could serve as a model for the entire Arab world.

So far, we have not heard nearly enough from the administration about its plans for assisting the Iraqi people as they rebuild their lives and create a new, democratic government. The president has said that the U.S. will help, but he hasn't offered any details about how.

As we have learned in Afghanistan, this administration's words are not enough. This resolution will require the administration to move beyond its words and share with Congress, and the world, its concrete plans for how America will support a post-Saddam Iraq.

Finally, in taking this action, Congress must make clear that any actions against Iraq are part of a broader strategy to strengthen American security in the Middle East, and indeed around the world.

We must do more to support existing non-proliferation and disarmament

programs that can help prevent access to the weapons-grade materials that tyrants like Saddam Hussein want. We must demand America's active and continuous involvement in addressing the crisis between Israel and the Palestinians, and promoting democratization throughout the Arab world. We must commit to developing a national strategy for energy security, one that would reduce our reliance on the Middle East for such critical resources.

The decision we must make now is one a nation never seeks. Yet when confronted with a danger as great as Saddam Hussein, it is a decision we must make. America's security requires nothing less.

Mr. BAUCUS. Mr. President, I rise today to speak out on the issue of Iraq. This conceivably is one of the most important issues that we as a governing body will address in what remains of the 107th Congress.

Let me start by saying that Saddam Hussein is a dangerous man. As many of my colleagues have already pointed out, he has actively engaged in attacking Americans in the region. He has actively engaged in deploying chemical and biological weapons against his own people. He has participated in genocide against his own people. He has continually deceived U.N. weapons inspectors. He has failed to comply with U.N. resolutions to disarm his weapons of mass destruction. He was involved in an assassination attempt against former President George Bush senior. He has committed serious acts of aggression against his neighbors.

These are all acts of a man that cannot be trusted.

Back in 1998, the Senate passed the Iraqi Liberation Act that declared it should be the policy of the United States to seek to remove Saddam Hussein from power in Iraq and replace him with a democratic government. I supported this bill and believe that Saddam continues to be a detriment to his people. The Iraqi people deserve a chance to be free from a vicious dictator.

Our actions today go far beyond declaring Saddam a danger to his people and to the rest of the world. Our actions today will authorize the use of force in the case Saddam refuses once again to defy U.N. resolutions and disarm. Our actions today could send our sons and daughters to battle. And, our actions today, if not handled cautiously, could erupt into a conflict we as a nation are not prepared to address. This is not something we can take lightly.

Last week, a bipartisan group of Congressmen and Senators brokered an agreement with the President and produced a resolution that strikes a good balance between diplomacy and force. The resolution supports exhausting diplomatic means to disarm Saddam prior to engaging in the use of force. It also provides the President with adequate flexibility to do what needs to be done in the case that Saddam refuses to disarm. I have cosponsored this bipartisan agreement and believe that the focus of the resolution is appropriate.

I believe that a strong resolution is necessary to protect the American people from threats posed by Saddam Hussein. And while I believe we should strive to garner the support of the U.N. and our allies around the world, we must ensure that we don't limit our ability to act to protect American lives.

Mr. SMITH of Oregon. Mr. President, I have the privilege of serving in what was, for 30 years, Mark Hatfield's seat in the United States Senate. And as those who served with him know, no one is more dedicated to peace than Mark Hatfield. As I have thought about the question of going to war with Iraq, I find myself mindful of Senator Hatfield, and I am likewise committed to working for peace.

I am also very mindful of the Oregonians who have expressed to me their hopes and prayers for peace. And it is precisely because I want peace that I stand today to express my support for this resolution.

I believe in peace and diplomacy. These values have guided my service on the Senate Foreign Relations Committee. And rather than an immediate declaration of war, I strongly believe that this resolution is but one step in a continuing diplomatic process.

I have no doubt that Saddam Hussein presents an imminent threat to America, our freedom and our way of life. The proof lies in Baghdad. Over the last decade we have collected a considerable body of evidence that Hussein is amassing weapons of mass destruction, weapons that he has already used on his own people.

It is only with a heavy heart that any of us can reach the solemn conclusion that our young men and women may have to risk their lives in defense of our Nation. But the heavy weight of proof moves us now to prevent the loss of more American lives.

More than a decade ago, the United States led a coalition of nations against the tyrannical regime of Saddam Hussein. The United Nations resolutions that followed Saddam's surrender required Iraq, among other things, to halt its chemical, biological and nuclear weapons programs, account for POWs from the Gulf War, and cease its support for terrorism. Since that time, Saddam Hussein has continually and flagrantly violated the U.N.'s requirements. In less than 12 years, he has defied 16 Security Council resolutions and provoked at least 30 Council statements condemning these violations. He has exploited the goodwill of the international community, oppressed his people, devastated his nation and developed weapons of mass destruction.

Today, as it was then, we are called as Americans not simply to contribute to an international coalition, but to lead it. That obligation became all the more clear when last year's terrorist attacks ushered in an era when threats are more tangible, where civilians are at risk, and where deterrence no longer works. I believe the free nations of the world will again join us in the fight against tyranny, and I still hold out hope that the danger Iraq poses can be eliminated without war.

But today, we must choose whether to allow Saddam Hussein to continue threatening the civilized world or to disarm him. I believe we must choose the latter. We will first exhaust every peaceful means in our effort, but confront him we must.

Saddam Hussein has attacked Iran, Israel, Kuwait and Saudi Arabia. He recently called on the people of the Arab world to attack the United States and he is an avowed enemy of the democracy in the Middle East, Israel. He is a man who murdered his own people in chemical attacks and systematically attempted to destroy an ethnic minority in his nation. To believe that Saddam Hussein would hesitate to launch future attacks would be to turn a blind eye to a lethal mix of weapons of mass destruction and terrorists waiting to use them.

In addition to the arms we are certain he has, overwhelming evidence indicates that he continues to develop weapons of mass destruction with the full intention of using them. High level Iraqi defectors have provided similar evidence of biological and nuclear weapons programs, evidence that is substantiated by Saddam's actions. We know that he has sold $3 billion worth of oil illegally this year, money that is unaccounted for, while importing materials used in nuclear enrichment programs. All the while, he has called Iraq's nuclear scientists ''the salvation of his nation.''

On September 12, President Bush outlined these facts when he spoke to the United Nations. As he said then, Saddam is truly defying the U.N., not only the United States. The 16 resolutions Iraq has violated were not issued by the U.S. Congress, but by the U.N. Security Council, the highest body of international diplomacy. While few reasonable people would disagree that Saddam Hussein is dangerous and will attack America and its allies whenever it is possible, the President was correct in seeking international support for confronting Iraq.

Diplomacy and efforts toward peace are always preferable to war. But if war is unavoidable, it is best to have the backing of the world community. Immediately following the president's call to action, international support began to increase. And the president continues to build on that support. I believe that with the passage of this resolution we will see our allies join in lending our sons and daughters in seeking a peaceful regime in Iraq.

The United Nations now has the opportunity to prove itself to be an important world body. It is incumbent upon the U.N., and especially the Security Council, to ensure that if Saddam

Hussein fails to fulfill his most recent commitments to weapons inspectors, he does not do so with impunity.

I would like to conclude by telling you about a trip I made earlier this year, I traveled to Coos Bay, OR to attend the memorial service of a remarkable young man named Byran Bertrand. Bryan was a 23-year-old Marine who gave his life for his country when his C–130 crashed into a mountain near the Afghan-Pakistan border. The memorial service program included excerpts from the last letter that Bryan had send this parents.

In this letter he explained why he had turned down the opportunity to return to duty in the United States. ''You know me,'' wrote the former high school athlete, ''I always hated sitting on the bench.''

In those words, we can find our calling as a Nation. If Saddam Hussein does not comply with United Nations resolutions and if he continues to build and stockpile weapons of mass destruction, then America can no longer sit on the bench. We must take the heavy mantle of leadership to seek a peaceful regime change. This burden rests on the President, on the Congress, but more importantly, it rests on the people of the United States. For it is the American people, 3,000 of whom died on September 11, 2001, who are Saddam's targets. We are targets because ours is a Nation that is the beacon of liberty in the world. We must never forget that, and we must never take it for granted.

Mr. HARKIN. Mr. President, the debate here in this chamber is being held in community halls, meeting places and living rooms across America and across Iowa. Many Iowans have told me in recent weeks that going to war should be the last resort for our Nation and I agree with them.

Saddam Hussein is a brutal dictator, who has brought nothing but pain and suffering to the Iraqi people and threat and instability to his neighbors throughout the Persian Gulf and the Middle East. He invaded Iran before he invaded Kuwait. He has aided and abetted the suicide bombers. He is guilty of countless crimes against humanity. He has even used chemical weapons against men, women and children in his own country. I understand the grave danger posed to America and the whole international community by weapons of mass destruction in the hands of a reckless dictator like Saddam Hussein. Since the terrorist hijackings and anthrax attacks in America last year, which wantonly took the lives of more than 3,000 people, all Americans are rightly concerned about the safety of our homeland and united in supporting the brave men and women who defend us and the cause of freedom around the world.

While there is not definite evidence of prior close collaboration between the al-Qaeda criminals who attacked our nation last year and Saddam Hussein, there is no doubt they might find common cause in attacking us and our allies at any time. Simply put: it is clear to me that the current situation in Iraq is an on-going tragedy for the Iraqi people and an unacceptable menace for us, his neighbors, and the world. President Bush is to be commended for calling on the United Nations to confront this menace and Iraq's flagrant disregard of past Security Council Resolutions. It remains to be seen whether and how the UN Security Council will meet head-on the direct challenge posed by the continued failure of Saddam Hussein and the Government of Iraq to fully comply with 16 resolutions approved by the Council since 1991, including an ironclad requirement that Iraq destroy all of its biological and chemical weapons, dismantle its nuclear program, and submit to rigorous international inspections to verify its compliance.

But there is a right way and a wrong way to confront Saddam Hussein and to force him to relinquish all of the weapons of mass destruction at his disposal. Our policy, and certainly any fateful decision to actually go to war, must be made after careful deliberation and in full accordance with the U.S. Constitution and our Nation's laws. No President of either political party should be allowed to take our nation into war like the one that is now possible solely on his or her own authority. That is why last July Senator SPECTER and I were the first members of the Senate to introduce bipartisan legislation to require the Congress to debate and vote on a resolution to require the Congress to debate and vote on a resolution authorizing the use of force by American armed forces against Iraq before the President issued such an order. I think the President was right to provide additional information to the Congress and the American people and to put this issue before the Congress with the draft resolution of three weeks ago.

In my view, that first draft amounted to a blank check for the President to go to war with Iraq and other countries in the region, whenever he saw fit, and regardless of whether we had the backing of our allies inside and outside the region or in the international community. I have said that I could not have supported that resolution. It was too broad, too unqualified, and too far-reaching. I am glad that since then Republican and Democratic Senators across the political spectrum have recognized the need to narrow and improve upon the President's initial request. Senators BIDEN and LEVIN, Chairmen of the Senate Foreign Relations Committee and Armed Services Committee respectively, held essential hearings and formulated thoughtful legislative proposals. Their work reaffirms that the focus of U.S. policy should be to secure the disarmament of Iraq's weapons of mass destruction and the establishment of a new, effective international inspections regime to enforce that policy. Their careful approach also underscores the urgency and importance of maximizing our diplomatic efforts to secure the strongest possible U.N. Security Council resolution to force Saddam Hussein to relinquish his pursuit of weapons of mass destruction once and for all.

I also took to heart the President's statement in his address to the nation Monday night in which he said that the pending congressional resolution giving him the right to use force if necessary, ''does not mean that military action is imminent or unavoidable.'' That statement is consistent with the approach I believe in, which can maximize the strength of our coalition and the success of our policy. Accordingly, at this point in time, I believe the President and the Congress should be united and focused like a laser on getting the strongest possible, enforceable resolution through the U.N. Security Council. That is why I will vote for the Levin resolution and why I ultimately will vote for the Lieberman resolution, too, if that is the final choice. But I want to be very clear that in voting for these resolutions, this Senator is not voting for immediate war with Iraq. I am voting for them in order to give the President and Secretary of State Powell the maximum leverage to persuade the UN Security Council to promptly approve a new, tough, resolution that requires Iraq to immediately allow unconditional, unfettered inspections designed to secure the complete disarmament of Saddam Hussein's weapons of mass destruction. There should be clear consequences that follow from his failure to comply. And the UN inspectors should be given enough time to complete their work and to determine whether Iraq can be disarmed short of going to war.

I am concerned that if we immediately move to unilateral U.S. military action or in concert with only our British allies we will weaken our coalition efforts to wage and win the international fight against terrorism. This would also undermine international respect for the rule of law and the multilateral problem-solving institutions that America helped to create and which have served as the foundation for principled U.S. leadership in the world for 50 years and more. Indeed, I am concerned that precipitous U.S. military action against Iraq could result in our nation and world becoming less rather than more stable and secure. Under the terms of these resolutions, the President will be required to report to the Congress every 60 days on on-going diplomatic efforts at the UN Security Council and elsewhere to establish a tough new inspections regime and to force Saddam Hussein to destroy his weapons of mass destruction. At that time, we will have the opportunity to examine the issues again. Nobody knows for certain at this time, including the President of the United States, how best to compel Iraq to get rid of all of its weapons of mass destruction. But we do know, we all

agree, that war must be a last resort, not a first response. We must work with the international community as much as possible to find new and enforceable means to deal with the Iraqi danger in ways that make this a safe world.

Mr. MCCONNELL. Mr. President, the resolution authorizing the use of force against Iraq is before us.

We are being asked to decide some fundamental questions about the world in which we live. But more significantly, we are being asked to decide what kind of world we choose for our children.

Essentially, the question is this: Is the world going to be safer today, tomorrow and in the years ahead if the United States leads an effort to rid the world of not only Iraqi weapons of mass destruction, but of a ruthless terrorist-supporting despot as well?

Here is what we have learned.

There is agreement that Saddam Hussein is amassing weapons of mass destruction—chemical, biological, and even nuclear—but some continue to naively believe that diplomatic initiatives and weapon inspections must be given a chance to succeed. There is consensus that Iraq is a state sponsor of terrorism, but some believe that America should not act alone against Iraq and that an attack on Iraq will detract from our ongoing pursuit of al-Qaida. There is concurrence that Saddam Hussein is a mass murderer of Iraqi, Kurdish, Kuwaiti and Iranian men, women, and children, but some believe that Iraq poses no immediate threat to the American people or those in Saddam's backyard, including our allies.

My views on this issue could not be more clear: Our Commander in Chief has requested the authority to use force against Iraq to ''defend the national security of the United States against the continuing threat posed by Iraq'' and Congress must authorize it and must do so now.

Nine days after the al-Qaida attacks on our soil, President Bush promised Congress and the world that America would bring the war on terrorism to the terrorists wherever they may hide. He intends to do just that in Iraq. This Congress and our entire nation stood as one with President Bush following the September 11th attacks. A year later, we must continue to stand behind his outstanding leadership in combating terrorism around the globe. This war on terrorism will not end—it must not end—until terrorists and their supporters are destroyed.

Let me say to my colleagues who suggest that diplomatic initiatives and weapon inspections can prevent the coming conflict with Iraq to look at recent history. Saddam Hussein has violated each and every one of the 16 U.N. Security Council Resolutions pertaining to Iraq. His armed forces continue to fire on American and coalition aircraft in the no-fly zone. Al-Qaida terrorists continue to leave footprints on Iraqi soil. And Saddam Hussein and his henchmen continue to make billions of dollars by exploiting the U.N.'s oil for food program and through other illicit activities.

Although the regime recently proved that it can fool some embarrassingly naive visiting American lawmakers into believing its empty assurances of cooperation and compliance, they are not duping this Senator—or the President.

More importantly, the American people will not follow the lead of these modern-day Neville Chamberlains and allow the United States to be played for a fool. For it is only a fool who does not learn from past mistakes, and the world has ten years of Iraqi lies from which to learn. Speaking before the United Nations General Assembly a day after the anniversary of the September 11th attacks, President Bush challenged the United Nations to maintain its relevancy in a world challenged by terror:

> Iraq has answered a decade of U.N. demands with a decade of defiance. . . . [America] will work with the U.N. Security Council to meet our common challenge. If Iraq's regime defies us again, the world must move deliberately, decisively to hold Iraq to account. We will work with the U.N. Security Council for the necessary resolutions.

The fact is that President Bush is giving the United Nations and the international community a final chance to disarm Saddam Hussein through diplomatic means. But under no illusions of Saddam Hussein's violent and irrational character, the President has made clear that if reason fails, force will prevail. I am reminded of President Franklin Roosevelt insights into Nazi Germany and Adolph Hitler: ''No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with an incendiary bomb.''

Unfortunately, some of my colleagues seem to ignore this indisputable truth—and the fact that America is at war against global terrorists. Former Vice President Al Gore's recent attack on the President for his conduct of the war was ill-timed and ill-advised. A self proclaimed hawk, Mr. Gore alleged in a recent speech that in a single year, President Bush ''squandered the international outpouring of sympathy, goodwill, and solidarity that followed the attacks of September 11th and converted it into anger and apprehension aimed much more at the United States than at the terrorist network. . . . '' This is utter nonsense, and the American people are right to expect more from a former national leader.

Mr. Gore seems to have forgotten that in a single year the Bush administration liberated the people of Afghanistan from oppressive Taliban rule, destroyed and disrupted al-Qaida operations in South Asia and throughout the world, and bolstered homeland defense for the American people. If Mr. Gore belittles the victory in Afghanistan—against what he describes as a ''fifth rate military power''—why was it that his own administration failed to take decisive action to topple the Taliban and al-Qaida? One might surmise that they were too busy ''feeling pain'' to inflict any.

Mr. Gore's characterization of the pre-emptive use of force to prevent terrorist attacks as ''a troubling new element'' of U.S. foreign policy is similarly misguided. In the post-September 11th world, the Bush doctrine of pre-emption makes plain old common sense. Who among us disagrees that terrorists should be destroyed before they have a chance to again bring death and destruction on our family, friends, or neighbors? What do we say to the victims of a terrorist attack that we could have prevented—sorry, but Moscow, Paris, or Beijing objected to pre-emptive action?

The fact is that that America has the right and the responsibility to protect and defend its citizens against terrorism—be it from al Qaida terrorists or weapons of mass destruction in Iraq.

Let me also dispel the myth that military action against Iraq will detract from ongoing operations against al-Qaida. Secretary of Defense Donald Rumsfeld testified before Congress last month that ''. . . Iraq is part of the global war on terror. Stopping terrorist regimes from acquiring weapons of mass destruction is a key objective of that war. And we can fight all elements of the global war on terrorism simultaneously.''

We have no choice but to fight these threats simultaneously. Our nation is at war. Given Saddam Hussein's use of chemical and biological weapons against his own people and his neighbors, it is reckless to dismiss the immediacy of the threats posed by his regime to the United States. We already know that he is a mass murderer and that he is armed and dangerous—to treat him otherwise is folly.

Saddam Hussein is also a danger to the region. Those nations reluctant to confront him would be wise to take note of the British Government's assessment that Iraq is capable of deploying chemical and biological weapons within 45 minutes.

With Fort Campbell and the 101st Airborne Division in Kentucky, I understand firsthand what risks are posed to our military personnel by an attack on Iraq. Having fired the opening shots of Operation Desert Storm more than a decade ago, the Screaming Eagles are no strangers to that country. They—and the Special Forces soldiers of the 5th Group and the Night Stalkers of Task Force 160—are professionals, the best of best. America is fortunate to have such dedicated patriots serving on our front lines. We can be secure in the knowledge that if these troops return to the region, they will answer the call with the same determination and dedication as they did in 1991.

Let me conclude by saying that we did not ask for this war on terrorism.

But we will fight it and win it—on our terms and conditions.

Mrs. FEINSTEIN. Mr. President, I have come to the floor to state that, after much deliberation, I have decided to vote for the resolution introduced by Senators LIEBERMAN, WARNER, BAYH and MCCAIN.

In two prior floor statements, I have expressed my views. I serve as the senior Senator from California, representing 35 million people. That is a formidable task. People have weighed in by the tens of thousands. If I were just to cast a representative vote based on those who have voiced their opinions with my office—and with no other factors—I would have to vote against this resolution. But as a member of the Intelligence Committee, as someone who has read and discussed and studied the history of Iraq, the record of obfuscation and the terror Saddam Hussein has sown, one comes to the conclusion that he remains a consequential threat.

Although the ties between Saddam Hussein and al-Qaida are tenuous, there should be no question that his entire government is forged and held together by terror: The terror of secret police in station wagons on street corners watching; The terror forged through assassinations and brutal murders of anyone who disagrees with him; And yes even of his own family members.

While the distance between the United States and Iraq is great, Saddam Hussein's ability to use his chemical and biological weapons against us is not constrained by geography—it can be accomplished in a number of different ways—which is what makes this threat so real and persuasive. I supported the Levin amendment, which authorized use of force pursuant to U.N. Security Council action, because it was the strongest resolution supporting a multilateral effort. I believe a multilateral effort, through the United Nations, provides a strong moral imprimatur and as such is preferable to America's taking preemptive action that could have consequences tomorrow and years after that—consequences we cannot imagine or even begin to understand today.

The original resolution sent to Congress by the President would have authorized a broad and sweeping use of force whenever or wherever he deemed necessary—literally any place on earth. It would have authorized the newly promulgated national security strategy of unilateral preemptive use of force in the defense of the nation in the war on terror. The resolution before us does not grant such a sweeping use of force. Rather, the use of force is confined to Iraq and targeted toward forcing Iraq to comply with 16 Security Council resolutions passed in the wake of the Persian Gulf war in 1991.

Most importantly, I believe the Lieberman resolution becomes a catalyst to encourage prompt, forceful and effective action by the United Nations to compel this long sought-after and much-evaded disarmament of weapons of mass destruction. Disarming Iraq under Saddam Hussein is necessary and vital to the safety and security of America, the Persian Gulf and the Middle East—let there be no doubt about this. But the decision to cast this vote does not come lightly. I continue to have serious concerns that there are those in the administration who would seek to use this authorization for a unilateral, preemptive attack against Iraq. I believe this would be a terrible mistake.

But I am reassured by statements made by the President in his address to the United Nations on September 12, which conveyed a major shift in the administration's approach—turning away from a preemptive strategy and, instead, engaging and challenging the U.N. Security Council to compel Iraq's disarmament and back this with force. I deeply believe that it is vital for the U.N. Security Council to approve a new, robust resolution requiring full and unconditional access to search for and destroy all weapons of mass destruction. Unfortunately, the Security Council has not yet taken this action. Nor do we, at this time, know if they will.

If one believes Iraq is a real threat, and I do, and if the United Nations fails to act, then the only alternative is military action led by the United States. Ironically, this authorization of use of force may well prompt the Security Council to act. Because if they do not, the United Nations becomes a paper tiger unable to enforce its mandates and unwilling to meet the challenge of this new day of danger.

For the past 11 years, Saddam Hussein has prevaricated, manipulated, deceived and violated every agreement he has made to disarm. If the past is prologue, this record means that arms inspections, alone, will not force disarmament. The great danger is a nuclear one. If Saddam Hussein achieves nuclear capability, the risk increases exponentially and the balance of power shifts radically in a deeply menacing way. As I said on this floor in earlier remarks, I believe that Saddam Hussein rules by terror and has squirreled away stores of biological and chemical weapons. He has used them on Kurdish villages and in his invasion of Iran.

Evidence indicates that he is engaged in developing nuclear weapons. However, today the best authorities I could find indicate he does not yet have nuclear capability. But this is only a question of time. And we cannot let Saddam Hussein become a nuclear power.

And, so, it is my intention to vote yes on the resolution before us. I do so with the hope that the United Nations will rise to the challenge and with the trust that the administration forge a coalition rather than go it alone. And I do so with the fervent prayer that it will not be necessary to place America's fighting forces or innocent civilians anywhere in harm's way.

Ms. LANDRIEU. Mr. President, as Members of this body, there is no issue we face as grave and important as determining whether we should authorize force against Iraq that might place our men and women in uniform in mortal danger in order to protect the freedoms we cherish, and extend these freedoms to the people of Iraq, through the disarmament of a tyrant committed to harming his own people and the rest of the world. As a member of the Armed Services Committee, and as a citizen, I have given great consideration and thought to this course of action. Can I in good conscience authorize the use of force that could place someone's child, or my child, or someone's husband, wife, mother, or father in harm's way? Should the President commit troops to Iraq, American blood will certainly be shed. But, the authorization of force is recourse we must take.

For 11 years, Saddam Hussein has openly violated 16 U.N. resolutions calling on him to disarm; cease his production of weapons of mass destruction; and stop the ethnic cleansing of his own people. For 11 years, the people of Iraq have suffered. Furthermore, Saddam Hussein has made the world a much more dangerous place. His relish to produce chemical, biological, and nuclear weapons has only increased since the end of the Gulf War. Now, we have learned that he is harboring al-Qaida terrorists; strengthening his ties to al-Qaida; and financing terrorist organizations that promote suicide bomb attacks in Israel.

I am confident that the enactment of this resolution will give our President the tools he needs to bring the world community together to disarm this brutal tyrant through diplomacy. But, this resolution also gives the President authority to follow diplomacy with force, if necessary, to ensure that the threats Saddam Hussein brings to the world are neutralized.

The threat from Saddam Hussein's WMD programs is real and growing every day we fail to take action to disarm him. He has used WMD against his own people and his neighbors. We should not wonder whether he has any interest in using them against the U.S. or our allies.

As chair of the Emerging Threats and Capabilities Subcommittee, along with Senator ROBERTS, the Subcommittee held a hearing in February to investigate the status of his WMD programs since inspectors left and the threat those weapons could pose to the U.S. At that hearing, the Subcommittee was faced with the blunt findings that Saddam successfully hid weapons while U.N. inspectors were in Iraq. Moreover, there are no mechanisms in place to prohibit Iraq from ramping up its production of biological and chemical weapons, and its quest for nuclear weapons.

At the hearing, Anthony Cordesman, from the Center for Strategic and International Studies, stated Iraq admitted in 1995, ''that it had produced

30,000 liters of bulk biological agents. Iraq admitted it produced anthrax, botulinum toxins, and aflatoxins.'' We must remember it took only a few grams of Anthrax to throw the Senate and the East Coast of the U.S. into disarray. Worse yet, Iraq admitted it had affixed these biological agents to missile warheads and bombs.

Dr. Cordesman went on to say that UNSCOM believed Iraq had produced as much as 120,000 liters of biological weapons, not the 30,000 it admitted—enough to kill millions. Furthermore, UNSCOM has been out of Iraq for 4 years, yet UNSCOM stated that Iraq could reconstitute its biological weapons program within a matter of weeks after UNSCOM's departure. Imagine the destruction that could be caused by Saddam Hussein with his unchecked inventory of hundreds of thousands of liters of biological weapons. Again, he has the capability to injure or kill millions.

The Subcommittee also received testimony that Iraq has actively rebuilt its chemical weapons programs since UNSCOM was thrown out of Iraq. UNSCOM reported to the Security Council that Iraq withheld information related to Iraq's chemical weapons program. UNSCOM uncovered only a small portion of Iraq's chemical weapons. In fact, Iraq confiscated information gathered by UNSCOM regarding Iraq's chemical weapons, so the information could not be transmitted to the Security Council. Iraq also told UNSCOM Iraq had not armed missiles with VX gas—one of the deadliest of nerve agents. Yet, in 1998, UNSCOM discovered missiles tipped with VX. Soon after, UNSCOM was told to leave Iraq and Iraq has resumed chemical weapons production. It takes only 10 milligrams of VX to kill a person. A wine bottle full of VX could kill at least 75 people. We must find out how much VX Saddam has, and destroy it.

Moreover, Saddam Hussein is devoting much of his defense budget to becoming a nuclear power. After the Gulf War, we learned from the U.N. weapons inspectors that Iraq was within 1 year of developing nuclear weapons. Prior to the war, we thought Iraq was 5 to 7 years away. Since 1998, we cannot say with any certainty that we know the status of Iraq's nuclear program. Once again, Saddam could be less than a year away from a nuclear bomb. The world must know how close he is, and he must stop his nuclear development. Once he develops a nuclear program, we will never be able to shut it down.

For these reasons, we cannot take our time in passing this resolution. We must act now. Saddam Hussein has shown, on numerous occasions, his willingness to use WMD to attack his countrymen and his neighbors. He has killed 20,000 Iraqis in 40 villages with WMD. As President Bush said two nights ago, ''Saddam Hussein is a homicidal dictator who is addicted to weapons of mass destruction.''

I want to read from Charles Duelfer's testimony before the Emerging Threats and Capabilities Subcommittee's hearing on Iraq's WMD programs on February 27, 2002. Mr. Duelfer was the Deputy Executive Chairman of UNSCOM. He said that it is inconceivable that Iraq did not resume its WMD programs after UNSCOM left. Mr. Duelfer said it is difficult ''to imagine circumstances under which this regime would end these programs'' of WMD because . . . ''the regime in Baghdad will devote full resources to its weapons programs . . . This has not changed even under sanctions . . . The regime seeks to dominate the region . . . The use of force comes naturally'' to Saddam Hussein. WMD are his tools to dominate the region. If we wait to pass this resolution, Saddam will only continue to enlarge his WMD program; threaten the Middle East; and then threaten the U.S. He will never end his programs unless the world reins down on him to eliminate his tremendous capacity for killing.

This resolution is the proper tool to give the Administration a firm hand in negotiating with the world to disarm Saddam Hussein and eliminate his capacity to kill. We should pass the Lieberman-McCain Resolution immediately and overwhelmingly to show the world we are united. We must not tie the President's hands and the hands of Secretary Powell to negotiate a new Security Council Resolution that calls for the disarmament of Iraq—and the threat of force against Iraq if Saddam does not abide by the resolution. We can bring the Security Council on board if we can show them the United States stands together to disarm Saddam Hussein. If this body is divided, the U.N., and especially Saddam Hussein, will pay us no mind.

The best outcome is a new Security Council resolution that calls for unfettered inspections throughout Iraq, including Saddam's presidential palaces; the disarmament of all WMD; and the threat of force should Saddam Hussein not comply. That outcome has a better chance of becoming a reality if we pass this resolution.

The new U.N. resolution the President and Secretary Powell seek is our best chance to avoid a war. But the threat of force must be present to enforce a new resolution because Saddam only understands force. Again, Charles Duelfer testified before the Iraqis were perfectly willing to thumb their nose at UNSCOM because the U.N. had not authorized force to make Iraq comply.

Iraq's Deputy Foreign Minister, Tariq Aziz, regularly told Mr. Duelfer, ''You are not General MacArthur (referring to MacArthur's occupation/disarmament of the Japanese) . . . Therefore, there are limits to what you can do.'' What Aziz meant was you have no authorized force; you have no army with you to make us show you what we have and where it is. A new resolution will only work if the threat of force lurks behind any Iraqi failure to obey.

This resolution is also a narrowly tailored authorization of force. It seeks peace before war to enforce past and future U.N. resolutions against Iraq. This resolution does not give the President carte blanche to use force throughout the Middle East for any reason. Force is only authorized to bring Iraq into compliance with U.N. resolutions—so that Iraq disarms its WMD; ceases production of WMD; does not threaten its neighbors, and does not repress and commit atrocities against its citizens with WMD.

This resolution correctly authorizes force for the violation of all 16 U.N. resolutions, because Saddam's crimes against humanity should concern America as much as his WMD capabilities.

America has been a tremendous defender of human rights. But, at times, we have not always defended the victims of ruthless dictators.

In Rwanda, 800,000 Rwandans were slaughtered in 12 months, yet America did nothing to stop the ethnic cleansing. America's failure to act in Rwanda could be the lowest point in American history. We should not make the same mistake by turning a blind eye to the Kurds and Shiites Saddam has tortured for years. Any resolution to dismantle his WMD must also call for him to end ethnic cleansing in Iraq.

In 1944, two Jews who escaped Auschwitz—and revealed the horrors of concentration camps to the world—asked the U.S. War Department and the War Refugee Board to bomb train tracks leading to Auschwitz so no more Jews could be brought there. U.S. bombers were already bombing fuel dumps near Auschwitz. Yet the War Refugee Board refused this simple request. John McCloy, the head of the Refugee Board, denied the request. He stated the operation did ''not warrant the use of our resources.'' How could saving lives not warrant the use of American resources? As a result, between 500,000 and 800,000 Jews died at Auschwitz in the final year of WWII. These lives could have been saved, but we did not make it a priority.

We shouldn't now say that human rights are not worthy of U.S. and international diplomacy. We should not say that we are unwilling to disarm a dictator who brutalizes his people. If we do, we will have failed the world, again.

Fortunately, I think this body and the American people do care about human rights. We stood up for human rights in Kosovo. We used force against a sovereign leader, Milosevic, who was committed to the genocide of ethnic Albanians. Through American force, Milosevic was removed from power and indicted for numerous war crimes. We did the right thing for an oppressed people. And, I must remind you President Clinton did not seek Congressional authorization to use force in Kosovo. Today, unlike in Kosovo, the President does seek Congressional approval for force in an effort to seek a unified American front to disarm another leader threatening his people and the world.

But, I must say, again, that force is a last option under this resolution. The

resolution requires the president not to use force until he presents his determination to Congress that diplomacy is no longer an option. This resolution is not a call to arms. The President will not roll tanks into Iraq as soon as we pass the Lieberman-McCain resolution. As the President said on Monday, ''War is neither desirable nor inevitable.'' War can be avoided.

The President will seek Security Council support and support from other allies to bring about a diplomatic answer to disarm Saddam Hussein. I have no doubt that the President's first hope is to neutralize the Iraqi threat without invading Iraq.

But, if a Security Council resolution cannot be achieved and Saddam continues to jeopardize the livelihood of Americans—or if Saddam violates any future resolution—the President should have the authority to use force. Because his most important job as Commander in Chief is to keep the American people safe from a tyrant.

In conclusion, I want to, once again, reiterate my support for the Lieberman-McCain resolution. As a co-sponsor, this resolution is America's best effort to stand united to show the world, and especially Saddam Hussein, that we are committed to disarm Iraq's weapons of mass destruction, which are a clear and present danger to America and the world. Hopefully, this can be accomplished diplomatically with the world-wide support. But, this resolution also sends a clear signal that we are willing to use force to change Iraq's ways if Iraq continues to threaten the U.S.; if Iraq disobeys a new Security Council resolution; or if the President determines all diplomatic efforts have been exhausted. At that time, force may be necessary for America to defend herself. This resolution is the proper mix of diplomacy and force. As President Kennedy said, ''Either alone, will fail.'' I hope the Senate will pass this resolution overwhelmingly to show solidarity and resolve to our friends and our enemies.

Mr. SANTORUM. Mr. President, I rise tonight to address the important resolution pending before the Senate concerning the authority to use military force against the Republic of Iraq. I firmly believe that this resolution we are debating will strengthen the hand of President Bush and the international community in forcing Saddam Hussein to disarm and to ensure his compliance with all relevant United Nations Security Council resolutions.

I believe President Bush will do everything possible before deciding to commit U.S. military forces against Saddam Hussein's regime. The President has not decided to employ military force, nor does this resolution demand that he do so. Rather, the resolution signals to the President that Congress stands behind his decision to employ military force if Saddam Hussein fails to disarm or abide by all relevant United Nations Security Council resolutions.

When he addressed the United Nations on September 12, 2002, President Bush convincingly and accurately presented the case against Saddam Hussein and his flouting of international norms and agreements. President Bush rightly called attention to Saddam Hussein's abysmal track record on complying with the terms of disarmament he accepted at the conclusion of the Persian Gulf war. In so doing, President Bush bucked current international attitudes that would prefer that we not call attention to his regime's activities.

Ever since the conclusion of the Persian Gulf war, we have seen Saddam behave with contempt towards those countries that see value in the United Nations resolutions and that ultimately seek a peaceful and stable Middle East. For more than 10 years, the world looked the other way and ignored the problem with the hope that Saddam Hussein and his regime would go away. Regretfully, Saddam Hussein has displayed remarkable staying power and a powerful appetite for acquiring weapons of mass destruction.

I commend President Bush for seeking congressional authorization for possible military action against Iraq and for consulting with Congress on the drafting of a truly bipartisan resolution. In response to those who condemn the United States for displaying ''unilateralism,'' President Bush took his case to the United Nations and forced the world to acknowledge the realities of the Iraqi transgressions. The President is also right to seek a United Nations Security Council resolution authorizing a return of weapons inspectors to Iraq. These inspectors must have unfettered access to suspected weapons sites in Iraq. There can be no conditions or dickering over Iraq's national sovereignty. Saddam Hussein lost a war he initiated, he sued for peace, and he needs to accept the terms and conditions he pledged to honor. To expect anything less would be to condone his transgressions.

The President is being practical by raising the ''what if'' element to the debate. History has shown Saddam will go to elaborate measures to conceal and elude efforts to uncover his weapons of mass destruction capabilities and development efforts. It is only prudent that the U.S. Congress and all members of the U.N. Security Council consider authorizing measures to force Iraq's compliance with efforts to ensure disarmament. Earlier today, the House of Representatives passed this same resolution on a vote of 296 to 133, and I firmly believe that overwhelming bicameral approval of this resolution will strengthen the hand of the President in securing the strongest possible United Nations Security Council resolution.

In plain terms, the threat posed by Saddam Hussein is analogous to the threat posed by a drunk driver. The drunk driver is a threat to all on and in close proximity to the road. Behind the wheel of a rolling weapon, it is only a matter of time before the drunk driver crashes into another car, kills an innocent bystander or causes immense damage to someone's personal property. Saddam is this drunk driver careening along the road, a threat to all those innocents who have the misfortune to cross his path. It is time to get Saddam off the road before he can kill or injure innocents who cross his path.

For those who are critical of discussion or references to ''regime change,'' I call to your attention section 3 of the Iraq Liberation Act of 1998, P.L. 105–338. Section 3 of the act states: ''It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.'' Through this provision, Congress has already expressed its views on this subject. I applaud the efforts of the Bush administration to engage Iraqi opponents of Saddam Hussein and to work with these groups to provide a democratic alternative to this tyrant.

The United States has a strong record of restoring order and cultivating democracy in post-conflict regions of the globe. Examples such as post-World War II Germany and Japan are stellar illustrations of how the U.S. has worked to better defeated nations that strayed from the norms and rules of acceptable international behavior. In addition, unlike Afghanistan, Iraq is a wealthy nation with natural resources, an educated populace and a middle class—all elements that will bolster the chances of democracy thriving in this country. There is no reason to expect that with a concerted effort by the U.S. and other democratic nations that Iraq cannot join Israel as the only other Middle Eastern democracy.

But perhaps most important, benign neglect is not morally acceptable. Looking the other way will not and cannot improve the situation in Iraq and the threat Saddam Hussein poses to the world. There is a parallel between today's situation and the situation that confronted the civilized Western World of the 1930s. In that era, democratic leaders sought to appease the ambitions of Adolph Hitler and the Third Reich. World War II, the Holocaust and millions of military and civilian casualties are the outcome of that deferral of action.

President Bush's effort to compel compliance with applicable U.N. Security Council resolutions is our best chance for peaceful disarmament. Not one speaker here in the Senate has indicated that the status quo is acceptable or reasonable. It is painfully clear that one way or another we—preferably the U.S. in concert with our allies and the support of the United Nations—must deal with Saddam and his threat to our interests, our allies' interests, the stability of the Middle East and the interests of the civilized world.

In conclusion, given the events of September 11th, given the past transgressions of Saddam Hussein, and given the threat posed to the world by his weapons of mass destruction programs, it is imperative that we provide President Bush with the strongest hand possible to seek compliance with all applicable U.N. Security Council resolutions. The attacks of September 11th and the fateful decisions not taken in the 1930s illustrate that there is a cost to not taking corrective action in a prompt and decisive fashion.

It is my sincere hope that this resolution will rally the United Nations Security Council to draft a strong resolution forcing the disarmament of Saddam Hussein and his regime of terror. If the U.N. fails to act, the U.S. must do what is in the best interest of our national security interests and disarm Saddam Hussein. Today represents our best opportunity for peaceful disarmament disarmament on our terms and according to standards established by the U.N. and other civilized nations. To do or expect anything less is to shirk our moral obligation to meet the national security obligations of our country.

It is for this reason that I will vote in favor of the bipartisan resolution which is before us now.

Mr. MURKOWSKI. Mr. President, we have a dilemma where we recognize that one individual, who has repeatedly defied the will of the international community, almost certainly has control over a concentration of weapons of mass destruction.

We have already seen this individual's willingness to use these weapons against his own people and against Iranian forces during the Iran-Iraq war.

So the question is, is it inevitable that sooner or later Saddam Hussein will again use weapons of mass destruction, and if so, against whom?

There is concern that if the United States and her allies use force against Iraq, Saddam will attempt to use his weapons of mass destruction in order to remain in power. It is a legitimate concern and one that must not be taken lightly.

But I ask my colleagues, if we are hesitant now, how hesitant will we be when Saddam Hussein possesses a nuclear capability? And what will Saddam do when he knows we are unwilling to take action?

We have seen Saddam's willingness to invade his neighbors—Iran and Kuwait. How much farther would Saddam have gone had he not been stopped by U.S.-led coalition forces?

In 1981, Israeli aircraft destroyed an Iraqi military reactor capable of producing nuclear weapons in a surprise, preemptive strike. Israel faced tremendous criticism from the world, but a decade later, during the gulf war, allied forces did not face a nuclear weapon capability from Iraq.

Last month, Secretary Rumsfeld testified before the Senate Armed Forces Committee that prior to Operation Desert Storm, the best intelligence estimates were that Iraq was at least 5 to 7 years away from having nuclear weapons. Yet, when coalition forces entered Iraq, we found that Iraq was 6 months to one year away, not 5 to 7 years.

How close is Saddam today from acquiring nuclear weapons capability? We don't know. We have not been able to place weapons inspectors in Iraq since 1998. Recent reports indicate one to five years, but just like 1991, we don't know for sure.

We do know that Saddam Hussein has developed weapons of mass destruction—weapons such as anthrax, VX, sarin and mustard gas. Are these weapons a country would use to defend itself? Or are these the weapons of an aggressor that would go to whatever means necessary to prevail?

And let's not forget about the threat of proliferation—the threat of Saddam sharing these weapons with like minded terrorist organizations who would not hesitate to use them against the United States and our allies.

Had we known in advance the tragic events of September 11, 2001, there is no doubt that the United States would have taken preemptive action against the al-Qaida terrorist network.

Every month, every year that Saddam Hussein remains in defiance of U.N. Security Council resolutions, we face an even larger, more deadly threat to the security of this great nation. As the President has said, to ignore these threats is to encourage them.

I am hopeful that the use of military action will not be necessary. That Saddam Hussein will fulfill the requirements of the United Nations Security Council. That he will allow full and unobstructed access to U.N. weapons inspectors to destroy all of Iraq's weapons of mass destruction. But past history does not give much cause for hope.

In the 11 years since the Persian Gulf War, Saddam Hussein has blatantly ignored 16 U.N. Security Council Resolutions calling for the total destruction of Iraq's weapons of mass destruction. Eleven years; 16 Resolutions.

This is not a game. We are currently in a limited war with Iraq. So far in 2002, Iraq has fired on Allied fighter planes 409 times, 14 times this past weekend alone. Iraqi forces have fired anti-aircraft artillery 1,000 times, launched 600 rockets and fired nearly 60 surface-to-air missiles. Since Iraq set a letter accepting the return of weapons inspectors on September 16, they have fired on Allied forces 70 times.

The time for appeasement is over. We have seen the policy of appeasement prove ineffectual in the past. The League of Nations was unable to stop Germany from rearming itself and threatening her neighbors. Its policy of appeasement only served to advance Hitler's ambitions.

The United Nations now finds itself in a similar situation. It can choose to either enforce its own resolutions passed by the Security Council, or find itself irrelevant in the view of the world.

The U.N. Security Council is expected to soon take up its 17th resolution regarding Iraq. They deserve to hear, not just from the President of the United States, but the Congress of the United States as well.

We can wait. We can react after the fact. But at what point do we act? When do we recognize that Saddam is a threat, that he does train al-Qaida, that he does fund the terrorists? At a certain point in time, we have to face reality.

What if we left this session of the Congress without authorizing the President to take the appropriate action needed to defend the national security of the United States against the threat posed by Iraq?

How would we feel if—God forbid—Saddam was to take action and take American lives? We would feel we had been derelict in our obligation.

We have an obligation to provide for the security of the people of the United States. Do we follow a policy of appeasement?

Allowing Saddam Hussein to continue to build his weapons of mass destruction?

To continue to play a cat and mouse game of allowing weapons inspectors in, only to place conditions on their actions?

To continue to defy the international community, without fear of reprisal?

To take the chance that those terrorist networks that Saddam supports will not take action against the United States—with Saddam's weapons of mass destruction?

It is oil that built Iraq and it is oil dollars that keep Saddam in power.

Oil dollars fund the weapons, the research, and the training camps for terrorists that give Saddam a global reach.

Do we continue to import hundreds of thousands of barrels of oil from Iraq each day? In September 2002, it is estimated the U.S. imported 550,000 barrels a day. In September of 2001, we imported 1.2 million barrels a day—and broke an 11 year record.

The GAO reports Saddam received $6.6 billion in illegal revenue through smuggled oil since 1997, $1.5 billion in 2001 alone.

The number of vessels smuggling oil has dramatically risen in the past few months. In June through August, the Multi-national Interception Force boarded 297 vessels—nearly 100 per month—with 225,000 barrels of oil. Prior to that, the boarded an average of 12 vessels per month.

This is the Iraqi oil that powers our economy, fuels our school buses, and provides jet fuel for our fighters.

No longer should Iraq count on the United States to fund its regime.

We must pass an energy bill that helps reduce our dangerous dependence on Iraq. America must not be held victim to the whims of Saudi kings and Middle Eastern dictators.

We have an obligation to the American people. We have an obligation to send a strong, unified voice to the United Nations—Congress and the President, hand in hand—that it is time to stop appeasing Saddam.

It is time to enforce the multitude of resolutions already passed and it is time to remove the deadly threat posed by Saddam Hussein.

And if the United Nations is not willing to enforce its own resolutions, if the United Nations is not willing to make itself relevant, then the United States must not be afraid to stand up, to ensure that the national security of the United States is not endangered by the actions of Saddam Hussein.

I support this resolution. It is time to send a clear message to Saddam that we will no longer stand by while he develops these weapons that threaten the stability of the region, while he continues to defy the will of the international community, and while he poses a threat to the national security of the United States.

We cannot afford the risks of inaction. Not after the lessons we have learned from September 11.

Mrs. LINCOLN. Mr. President, I rise today as the Mother of two sons as well as a proud member of this body.

I have come to my decision on this grave matter after going to every length to gather as much information as I could, then weighing it carefully with the general sentiment in my state that we should be very thoughtful. My constituents want us to consider the consequences of war.

I have asked the same questions of the President and his national security team that my constituents asked me. I understand that there are no easy choices when confronting a menace like Saddam Hussein. I have decided to support the Lieberman-Bayh resolution because I believe it gives the President the authority to act with military force if necessary while holding him accountable for a preferred, peaceful solution.

I look at my sons every day and wonder what kind of a world we are creating for them. I am sad that September 11, 2001 has forever changed our perspective on their future and ours. I regret that I cannot be sure that my boys will always be safe from terrorism. But, I am ever more resolved that we have a responsibility to eliminate the Saddam Husseins and Osama bin Ladens of the world. These are people who bear an irrational hatred toward America and the liberty and justice that we stand for. They have converted that hatred into weapons stockpiles and terrorist networks that threaten our way of life. We cannot stand idly by while they gain strength and underestimate our resolve.

Today, I make a difficult choice. I choose to give our President the authority to take military action against Iraq if necessary because I believe him when he says he does not want to go to war. I take our President at his word that disarming Saddam Hussein peacefully is his first choice. I support the notion that a unified Congress sends a strong message to our allies and gives our Secretary of State more leverage as he negotiates a new and tougher U.N. resolution that mandates weapons inspections in Iraq with military consequences if Saddam resists.

Saddam Hussein is a ruthless dictator. He has set himself apart from dictators of the past by using biological weapons against his own people. He has used them before and I don't want to be left with regret if he were to use them against our military or diplomatic personnel overseas, or even our allies. Our objective must be to disarm him before he can unleash his arsenal of chemical and biological weapons or before he can complete work on a nuclear weapon.

The time has come to no longer abide the threat that Saddam Hussein brings to everything that is good in this world. The time has come to eliminate his tools of destruction. Whether we do it alone or with the support of our allies, there can be no question that disarmament of Iraq cannot happen without the significant involvement, in fact the leadership, of the United States.

So I have concluded that Saddam Hussein understands only one kind of communication. A strongly worded U.N. resolution with the solid military backing of the Security Council may change his mind about cooperating. If it doesn't, he must know that his evil and treachery will have consequences.

Today I believe that the risk of doing nothing outweighs the risk of taking action. President Bush has pledged to me and the nation that he will exhaust a peaceful solution before resorting to a military solution. And I intend to hold him to his word.

I vote for this resolution with a heavy heart but also with the knowledge that we can't have it both ways. We cannot wish terrorism away without taking the necessary steps to ensure that our country, and certainly our children, are safe and free.

Mr. KENNEDY. Mr. President, we face no more serious decision in our democracy than whether to go to war. America's values and interests are served best if war is a last resort. I do not believe America should go to war against Iraq unless and until other reasonable alternatives are exhausted, and I will vote against this resolution authorizing the use of force against Iraq.

Too often in this debate, we have failed to address the real effects of unilateral war with Iraq. The more we debate the war, the more we learn of the danger of going to war alone, the danger that it will cause to our urgent war against al-Qaida and terrorism, the danger that Saddam may be provoked into using his weapons of mass destruction against us or against Israel, the danger that allies we need will refuse to support us on other major challenges in the years ahead, and the dangerous new instability that could be caused in that volatile region if we go to war alone.

Because the threat of Saddam is real, I commend President Bush for taking America's case to the United Nations. We have a better prospect of disarming Iraq with the world behind us, than with our allies on the sidelines, or even at odds with our mission.

As we approach a vote on this important question, I offer the strongest possible affirmation that good and decent people on all sides of this debate who may in the end stand on opposing sides of this decision, are equally committed to our national security.

The life and death issue of war and peace is too important to be left to politics. And I disagree with those who suggest that this fateful issue cannot or should not be contested vigorously, publicly, and all across America. When it is the people's sons and daughters who will risk and even lose their lives, then the people should hear and be heard, speak and be listened to.

But there is a difference between honest public dialogue and partisan appeals. There is a difference between questioning policy and questioning motives. There are Republicans and Democrats who support the immediate use of force, and Republicans and Democrats who have raised doubts and dissented.

In this serious time for America and many American families, no one should poison the public square by attacking the patriotism of opponents, or by assailing proponents as more interested in the cause of politics than in the merits of their cause. I reject this, as should we all.

Let me say it plainly: I not only concede, but I am convinced that President Bush believes genuinely in the course he urges upon us. And let me say with the same plainness: Those who agree with that course have an equal obligation—to resist any temptation to convert patriotism into politics. It is possible to love America while concluding that it is not now wise to go to war. The standard that should guide us is especially clear when lives are on the line: We must ask what is right for country and not party.

That is the true spirit of September 11, not unthinking unanimity, but a clear-minded unity in or determination to defeat terrorism, to defend our values and the value of life itself.

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

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

But I am concerned that using force against Iraq before other means are tried will sorely test both the integrity and effectiveness of the coalition. Just one year into the campaign against al-Qaida, the administration is shifting focus, resources and energy to Iraq. The change is priority is coming before we have fully eliminated the threat from al-Qaida, before we know whether Osama bin Laden is dead or alive, and before we can be assured that the fragile post-Taiban government in Afghanistan will consolidate its authority.

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

How can we best achieve this objective in a way that minimizes the risks to our country? How can we ignore the danger to our young men and women in uniform, to our ally Israel, to regional stability, the international community, and victory against terrorism?

There is clearly a threat from Iraq, and there is clearly a danger, but the administration has not made a convincing case that we face such an imminent threat to our national security that a unilateral American strike and an immediate war are necessary.

Nor has the administration laid out the cost in blood and treasure of this operation.

With all the talk of war, the administration has not explicitly acknowledged, let alone explained to the American people, the immense post-war commitment that will be required to create a stable Iraq.

The President's challenge to the United Nations requires a renewed effort to enforce the will of the international community to disarm Saddam. Resorting to war is not America's only or best ocurse at this juncture. There are realistic alternatives between doing nothing and declaring unilateral or immediate war. War should be a last resort. Let us follow that course, and the world will be with us—even if, in the end, we have to move to the ultimate sanction of armed conflict.

The Bush administration says America can fight a war in Iraq without undermining our most pressing national security priority, the war against Al-Qaida. But I believe it is inevitable that a war in Iraq without serious international support will weaken our effort to ensure that Al-Qaida terrorists can never, never, never threaten American lives again.

Unfortunately, the threat from al-Qaida is still imminent. The Nation's armed forces and law enforcement are on constant high alert. America may have broken up the al-Qaida network in Afghanistan and scattered its operatives across many lands. But we have not broken its will to kill Americans.

As I said earlier, we still don't know the fate, the location, or the operational capacity of Osama bin Laden himself. But we do know that al-Qaida is still there, and still here in America, and will do all it can to strike at America's heart and heartland again. But we don't know when, where, or how this may happen.

On March 12, CIA Director Tenet testified before the Senate Armed Services Committee that al-Qaida remains ''the most immediate and serious threat'' to our country, ''despite the progress we have made in Afghanistan and in disrupting the network elsewhere.''

Even with the Taliban out of power, Afghanistan remains fragile. Security remains tenuous. Warlords still dominate many regions. Our reconstruction effort, which is vital to long-term stability and security, is halting and inadequate. Some al-Qaida operatives, no one knows how many, have faded into the general population. Terrorist attacks are on the rise. President Karzai, who has already survived one assassination attempt, is still struggling to solidify his hold on power. And although neighboring Pakistan has been our ally, its stability is far from certain.

We know all this, and we also know that it is an open secret in Washington that the Nation's uniformed military leadership is skeptical about the wisdom of war with Iraq. They share the concern that it may adversely affect the ongoing war against al-Qaida and the continuing effort in Afghanistan by draining resources and armed forces already stretched so thin that many Reservists have been called for a second year of duty, and record numbers of service members have been kept on active duty beyond their obligated service.

They said that spy satellite, reconnaissance aircraft and other intelligence analysts with regional or linguistic expertise would have to be reassigned.

To succeed in our global war against al-Qaida and terrorism, the United States depends on military, law enforcement, and intelligence support from many other nations. We depend on Russia and countries in the former Soviet Union that border Afghanistan for military cooperation. We depend on countries from Portugal to Pakistan to the Philippines for information about al-Qaida's plans and intentions. Because of these relationships, terrorist plots are being foiled and al-Qaida operatives are being arrested.

Support from our allies has been indispensable in the war on terrorism, and has had real results: In December 2001, Singapore officials arrested 13 members of a group with ties to al-Qaida that had planned to bomb the U.S. embassy and U.S. commercial and military targets in Singapore. Malaysia has arrested nearly 50 suspected al-Qaida terrorists since September 11th. In March 2002, a joint U.S.-Pakistani police operation arrested 29 al-Qaida suspects, believed to include Abu Zubayday, a key bin Laden deputy. In May 2002, Morocco arrested three alleged al-Qaida members in connection with a plot to attack American and British naval ships in the Straits of Gibraltar. In June, Moroccan authorities also detained Abu Zubair, nicknamed ''the bear''—a top associate of Abu Zubaydah. In June 2002, Saudi Arabia arrested seven al-Qaida members on suspicion of planning terrorist attacks. One of them, a Sudanese, had allegedly been involved in a missile attack near a Saudi airbase used by U.S. forces. The United States has worked closely with Yemen to combat terrorism, and the Yemeni government recently reported that it is holding 85 suspects accused of links to al-Qaida and other militant groups.

These arrests may seem small in number. But we know only too well that only 19 al-Qaida terrorists were responsible for the murder of nearly 3000 Americans on September 11.

It is far from clear that these essential relationships, which are yielding tangible law enforcement results, will survive the strain of unilateral war with Iraq that comes before the alternatives are tried, or without the support of an international coalition.

A largely unilateral American war that is widely perceived in the Muslim world as untimely or unjust could worsen not lessen the threat of terrorism. War with Iraq before a genuine attempt at inspection and disarmament, or without genuine international support, could swell the ranks of al-Qaida sympathizers and trigger an escalation in terrorist acts. As General Clark told the Senate Armed Services Committee, it would ''super-charge recruiting for al-Qaida.

General Hoar advised the Committee on September 232 that America's first and primary effort should be to defeat al-Qaida. In a September 10th article, General Clark wrote: ''Unilateral U.S. action today would disrupt the war against al-Qaida.'' We ignore such wisdom and advice from many of the best of our military at our own peril.

We have known for many years that Saddam Hussein is seeking and developing weapons of mass destruction. Our intelligence community is deeply concerned about the acquisition of such weapons by Iran, North Korea, Libya, Syria and other nations. But information from the intelligence community over the past six months does not point to Iraq as an imminent threat to the United States or a major proliferation of weapons of mass destruction.

In public hearings before the Senate Armed Services Committee in March, CIA Director George Tenet described Iraq as a threat but not as a proliferator, saying that Saddam Hussein, and I quote, ''is determined to thwart U.N. sanctions, press ahead

with weapons of mass destruction, and resurrect the military force he had before the Gulf War.'' That is unacceptable, but it is also possible that it could be stopped short of war.

In recent weeks, in briefings and in hearings in the Senate Armed Services Committee, I have seen no persuasive evidence that Saddam is not today deterred from attacking U.S. interests by America's overwhelming military superiority.

I have heard no persuasive evidence that Saddam is on the threshold of acquiring the nuclear weapons he has sought for more than 20 years.

And the Administration has offered no persuasive evidence that Saddam would transfer chemical or biological weapons of mass destruction to al-Qaida or any other terrorist organization. As General Joseph Hoar, the former Commander of Central Command told the members of the Armed Services Committee, a case has not been made to connect al-Qaida and Iraq.

To the contrary, there is no clear and convincing pattern of Iraqi relations with either al-Qaida or the Taliban.

Moreover, in August, former National Security Advisor Brent Scowcroft wrote that there is ''scant evidence'' linking Saddam Hussein to terrorist organizations, and ''even less to the September 11 attacks.'' He concluded that Saddam would not regard it as in his interest to risk his country or his investment in weapons of mass destruction by transferring them to terrorists who would use them and ''leave Baghdad as the return address.''

Some who advocate military action against Iraq assert that air strikes will do the job quickly and decisively, and that the operation will be complete in 72 hours. But there is again no persuasive evidence that air strikes alone over the course of several days will incapacitate Saddam and destroy his weapons of mass destruction. Experts have informed us that we do not have sufficient intelligence about military targets in Iraq. Saddam may well hide his most lethal weapons in mosques, schools and hospitals. If our forces attempt to strike such targets, untold numbers of Iraqi civilians could be killed.

In the gulf war, many of Saddam's soldiers quickly retreated because they did not believe the invasion of Kuwait was justified. But when Iraq's survival is at stake, it is more likely that they will fight to the end. Saddam and his military may well abandon the desert, retreat to Baghdad, and engage in urban, guerrilla warfare.

Many believe that our armed forces may need to occupy Baghdad, which has over 5 million residents. In our September 23 hearing, General Clark told the committee that we would need a large military force and a plan for urban warfare. General Hoar said that our military would have to be prepared to fight block by block in Baghdad, and that we could lose a battalion of soldiers a day in casualties. Urban fighting would, he said, look like the last brutal 15 minutes of the movie ''Saving Private Ryan.''

We know that the senior military leadership is concerned about the long-term consequences of an occupation. Secretary of Defense Rumsfeld testified in September that if force were used in Iraq, disarmament would take some period of time. As he said, ''one would think there would have to be a military presence, undoubtedly a coalition presence or a U.N. presence, for a period of time.

In fact, the Congressional Budget Office estimated that the cost of an occupation force would be $1 billion to $4 billion a month, depending on the size of the force, and military experts have suggested that up to 200,000 peace keepers might be needed for the occupation. However, and let me emphasize this, the Congressional Budget Office concluded that current U.S. Army forces would be unable to support the needed troop rotations for a prolonged 200,000-person occupation.

I do not accept the idea that trying other alternatives is either futile or perilous—that the risks of waiting are greater than the risks of war. Indeed, in launching a war against Iraq now, the United States may precipitate the very threat that we are intent on preventing—weapons of mass destruction in the hands of terrorists. If Saddam's regime and his very survival are threatened, then his view of his interests may be profoundly altered: He may decide he has nothing to lose by using weapons of mass destruction himself or by sharing them with terrorists.

Indeed, in an October 7 letter to Senator GRAHAM, Chairman of the Senate Intelligence committee, CIA Director George Tenet stated this risk. He said, ''Baghdad for now appears to be drawing a line short of conducting terrorist attacks with conventional or C.B.W. against the United States.''

In discussing the scenario of a military attack, the CIA Director said, ''Should Saddam conclude that a U.S.-led attack could no longer be deterred, he probably would become much less constrained in adopting terrorist actions . . . Saddam might decide that the extreme step of assisting Islamist terrorists in conducting a W.M.D. attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him.

In the same letter, the CIA declassified an exchange between Senator LEVIN and a senior intelligence witness. When asked about the likelihood of Saddam using weapons of mass destruction without provocation, the intelligence witness said, ''My judgment would be that the probability of him initiating an attack . . . in the foreseeable future, given the conditions we understand now, the likelihood I think would be low.'' When asked about the likelihood that Saddam would use weapons of mass destruction if he thought his regime was in danger, the witness said, ''Pretty high, in my view.''

Before the Gulf War in 1991, Secretary of State James Baker met with the Iraqis and threatened Hussein with ''catastrophe'' if he employed weapons of mass destruction. In that war, although Saddam launched 39 Scud missiles at Israel, he did not use the chemical or biological weapons he had.

If Saddam's regime and survival are threatened, he will have nothing to lose, and may use everything at his disposal. Israeli Prime Minister Ariel Sharon has announced that instead of its forbearance in the 1991 gulf war, this time Israel will respond if attacked. If weapons of mass destruction land on Israeli soil, killing innocent civilians, the experts I have consulted believe Israel will retaliate, and possibly with nuclear weapons.

This escalation, spiraling out of control, could draw the Arab world into a regional war in which our Arab allies side with Iraq, against the United States and against Israel. And that would represent a fundamental threat to Israel, to the region, to the world economy and international order.

Nor can we rule out the possibility that Saddam would assault American force with chemical or biological weapons. Despite advances in protecting our troops, we may not yet have the capability to safeguard all of them. The Congressional General Accounting Office published a report on October 1 which clearly suggests that our forces are not adequately prepared for a chemical or biological attack, even though the Defense Department has been taking significant actions to provide such protection.

The GAO emphasizes the importance of chemical and biological defense training, the medical readiness of units to conduct operations in a contaminated environment, and the critical need for an adequate supply of required protective gear.

Our forces are already stretched thin in other ways. Our soldiers, sailors, airmen and Marines are serving their country with great distinction. Just under 70,000 Reservists and National Guardsmen have been mobilized for the war against terrorism. Many reservists who were initially recalled for the war in Afghanistan have been either de-mobilized or extended for a second year. They are concerned about the impact a war against Iraq will have on their families and on their jobs. Many employers who are struggling in the current sagging economy are also deeply concerned about the stability of their workforce. These patriotic Americans are willing to sacrifice, but they deserve to know that all reasonable alternatives to war have been exhausted.

If we embark upon a premature or unilateral military campaign against Iraq, or a campaign only with Britain, our forces will have to serve in even greater numbers, for longer periods,

and with graver risks. Our force strength will be stretched even thinner. If in the end we must go to war, the burden should be shared with allies, and an alliance is less likely if war becomes an immediate response.

Even with the major technological gains demonstrated in Afghanistan, the logistics and manpower required in a war with Iraq would be extraordinarily challenging if we could not marshal a real coalition of regional and international allies. The Chairman of the Joint Chiefs of Staff, General Richard Myers, told the Senate Armed Services Committee two week ago that because of the high demand placed on some of our forces, coalition partners would be necessary to mitigate the risk of war in Iraq.

President Bush made the right decision on September 12 when he expressed America's willingness to work with the United Nations to prevent Iraq from using chemical, biological or nuclear weapons. The President's address to the General Assembly challenging the United Nations to enforce its long list of Security Council Resolutions on Iraq was powerful, and for me, it was persuasive.

The President reports important progress has been made in urging many nations to join us in insisting that Saddam Hussein's regime be held accountable. The meetings already held between the U.N. and the Iraqi government on resuming inspections reflects the new international resolve to ensure that Iraq's weapons of mass destruction are identified and destroyed. Yet, the resolution before us would allow the President to go it alone against Iraq without seeing our U.N. initiative through, and without exhausting the alternatives.

To maintain the credibility he built when he went to the U.N., the President must follow the logic of his own argument. Before we go to war, we should give the international community to chance to meet the President's challenge, to renew its resolve to disarm Saddam Hussein completely and effectively.

Some have argued that inspections have already been tried, and that they have failed. They argue that the international community has exhausted the option of inspections, and that immediate war is now justified. I disagree.

I have spoken to former inspectors and non-proliferation experts who are convinced that 7 years of inspections significantly impeded Saddam's efforts to acquire weapons of mass destruction. Indeed, they are convinced that inspections can work effectively again.

According to Rolf Ekeus, who served as the executive chairman of the U.N. Special Commission on Iraq from 1991 to 1997, inspectors ensured that not much was left of Iraq's once massive weapons programs at the time they departed.

In fact, the seven years of inspections that took place until 1998 succeeded in virtually eliminating Saddam's ability to develop a nuclear weapon in Iraq during that period. Even with Iraq's obstructions, those inspections resulted in the demolition of large quantities of chemical and biological weapons. The inspection program, before its forced termination in 1998, had accomplished far more disarmament than the gulf war itself.

President Bush acknowledged the successes of the International Atomic Energy Agency, or I.A.E.A., in thwarting Saddam's nuclear ambitions in his October 7 address to the Nation. He said, ''Before being barred from Iraq in 1998, the International Atomic Energy Agency dismantled extensive nuclear weapons-related facilities, including three uranium-enrichment sites.''

A CIA assessment, released to the public in October 2002, says: ''Before its departure from Iraq, the IAEA made significant strides toward dismantling Iraq's nuclear weapons program and unearthing the nature and scope of Iraq's past nuclear activities.''

Even the assessment of Iraq's WMD program published by the British Government to demand action in the United Nations against Iraq acknowledges the success of inspections. It says: ''Despite the conduct of the Iraqi authorities towards them, both, the UN, and the IAEA Action Team have valuable records of achievement in discovering and exposing Iraq's biological weapons program and destroying very large quantities of chemical weapons stocks and missiles as well as the infrastructure for Iraq's nuclear weapons programme.''

Among the U.N.'s significant achievements cited in the assessment are: The destruction of 40,000 munitions for chemical weapons, 2,610 tons of chemical precursors, and 411 tons of chemical warfare agent. The dismantling of Iraq's prime chemical weapons development production complex. The destruction of 48 Scud-type missiles, 11 mobile launchers and 56 sites, 30 warheads filled with chemical agents, and 20 conventional warheads. The destruction of the al-Hakam biological weapons facility and a range of production equipment. The removal and destruction of the infrastructure of the nuclear weapons program, including a weaponization and testing facility.

Experts on inspections advise that it would be extremely hard for Iraq to carry on an active and even secret WMD program while inspections are being conducted, especially with the inspection technology that has been developed over the last ten years. One former nuclear inspector told me that he found it hard to keep Iraqi scientists quiet about Iraq's nuclear program, once they started to talk.

Given these assessments, there is every reason to believe that unrestricted and unconditional inspections can again be effective in ensuring the destruction of weapons of mass destruction. It is an option that must be given a clear chance before going to war again.

So this should be the first aim of our policy, to get U.N. inspectors back into Iraq without conditions. I hope the Security Council will approve a new resolution requiring the Government of Iraq to accept unlimited and unconditional inspections and the destruction of any weapons of mass destruction.

The resolution should set a short timetable for the resumption of inspections. I would hope that inspections could resume, at the latest, by the end of October.

The resolution should also require the head of the U.N. inspection team to report to the Security Council every two weeks. No delaying tactics should be tolerated, and if they occur, Saddam should know that he will lose his last chance to avoid war.

The Security Council Resolution should authorize the use of force, if the inspection process is unsatisfactory. And there should be no doubt in Baghdad that the United States Congress would then be prepared to authorize force as well.

The return of inspectors with unfettered access and the ability to destroy what they find not only could remove any weapons of mass destruction from Saddam's arsenal. They could also be more effective than an immediate or unilateral war in ensuring that these deadly weapons would not fall into terrorist hands.

Before going to war again, we should seek to resume the inspections now—and set a non-negotiable demand of no obstruction, no delay, no more weapons of mass destruction in Iraq.

We know that our actions against Iraq do not occur in a vacuum. The world is watching. The Administration's decisions to abandon the Kyoto Protocol on global warming, to unilaterally withdraw from the ABM Treaty, and to reject ratification of the Treaty on the International Criminal Court have left the unmistakable impression across the globe that the United States wants to write its own international rules.

In February, Secretary of State Powell testified that there was significant concern among the Europeans earlier last year about ''unbridled U.S. unilateralism,'' because ''the U.S. was going off on its own without a care for the rest of the world.'' Further unilateral action on our part, especially on the all-important issue of war, could trigger a new global anti-Americanism that causes peoples and governments to question our motives and actions on a wide range of issues.

We should not embark on a unilateral war, without fully considering the potentially destabilizing impact on our allies in the region.

If we insist on attacking Iraq alone without the clear support of the international community, we could inflame anti-Americanism in the predominantly Muslim countries throughout the Middle East and South Asia. In an article this month in the New York Times, an expert at the Brookings Institution wrote that regardless of our

real objectives, most Arabs and Muslims will see ''American imperialism'' in a war with Iraq.

This expert says that a war with Iraq would ''render the Middle East more . . . unstable than it is today.'' Middle Eastern leaders could be faced with mass street protests over a highly unpopular American strike.

Jordan's King Abdullah, who is a trusted friend of America, is deeply concerned that war will inflame the large Palestinian population and inflame Islamic views. Iraq is one of Jordan's largest trading partners, and King Abdullah is understandably concerned about a potentially devastating impact on the Jordanian economy. Some experts have suggested that King Abdullah may lose power if war breaks out. Already the Jordanian Government is working actively to discourage popular outbursts against war with Iraq.

In Egypt, President Mubarak is concerned that war with Iraq will further ignite strong Islamist sentiment.

We also need to consider the possibility that Iran would try to increase its strength and influence in Southern Iraq in a post-Saddam era. More than 50 percent of the Iraqi population is Shiite, just as in Iran, and if the Iranian Government senses a vacuum, it very well might try to increase its influence in Iraq.

The United States must clearly act to defend our national security against an imminent threat. In doing so, the President will have the full support of Congress and the American people. But when an imminent threat does not exist, and when reasonable alternatives are available, as they are now, we must use them before resorting to war.

What can be gained here is success and in the event of failure, greater credibility for an armed response, greater international support, and the prospect of victory with less loss of American life.

So what is to be lost by pursuing this policy before Congress authorizes sending young Americans into another and in this case perhaps unnecessary war?

Even the case against Saddam is, in important respects, a case against immediate or unilateral war. If Prime Minister Blair is correct in saying that Iraq can launch chemical or biological warheads in 45 minutes, what kind of sense does it make to put our soldiers in the path of that danger without exhausting every reasonable means to disarm Iraq through the United Nations?

Clearly we must halt Saddam Hussein's quest for weapons of mass destruction. Yes, we may reach the point where our only choice is conflict with like-minded allies at our side, if not in a multilateral action authorized by the Security Council. But we are not there yet.

The evidence does not take us there; events do not compel us there and both the war against terrorism and our wider interests in the region and the world summon us to a course that is sensible, graduated, and genuinely strong—not because it moves swiftly to battle, but because it moves resolutely to the objective of disarming Iraq peacefully if possible, and militarily if necessary.

In his October 7 address to the nation, President Bush said Congressional approval of a resolution authorizing the use of force does not mean that war with Iraq is ''imminent or unavoidable.'' The President himself has not decided that our nation should go to war. Yet, Congress is being asked to authorize war now. He may decide not to use that authority. But this resolution leaves it to the President to make the decision on his own, without further recourse to Congress or to the American people.

The power to declare war is the most solemn responsibility given to Congress by the Constitution. We must not delegate that responsibility to the President in advance.

Let me close by recalling the events of an autumn of danger four decades ago. When missiles were discovered in Cuba—missiles more threatening to us than anything Saddam has today, some in the highest councils of government urged an immediate and unilateral strike. Instead the United States took its case to the United Nations, won the endorsement of the Organization of American States, and brought along even our most skeptical allies. We imposed a blockade, demanded inspection, and insisted on the removal of the missiles.

When an earlier President outlined that choice to the American people and the world, he spoke of it in realistic terms not with a sense that the first step would necessarily be the final step, but with a resolve that it must be tried.

As he said then, ''Action is required . . . and these actions [now] may only be the beginning. We will not prematurely or unnecessarily risk the costs of . . . war—but neither will we shrink from that risk at any time it must be faced.''

In 2002, we too can and must be both resolute and measured. In that way, the United States prevailed without war in the greatest confrontation of the Cold War. Now, on Iraq, let us build international support, try the United Nations, and pursue disarmament before we turn to armed conflict.

Mr. JOHNSON. Mr. President, I rise today to offer my support for the pending resolution. I am pleased to be a cosponsor of the Lieberman-Warner-McCain resolution because I believe it is in our national security interests to deal with the threat posed by Iraq. The world would be a far safer place without Saddam Hussein, and as long as he remains in power, he will continue to be a threat to the region, to the United States, and to his own people.

Saddam Hussein is a destabilizing force in the Middle East. A quick review of history reveals he has invaded two of his neighbors—Iran and Kuwait—causing massive destruction, killing hundreds of thousands of people, and bankrupting his country. During the gulf war, he launched ballistic missiles at civilian populations in Israel. He opposes the Middle East peace process and has provided financial rewards to the families of suicide bombers. He supports organizations engaged in terrorism and committed to the overthrow of governments within the region. It is clear that Saddam Hussein is an opponent of stability in the Middle East, and our efforts to build a lasting peace in the region is in jeopardy as long as he remains in power.

In addition to being a threat to his neighbors, Saddam Hussein is a threat to the United States and to our vital national security interests. There can be no doubt that Iraq has continued its drive to develop weapons of mass destruction and the means to deliver them. After the gulf war, Saddam Hussein agreed to open up his country to international inspectors, to destroy his weapons stockpiles, and to halt all weapons of mass destruction development programs. Despite near continual obstruction by Iraq, international weapons inspectors were able to uncover a portion of his extensive chemical and biological weapons, and gain vital information about his effort to develop nuclear weapons.

However, the weapons inspectors' progress was thwarted when Saddam Hussein forced them to leave the country in 1998. For 4 years, he has been able to pursue chemical, biological, and nuclear weapons capabilities outside the watchful eye of the international community. While Iraq has agreed to allow the weapons inspectors to return, I am skeptical that Saddam Hussein will keep his word and allow unfettered access to suspect sites. Already there are indications that the agreement under which the inspectors will return allows Iraq to forbid entrance into certain key locations. Without full and guaranteed access to all sites, this inspection regime is likely to fail and prove to be just another delaying tactic.

Saddam Hussein's possession of weapons of mass destruction is in itself a threat to the United States, but equally concerning is his ties to international terrorism. It is clear that Iraq is in violation of its obligation to renounce terrorism and to halt its support for terrorist organizations. Recently, the Bush administration announced that it has evidence linking Saddam Hussein with international terrorists. A link between Saddam Hussein's weapons of mass destruction and al-Qaida terrorists would be the gravest threat facing our Nation and would require immediate action by the United States.

Given this threat, and the fact that Iraq is in violation of 16 separate United Nations Security Council resolutions, the United States is well within its rights to act militarily to protect

the safety of the American people. I disagree with those who argue our actions must be tied to prior approval by the United Nations. The defense of our Nation should not be dictated by other countries or international organizations. If necessary, the United States should be prepared to act alone.

However, I strongly support efforts to build international support prior to military action against Iraq. The support of our allies, and the international community as a whole, will increase the chances of success for our policy in Iraq and in the ongoing fight against global terrorism. One reason why I support the pending resolution is that I believe a strong vote by Congress will signal our national unity and make it more likely that the President will succeed in creating a strong international coalition.

While much of our focus has been on preparing for possible military action against Iraq, and working with the international community to resume inspections of Iraq's suspected weapons of mass destruction sites, I believe we must also begin the process of planning for a post-Saddam Hussein Iraq. As a part of this, we must begin to talk to the Iraqi people and enlist their support in the fight against Saddam Hussein. There can be no doubt that no one has suffered more from Saddam Hussein's regime than the people of Iraq.

The list of crimes Saddam Hussein has perpetrated against his own citizens is shocking. Since 1997, he has killed over 2,500 prisoners—many of whom were jailed simply for their opposition to his regime. He has repressed both the Kurds in the north and the Shiites in the south by causing environmental devastation, demolishing homes, destroying villages, and creating hundreds of thousands of internally displaced people throughout the country. In 1988 in the village of Halabja, he used chemical weapons to kill more than 5,000 innocent Iraqi civilians. And while thousands of his people starve, Saddam Hussein diverts much needed food and medicine from the U.N.'s Oil for Food Program for his own enrichment.

Given his history, the Iraqi people should no doubt welcome the end of Saddam Hussein's brutal regime. We should ask for their support in ousting Saddam by assuring them that our goal is nothing short of helping them establish a functioning, democratic society. Iraq enjoys a wealth of natural resources and a well-educated, innovative population. The Iraqi people may well thrive once they are allowed to harness the power of democracy and free markets.

I believe we can succeed in helping the Iraqi people create a better country. It will be difficult and will take a long-term commitment from the United States. But ultimately, the success of our efforts in Iraq will be judged by our ability to make sure that Saddam Hussein is not simply replaced by another dictator who will pursue weapons of mass destruction, invade his neighbors, and support global terrorism.

This vote has particular significance to me. My son, Brooks, is currently serving in the 101st Airborne. The 101st is one of the Army divisions that has been identified by military leaders as likely to prosecute the war against Iraq. I know that a vote in favor of this resolution may be a vote to send my own son to war. Given this, I do not take this vote lightly. I am very proud of my son, and of the thousands of South Dakotans serving in our Armed Forces, and I know they are prepared to do what is necessary to protect the United States.

I will vote for this resolution because I know putting a stop to Iraq's weapons of mass destruction program and ending Saddam Hussein's brutal dictatorship is in our national security interests and vital to protecting the American people. While this approach is not without danger, the greatest danger of all would be in a failure of the U.S. and the world community to act in a decisive and urgent manner.

Mr. LIEBERMAN. Mr. President, what weapons, exactly, does Saddam Hussein have, and what could he do with them? When we are talking about this dangerous dictator, that is not a hypothetical question. We can see what he has done already with the chemicals he has developed. We don't have to imagine; we need only extrapolate.

Saddam Hussein not only has large and growing stockpiles of chemical and biological weapons. He alone among the dictators of the world has shown a willingness to use them.

In the 1980s Iran-Iraq War, Iraqi troops repeatedly used poison gas, including mustard gas and the nerve agent sarin, against Iranian soldiers. And Saddam has repeatedly attacked Kurds in the north with chemical weapons, namely nerve agents and mustard gas, the most horrifying single attack coming in Halabja in 1988.

It is one thing to see nations accumulate dangerous weapons for purely deterrent and defensive purposes. It is another entirely to see a dictator develop such weapons and deploy them to murder opponents of his regime and wage offensive war against a neighbor.

That is why we must look with special scrutiny on Saddam's stockpiles.

When the U.N. inspectors were forced out of Iraq in 1998, here is what was unaccounted for: up to 360 tons of bulk chemical warfare agents, including one and a half tons of VX nerve agent; up to 3,00 tons of precursor chemicals; growth media sufficient to produce 26,000 liters of anthrax spores; and over 30,000 special munitions for delivery of chemical and biological agents.

Those are just the leftovers that we know about. Then add to that all the deadly weapons that Saddam has been cooking up over the last 11 years. We know Iraq continues to produce chemical agents for chemical weapons. We know Saddam has rebuilt previously destroyed production plants across Iraq. We know he has retained the key personnel formerly engaged in the chemical weapons program. He has mustard gas, VX nerve agent, and a range of other chemical weapons.

The record repeats itself with biological weapons. Intelligence shows us that production has continued. Facilities formerly used for biological weapons have been rebuilt. Equipment has been purchased. And Saddam has retained the personnel who worked on it before the gulf war. Indeed, UNSCOM found that Iraq was working to build mobile biological weapons facilities which are easier to conceal. It appears that they now have such facilities. The biological agents we believe Iraq can produce include anthrax, botulinum, toxin, aflatoxin and ricin.

Perhaps we recite the litany, ''chemical, biological, working on nuclear,'' so often that it loses some of its meaning. British Prime Minister Tony Blair has warned against us developing a kind of ''word fatigue'' when it comes to these weapons, and I take that warning to heart.

''New Yorker'' writer Jeffrey Goldberg has traveled to the region and done significant reporting on Saddam's capabilities and his intentions—on his deadly weapons and his brutal will. Let me read a piece Mr. Goldberg wrote in the online magazine Slate that puts Saddam's possession of at least one of these toxins in sharp relief. I quote:

> In 1995, the government of Saddam Hussein admitted to United Nations weapons inspectors that its scientists had weaponized a biological agent called aflatoxin. Charles Duelfer, the former deputy executive chairman of the now—defunct UNSCOM, told me earlier this year that the Iraqi admission was startling because aflatoxin has no possible battlefield use. Aflatoxin, which is made from fungi that occur in moldy grains, does only one thing well: It causes liver cancer. In fact, it induces it particularly well in children. Its effects are far from immediate. The joke among weapons inspectors is that aflatoxin would stop a lieutenant from making colonel, but it would not stop soldiers from advancing across a battlefield.
>
> I quoted Duelfer, in an article that appeared in the New Yorker, saying that ''we kept pressing the Iraqis to discuss the concept of use of aflatoxin.'' They never came up with an adequate explanation, he said. They did admit, however, that they had loaded aflatoxin into two warheads capable of being fitted onto Scud missiles.

Richard Spertzel, who was the chief biological weapons inspector for UNSCOM, told me that aflatoxin is ''a devilish weapon. From a moral standpoint, aflatoxin is the cruelest weapons, it means watching children die slowly of liver cancer.''

Spertzel went on to say that, to his knowledge, Iraq is the only country ever to weaponize aflatoxin.

> In an advertisement that appeared in the New York Times on Tuesday, a group of worthies called upon the American people to summon the courage to question the war plans of President Bush. The advertisement, which was sponsored by Common Cause, asks, in reference to the Saddam regime, ''Of all the repugnant dictatorships, why this one?'' . . .

. . . There are, of course, many repugnant dictators in the world; a dozen or so in the Middle East alone. But Saddam Hussein is a figure of singular repugnance, and singular danger. To review: There is no dictator in power anywhere in the world who has, so far in his career, invaded two neighboring countries; fired ballistic missiles at the civilians of two other neighboring countries; tried to have assassinated an ex-president of the United States; harbored al-Quaida fugitives; attacked civilians with chemical weapons; attacked the soldiers of an enemy country with chemical weapons; conducted biological weapons experiments on human subjects; committed genocide; and then there is, of course, the matter of the weaponized aflatoxin, a tool of mass murder and nothing else.

I do not know how any thinking person could believe that Saddam Hussein is a run-of-the-mill dictator. No one else comes close . . . to matching his extraordinary and variegated record of malevolence.

Earlier this year, while traveling across northern Iraq, I interviewed more than 100 survivors of Saddam's campaign of chemical genocide. I will not recite the statistics, or recount the horror stories here, except to say that I met enough barren and cancer-ridden women in Iraqi Kurdistan to last me several lifetimes.

So: Saddam Hussein is uniquely evil, the only ruler in power today—and the first one since Hitler—to commit chemical genocide. Is that enough of a reason to remove him from power? I would say yes, if ''never again'' is in fact actually to mean ''never again.''

That is why every day this man remains in power is a day of danger for the American people, the Iraqi people, and, indeed, the people of the world.

Let me give you one more example that is as disturbing as aflatoxin. It is botulinum toxin, the cause of botulism, which comes from bacteria found in the soil. After the gulf war, United Nations weapons inspectors found that Iraq had produced tons of botulinum toxin, some of it loaded into missiles and bombs. Let me repeat. Years ago, inspectors found tons, some of it weaponized. So we know Saddam has experience with this weapon.

For smallpox, there is a vaccine. Anthrax and other bacterial agents can be treated with antibiotics. But botulism is a toxin, a poisonous chemical made by bacteria. Let than a handful of pure botulinum toxin, evenly dispersed in an aerosol, would be enough to kill more than a million people. The only treatment for botulism poisoning is an antitoxin made from horse serum, and it only works about half the time.

There is a horror story for every biological or chemical agent in this man's arsenal. I don't need to go through them all. We only need to understand that these horror stories could come true if we do not confront Saddam's devious designs.

Some insist, and I don't understand this claim, that chemical and biological weapons aren't all that troubling. They say we need only really worry about nuclear weapons.

Given what I have just explained, I think that is a dangerous assumption. But assume for a moment that Saddam has no chemical weapons and no biological weapons. Would there be cause for forceful United Nations action, and, failing that, American military action?

I say, yes, without a doubt.

There is now a consensus belief that Saddam could have an atomic weapon within months of acquiring fissile material. Based on the best estimates, his regime could manufacture the fuel itself within as little as 3 years. There is no way to measure now long it might take Saddam to acquire the fuel from an outside source. He could be attempting to do so as we speak. Indeed, it would be näive to assume otherwise.

This leads to a critical question, and perhaps the threshold question in the debate. How long do my fellow Senators suggest we wait? Until we know, beyond dispute, if there is ever such evidence beyond dispute, that Saddam is 1 month away from obtaining a nuclear weapon and the means to deliver it? Until we know beyond dispute that he is a week away? Or perhaps we should wait until he has it?

In 1996, the International Atomic Energy Agency, IAEA, reported that Iraq had all the materials for a bomb except for the fissile material itself—either plutonium or highly enriched uranium. It is now 6 years later.

The debate about whether Saddam is an ''imminent'' threat is an interesting one. What better defines imminence than the facts that I have just outlined?

In fact, we must admit that the only conclusive proof of imminence could come in the hindsight, when innocents are sorting through the rubble and counting the injured or the dead. As National Security Advisor Condaleeza Rice said, the smoking gun could be a mushroom cloud. Or add to that a yellow cloud of mustard gas, an invisible cloud of sarin gas, or the slow and silent spread of smallpox.

I know, despite all this evidence, much of which is beyond dispute, some say, ''There is no new evidence.''

I have two answers to that. One, we don't need new evidence. The existing evidence of his capabilities and intent is more than enough to paint a poisonous picture.

Two, there is, in fact, new evidence. For instance, the fact that, once acquiring fissile material, Saddam will be just months of developing a nuclear weapon, is new. And it underlines the urgency of defanging this dictator immediately.

In fact, here is a brief review what we know about what Saddam has done since the departure of the U.N. weapons inspections in 1998. British Prime Minister Tony Blair laid this out to the Parliament last month.

Since 1998, we know that Saddam has sought or attempted to buy: specialized vacuum pumps, the type needed for the gas centrifuge to enrich uranium; an entire magnet production lien of the type for use in the motors and top bearings of gas centrifuges; dual use products such as Anhydrous Hydrogen Fluoride and fluoride gas; a filament winding machine, which can be used to manufacture carbon fiber gas centrifuge rotors; 60,000 or more specialized aluminum tubes, which are subject to strict controls due to their potential use in the construction of gas centrifuges.

And Saddam has been trying to buy significant quantities of uranium, though we do not know whether he has been successful. Key personnel from his old nuclear weapons program are at work again. Iraq claims that this is for a civil nuclear power program but it has no nuclear powerplants.

We can search for the most innocuous possible explanation, of each and every disturbing piece of evidence, or we can look realistically at the totality of the evidence.

And what about delivery systems?

Iraq is supposed to only have limited missile capability for conventional weaponry. But we know that a significant number of longer-range missiles were concealed from the previous inspectors, including up to 20 extended range Scud missiles. We know that 2001, Iraq's plans entered a new stage and that now, the regime's development of weapons with a range over 600 miles. Hundreds of key personnel are working on the delivery systems.

The danger will not abate unless we make it abate. it will only grow. And we will be forced to simply wait and see how, when, and against whom Saddam will use these weapons.

What more do we need to know?

Some say that removing Saddam Hussein from power would compromise the wider war against terrorism. But to me, the two are inextricably linked.

First, remember that Iraq under Saddam is one of only seven nations in the world to be designated by our State Department as a state sponsor of terrorism. He provides aid, funding, and training to terrorists who have killed Americans and others. He hosted the Abu Nidal Organization, whose leader was found dead in Baghdad in August. He gives money to the families of Palestinian suicide bombers.

Second, Saddam himself meets the definition of a terrorist, someone who attacks civilians to achieve a political purpose. He has done so repeatedly against the Kurds in the north of Iraq, as well as against the Shi'a in the south. If he is willing to kill thousands of Iraqis, how many Americans or Europeans do we think he considers expendable?

Third, though the relationship between al-Qaida and Saddam's regime is a subject of intense debate within the intelligence community, we do have evidence of meetings between Iraqi officials and leaders of al-Qaida, and some testimony that Iraqi agents helped train al-Qaida operatives to use chemical and biological weapons. We also know that senior leaders of al-Qaida have been and are now harbored in Iraq.

It is not speculation to suggest that Iraq might pass chemical, biological,

or nuclear weapons to terrorists. It is realism.

There are other state sponsors of terrorism, all of which pose serious dangers to the security of America and the world.

But Saddam's is the only regime that combines a record of supporting terrorists with a history of killing and torturing dissidents, ambitions to dominate his region, growing stockpiles of chemical and biological weapons and a willingness to use them. That is why the danger he poses rises above the rest on the topography of terror.

In my view, if we remove his pernicious influence from the Middle East and free the Iraqi people to determine their own destiny, we will transform the politics of the region, and advance the war against terrorism, not set it back as some have suggested.

In April 1917, in requesting a congressional declaration to enter what was then known as the Great War, Woodrow Wilson said, ''We act without animus, not in enmity toward a people or with the desire to bring any injury or disadvantage upon them, but only in armed opposition to an irresponsible government which has thrown aside all considerations of humanity and of right and is running amuck.''

The same can be said if and when we must confront Saddam's brutal regime. We will not be fighting the Iraqi people. Our goal, to the contrary, will be to liberate the Iraqi people from tyranny even as we remove the threat from this rabid regime.

But we must prove that good and decent intent not only on the day we commit arms, if we must, on the day we win. We must prove our commitment to building a better nation for the Iraqi people on the day after the day after, and the day after that, when we will face, and help the Iraqi people to face, the broad range of humanitarian, economic, diplomatic, and political problems that will no doubt present themselves.

The wars we wage are measured by the quality of the peace that follows.

I know that some fear the future of Iraq post-Saddam. They fear the risks, the responsibilities, and the costs, so much that those fears of tomorrow lead them to justify inaction today. To me, post-Saddam Iraq is not a burden to be shunned but an opportunity to be seized. It must become a signal to the world, particularly the Islamic world, of our Nation's best intentions.

Indeed, post-Suddam Iraq will be a test of America and our values. We have barely earned a passing grade on our first test, in post-Taliban Afghanistan. We cannot afford to scrape and slip by again, because this time the stakes are higher, the stage larger, and the consequences of failure even more dire.

How do we lay the foundation for a civil and open society after the fighting stops and the likely celebrations in the streets subside?

First, we must we invest in Iraq's security. Some will be tempted to short-change our post-Saddam commitment by whittling down a security presence to the smallest possible size we think we can get away with, or by pulling our forces out the first open window.

But we must learn from Afghanistan, where, despite a brilliant military victory and early movements toward a stable and civil society, some big mistakes have been made.

Perhaps due to the Bush administration's stated aversion to nation building, we failed to establish a peacekeeping presence strong enough or geographically wide enough to tame the factionalism and ethnic conflict that have plagued Afghanistan for years. We failed to get ready to deal with the decrepit state of the nation's infrastructure caused by the long civil war that preceded our involvement. And, though our nations assisted us in our military victory, we did not leverage their investment to give them sufficient stake in a responsibility in a long-term peace.

As a result, the situation on the ground in Afghanistan is tenuous today. Warlords control the countryside. Hamid Karzai's rule in Kabul is uncertain. His ministers have been assassinated. Karzai himself came within a hair's breath of assassination. Have we lost the peace? No. But the current instability can, if left to fester, give rise to terrorism. oppression, and civil war.

It is not too late to correct our course. That is why Senator Hagel and I have sponsored the Afghanistan Freedom Support Act of 2002, currently before the Senate Foreign Relations Committee. The bill would commit to the country's stability, security, and democratic development by investing $2.5 billion over 4 years in economic, political, and humanitarian assistance, including a half billion dollars toward an enterprise fund for business development and job creation and $300 million in military and security assistance for police training and crime control. It would also urge President Bush to expand the international security force beyond Kabul, and, if that decision were made, would authorize $1 billion over the next two years to make that possible. This is extremely important legislation that deserves broad legislative and public support.

Now we must hear from the administration that they are ready with specific plans for Iraq that will not repeat the mistakes of Afghanistan.

In fact, we have to face the fact that the best-case military scenario—the rapid collapse of the Iraqi military and the swift capture or elimination of Saddam—would also present the most challenging security scenario.

The three most immediate security objectives will be securing all chemical, biological and nuclear weapons sites and relevant personnel, tracking down Saddam's remaining secret police, and preventing potential Iranian military interference.

Simultaneously, among the Iraqi people at large, U.S. forces must be ready immediately to shift gears to post-conflict operations, helping to restore order and handling humanitarian emergencies. Despite its tremendous training and talent, our military needs more specialized teams to take on this crucial job.

The administration should also work with non-governmental organizations to recruit Iraqi-American and other Arab-American volunteers who can help peacekeepers and humanitarian organizations communicate with the Iraqi people, distribute supplies, assist in healthcare delivery, and do other critical jobs. A similar volunteer program worked in the Balkans and can work again in Iraq.

Like the military campaign itself, stabilizing post-Saddam Iraq and tending to the Iraqi people will be aided dramatically if the United States is part of a international coalition, especially one that includes Muslim and Arab nations. That will make clear to Iraqis and the world that our enemy is Saddam and not the Iraqi people, and just as Saddam is a threat to the world, securing and rebuilding Iraq is the duty of the world.

The bottom line is this: While Afghanistan's growing instability is deeply troubling, allowing post-Saddam Iraq, which abuts Syria and Iran, Saudi Arabia and Jordan, Kuwait and Turkey, to fall into civil war or into the hands of another dictator would be disastrous. If post-Saddam Iraq unravels, as Afghanistan is at risk of doing, so will the credibility and the effectiveness of our wider war against terrorism. And we will be that much closer to a global civilization war.

Once security and stability are established in post-Saddam Iraq, we must begin to establish the foundation for democratic governance and the rule of law. I am pleased that the Bush administration has begun bringing key opposition groups together to lay what a foundation for an honest, effective, and representative government. Iraq is a divided nation, with at least three key regions and three key religious, ethnic, and political factions. But let's be clear. Post-Saddam Iraqi governance will take more than a couple of conference calls to get right.

And we must be very careful here. Our goal is not replacing Baghdad with New York on the Tigris. We do not want an American client state, and we can't expect a democracy that overnight looks exactly like ours. We must be realistic. This process will require the sustained guidance, partnership, and investment of our nation and our allies, working with the Iraqi people.

The war against terrorism, including this effort to disarm Iraq, is like no other war we have waged.

If we are true to our principles, we can again make the world a safer and better place, not only for us Americans but for people in Iraq and throughout the Arab and Muslim worlds, who deserve the freedom and opportunity that we declared at the birth of our Nation

226 years ago: the endowment each human being receives at birth from our Creator.

Mr. FITZGERALD. Mr. President, I rise today in support of the Lieberman-Warner resolution authorizing the use of force against Iraq. This resolution gives President Bush the flexibility he needs to address the threat posed by Saddam Hussein, including the authority to use military force as he deems appropriate, without ceding too much authority to the executive to wage war outside Iraq. I applaud Senators LIEBERMAN, WARNER, MCCAIN, and so many others who have worked with President Bush to reach an agreement on this critical issue.

I support the President's policy of regime change in Iraq to eliminate the threat Saddam poses to the U.S. and the world, and agree that time is of the essence. I was concerned that the administration's initial draft resolution was too broad, and called for tighter parameters on the Presidential mandate. The resolution now before us addresses my concerns by confining the scope of possible military action to Iraq, rather than the entire Middle East region.

Only last month we commemorated the one-year anniversary of the deadliest terrorist attack in our history. Today, we face a threat from a regime that would not hesitate to use weapons of mass destruction against our friends and allies, or against the United States itself, or transfer these weapons to terrorist groups that target Americans.

Saddam Hussein's track record is well-known to all. He ordered the use of chemical weapons—including sarin, VX, tabun, and mustard agents—against his own people, killing tens of thousands of innocent civilians. His regime invaded two neighbors and threatened others. In 1991, his troops were prepared to invade other countries, had they not been thwarted by the U.S.-led international coalition. His regime launched ballistic missiles at four of its neighbors—Israel, Saudi Arabia, Iran, and Bahrain. He ordered the assassination of opponents in Iraq and abroad, including a former president of the United States. His regime beat and tortured American POWs and used them as human shields during the 1991 Persian gulf war. His military continues to fire at U.S. and coalition aircraft patrolling the no-fly zones in northern and southern Iraq.

Based on the information presented to me in classified briefings, I share President Bush's assessment that Iraqi disarmament must be the objective. Weapon inspections alone will not achieve this goal, and a lengthy inspections regime could inadvertently give Saddam more time to stockpile and conceal weapons of mass destruction. After eleven years of lies and deception, we cannot expect that Saddam will reverse course and willingly disarm. Clearly, regime change in Iraq is the only way to end the threat Saddam Hussein poses to the United States and the world.

What has brought us to this point?

On March 3, 1991, Iraq, having been forced to abandon the territory it overran in Kuwait, agreed to the terms of a cease-fire offered by the allied forces. Since the cease-fire, Iraq has repeatedly violated a series of Security Council resolutions designed to ensure that Iraq submits to U.N. inspections, abides by the cease-fire agreement, dismantles its extensive weapons of mass destruction programs, and returns Kuwaiti and other nations' POWs, missing persons, and property seized during the gulf war. The United Nations has found Iraq in ''material breach of cease-fire terms'' on seven occasions, and Iraq remains in violation of the cease-fire to this very day.

For seven and one-half years, Saddam Hussein played a cat-and-mouse game with U.N. inspectors. The Iraqi regime misled, lied, intimidated, and physically obstructed the inspectors; and Iraqi scientists who provided information to the inspectors disappeared, most likely into Saddam's dungeons and execution chambers. The inspectors uncovered an enormous amount of biological and chemical weapons materials and production facilities, but by their own account they could not find everything. And any success they may have had was in large measure because Saddam feared a renewed military offensive by the United States. Finally, on November 11, 1998, following Iraq's announcement that it was prohibiting all U.N. inspections, weapons inspections in Iraq ceased. Under increasing international pressure, Iraq again agreed to allow inspectors full access, but then resumed obstructing their operations, and the United Nations withdrew the inspectors on December 15, 1998. Over the next 4 years, Iraq refused to admit weapons inspectors under the terms set forth by the Security Council.

Iraq has had 4 years to refine its techniques of deception. It defies common sense to suggest that a hundred or even a thousand U.N. inspectors could, with any assurance, succeed in finding small WMD stockpiles and facilities in a country the size of the state of California. Many former U.N. inspectors who experienced first-hand Iraq's lies and deceptions have come to the same conclusion.

We know that Saddam has chemical and biological weapons, and is developing nuclear weapons. These weapons would immediately threaten U.S. troops and our friends and allies in the region. A Saddam Hussein with nuclear weapons would radically alter the balance of power in the Middle East, requiring a profound shift in the deployment of American forces and undermine our ability to respond to other potential threats around the globe.

Saddam has worked with terrorist networks for many years. He harbored Abu Nidal, and is reportedly providing safe have to Abdul Rahman Yasin, a key participant in the 1993 World Trade Center bombing. Saddam has himself ordered acts of terror. He shares many objectives with groups like al-Qaida, and may decide to use terrorists to conceal his responsibility for an attack on the United States.

For 11 years, Saddam Hussein has thumbed his nose at the international community. Would it be prudent to continue what has failed for 11 long years? Would it be wise to give Saddam more time, which we know he will devote to realizing his greatest dream—to obtain the nuclear weapons that would allow him to dominate the Middle East with all of its oil and threaten to drive the United States out of a region that is vital to our security?

Never in our history have we been in a position where we could be blackmailed, under the threat of nuclear war, into withdrawing support for our closest allies or sacrificing our national security to prevent the death of millions. And yet this is the danger we face in as little as one year if we do not act to remove this looming threat. Time is not on our side; it is on the side of Saddam Hussein. We cannot wait for a smoking gun, because a gun smokes only after it is fired, and the smoke of a nuclear blast would mean that we are too late.

I applaud the President's decision to seek international support for regime change in Iraq, but U.S. action should not hinge on the endorsement of the United Nations. The United States is leading a coalition of international allies in the war on terror, not the other way around.

In the case of Iraq, U.S. national security interests should not be sacrificed if the U.N. cannot be persuaded of the urgency of this threat. It would be preferable to have U.N. support, but we have to be prepared to go it alone if necessary. We cannot give the United Nations veto power over our decisions to protect our national interests.

I remain concerned about our planning for the future of Iraq if we succeed in removing Saddam Hussein from power. Administration officials have presented a vision of a post-Saddam Iraq that is peaceful, democratic, and unified. Defeating the Iraqi military on the battlefield will not be easy, but ensuring a stable and friendly post-Saddam Iraq will pose even greater challenges, requiring careful planning by the administration in concert with our allies in the region. Iraq could rapidly slide into long-term political instability or even bloody war upon the collapse of the Baathist regime.

Iraq's population is made up of three main components: the Kurdish speaking people in the north, the Arab Sunnis in the center, and the Arab Shiites in the south who make up a majority—some 60 percent—of the entire population of the country. Many Shiites desire a theocratic government similar to that in neighboring Iran. The Kurdish leadership in the north may recognize that independence is an impossible dream, but their experience of ten years of self-government will

make their reintegration into a unified Iraq problematic at best. Arab Sunnis, fearing retaliation from the long-oppressed Shiite majority, may use the Sunni-dominated Iraqi military to keep the Shiites from gaining power. And while the overthrow of Saddam Hussein would involve the likely end to the Iraqi Republican Guard, the regular Iraqi army may remain to play a critical role in a post-Saddam Iraq. Yet the Iraqi army may become a den of coup-plotters; after all, Iraq endured a succession of bloody coups from 1953 until Saddam Hussein's ascent to power in the late 1970s.

Our military planning should be guided by an awareness that how Saddam's regime falls will shape the Iraq that follows. At some point the American people will need to know the nature and extent of America's commitment to a post-Saddam Iraq. How long will our troops be on the ground in Iraq? What material and financial resources will we be asked to provide to Iraq? What responsibility will the United States have to maintain peace in the region? What help will we get from our allies in rebuilding Iraq?

President Bush has exercised great leadership at a critical time in our history. I am proud to be a part of the debate we are having today in this chamber, which is a powerful demonstration of our democratic institutions. Ours is a nation that is slow to anger. Americans abhor war. I vote in support of this resolution, but hope and pray that the President, united with Congress, will succeed in averting war.

There is no question in my mind that we must disarm Saddam, and that time is running out. Clearly, there are risks involved. But I believe the risks of doing nothing are far greater.

I yield that floor.

The PRESIDING OFFICER. Under the previous order, the cloture motion is vitiated on Senate Joint Resolution 45.

The clerk will read the joint resolution for the third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 114.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 114) to authorize the use of United States Armed Forces against Iraq.

The PRESIDING OFFICER. The clerk will read House Joint Resolution 114 for a third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 77, nays 23, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—77

Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Miller
Bayh	Feinstein	Murkowski
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Campbell	Hatch	Schumer
Cantwell	Helms	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Cleland	Hutchison	Smith (OR)
Clinton	Inhofe	Snowe
Cochran	Johnson	Specter
Collins	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lieberman	Torricelli
Dodd	Lincoln	Voinovich
Domenici	Lott	Warner
Dorgan	Lugar	

NAYS—23

Akaka	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Graham	Reed
Byrd	Inouye	Sarbanes
Chafee	Jeffords	Stabenow
Conrad	Kennedy	Wellstone
Corzine	Leahy	Wyden
Dayton	Levin	

The joint resolution (H.J. Res. 114) was passed.

The PRESIDING OFFICER. Under the previous order, the preamble is agreed to.

Under the previous order, S.J. Res. 45, as amended, is indefinitely postponed.

UNANIMOUS CONSENT AGREEMENT—S. 3009

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide a 13-week extension for unemployment compensation, and that the bill be read the third time and passed.

The PRESIDING OFFICER (Ms. LINCOLN). Is there objection?

Mr. NICKLES. Madam President, reserving the right to object—and I shall object—this is not a 13-week extension, it is a 26-week extension, plus an additional 7 weeks for some States. It changes the threshold. It costs $17 billion. A clean extension would be $7 billion.

I will be happy to work with my colleagues to come up with something more reasonable and affordable. This bill before us, S. 3009, is not. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak for up to 5 minutes each.

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

ASSISTANCE TO AFGHANISTAN

Mr. DASCHLE. Mr. President, it is now just more than a year since our Armed Forces started Operation Enduring Freedom in Afghanistan. This is a fitting time to look back at what we have accomplished, and ahead at the challenges that remain.

I am reminded of a young Army private from Midland, SD, whom I met in Uzbekistan last February. He had gone to Uzbekistan just after completing a tour of duty in Bosnia, foregoing leave, because, he told me, that is where our country needed him.

I am certain that each member of this body knows someone from his or her State who has made a contribution to our successful effort in Afghanistan. On behalf of every member of the Congress and the American people, let me say how proud and grateful we are for those efforts.

Our military quickly and effectively accomplished its objective of removing the repressive Taliban regime. The challenge before us now is whether we can promote peace and economic and political stability as effectively as we waged and won the war. I am pleased to see the senior Senator from Vermont on the floor. I am wondering if he would engage in a brief colloquy with me on the subject of our humanitarian and reconstruction efforts in Afghanistan.

Mr. LEAHY. Yes, I would.

Mr. DASCHLE. As our colleagues know, Senator LEAHY is the Chairman of the Foreign Operations Subcommittee. Two weeks ago, I listened with interest to the Senator's speech on Iraq, part of which he rightly dedicated to the situation in Afghanistan. Afghanistan is our first, and most visible effort in the war on terrorism. The eyes of the region and the world are watching whether we are willing to do what is needed to follow through in Afghanistan. I would like Senator LEAHY to, once again, share his views on the developments in Afghanistan.

Mr. LEAHY. I thank the distinguished majority leader for his question. Much has been accomplished in Afghanistan over the course of the last year. The brutal Taliban regime has been vanquished to the ash heap of history. Thousands of Afghans have returned to their homes, and our humanitarian efforts have raised the standard of living of many Afghans.

We have spent billions to win the war. I fear, however, that unless we dramatically increase our efforts there we could lose the peace. The humanitarian situation in Afghanistan remains critical. Thousands of people are still homeless and as winter comes, so too will the very real threat of widespread hunger, even famine. Afghans whose homes were mistakenly bombed have not been helped. There are reports

that some Afghans are starting to return to refugee camps in Pakistan. It is a very dire situation.

We have a moral duty to help the people of Afghanistan. Beyond that, there are critical U.S. interests at stake in ensuring that this country becomes peaceful and prosperous. That's why I was pleased when, earlier this year, President Bush called for a Marshall Plan for Afghanistan.

I commended him for that important announcement, but since that time we have not seen the resources put behind these statements. No one is asking the Administration to spend 13 percent of the entire federal budget, as we did with the original Marshall Plan. But the Administration did not even ask Congress for a single cent for Afghanistan in its budget for fiscal year 2003. The Foreign Operations Subcommittee was advised informally that the Administration planned to spend $98 million for relief and reconstruction activities in Afghanistan. The Subcommittee felt that this amount was still insufficient to adequately address the needs in Afghanistan, and provided $157 million, an additional $59 million.

I would also add that the Senate is not alone in its concern for the situation in Afghanistan. Just yesterday, I received a letter from the President of CARE, a non-partisan, relief organization with significant operations in Afghanistan, which stated:

> President Bush has committed the United States Government to work ''in the best traditions of George Marshall'' and help the people of Afghanistan rebuild their country. For this goal to be achieved, CARE believes that the international community, led by the United States Government, must do two things. We must provide at least $10 billion in reconstruction funding over the next five years, and we must respond positively to the requests of the Afghan Government to expand the International Security Assistance Force beyond Kabul as part of a comprehensive plan to improve security for all Afghans

This letter goes on to say that a CARE report, ''finds that the U.S. Government has actually exceeded its one-year Tokyo pledge of $297 million, primarily in the form of humanitarian assistance. Our concern, however, is that the Administration, to date, has not made any long-term commitment to Afghan reconstruction.''

Mr. DASCHLE. I thank the Senator from Vermont. There is clearly still much to be done in Afghanistan.

Mr. LEAHY. I agree with the majority leader. As I have said over and over, it is one thing to topple a regime, but it is equally important, and sometimes far more difficult, to rebuild a country to prevent it from becoming engulfed by factional fighting. If such nations cannot successfully rebuild, there is a real risk that they will once again become havens for terrorists.

Mr. DASCHLE. I would like to ask the Senator from Vermont if the Congress provided additional funding for Afghanistan in the Supplemental Appropriations bill that was passed earlier this year. Isn't it true that the Congress fully funded the Administration's request for a range of activities in Afghanistan during fiscal year 2002? And weren't you subsequently told by officials in the State Department and USAID that this request was not nearly enough to address some of the most acute problems in that country? And isn't it true that the Congress added $94 million for humanitarian, refugee, and reconstruction assistance to Afghanistan, only to be told later by the President that he would not provide this additional assistance to Afghanistan?

Mr. LEAHY. That is correct. Now, some relief organizations have already been told that they may have to shut down programs for lack of funds. This is happening in a country that desperately needs the most basic staples such as water, education and medical care.

I agree with those who point out that many other nations have yet to fulfill pledges of assistance to Afghanistan. But, if the President is serious about a Marshall Plan, and I believe he is right, then we need to do much more to help rebuild that country.

Mr. DASCHLE. I agree with the Senator. We need to find additional resources for humanitarian efforts in Afghanistan, but I know that the Senator, like me, is concerned about the deteriorating security situation. For months, in the form of letters to the Administration and amendments here on the Senate floor, we have been urging the President to expand the International Security Assistance Force beyond greater Kabul. Coalition forces provide much needed security throughout the country, but significant concerns remain, highlighted by the assassination attempt on President Karzai just last month. I know that the Senator agrees with me that expanding ISAF could play a central role in improving this worsening security situation.

Mr. LEAHY. I strongly agree with the Majority Leader and thank him for this colloquy.

REVISED ALLOCATION TO SUBCOMMITTEES FOR FISCAL YEAR 2003

Mr. BYRD. Mr. President, on Thursday June 27, the Committee on Appropriations, by a unanimous roll call vote of 29 to 0, approved the allocation to subcommittees for fiscal year 2003.

On Wednesday July 26, after Congress adopted the conference report to accompany H.R. 4775, the fiscal year 2002 supplemental appropriations bill, I submitted a revised allocation which was modified primarily to conform outlays to the outcome on the supplemental.

Today I submit a revised allocation which has been modified, primarily, to reduce outlays for each subcommittee to reflect the President's decision to release none of the contingent emergency appropriations in the supplemental. In addition, the allocation reflects final decisions on the conference report on defense and military construction appropriations bills.

These revised allocations were prepared in consultation with my dear colleague, Senator STEVENS, the distinguished ranking member of the Committee, who stands with me committed to presenting bills to the Senate consistent with the allocations.

Furthermore, we remain committed to oppose any amendments that would breach the allocations.

SENATE COMMITTEE ON APPROPRIATIONS—REVISED FY 2003 SUBCOMMITTEE ALLOCATIONS, DISCRETIONARY SPENDING

($ millions)

Subcommittee	Budget authority	Outlays
Agriculture	17,980	18,195
Commerce	43,475	42,937
Defense	354,830	348,828
District of Columbia	517	582
Energy & Water	26,300	25,835
Foreign Operations	16,350	16,443
Interior	18,926	18,547
Labor-HHS-Education	134,132	126,321
Legislative Branch	3,413	3,467
Military Construction	10,499	10,071
Transportation	21,600	61,984
Treasury, General Gov't	18,501	17,970
VA, HUD	91,434	96,945
Deficiencies	10,132	13,366
Total	768,089	801,491

Revised on October 10, 2002.

RETIREMENT OF SENATOR JESSE HELMS

Ms. SNOWE. Mr. President, I rise today in tribute to Senator JESSE HELMS, who as we know is retiring from the U.S. Senate at the end of this Congress.

Simply put, the name ''JESSE HELMS'' has become a household name because he has never been afraid to stand by his principles. Indeed, throughout his five terms in the Senate, Senator HELMS has been a passionate voice for those ideals by which he has lived his life.

And that is a critical distinction—Senator HELMS has not only propounded certain values and philosophies, he has also lived them. He has always enjoyed the kind of unique credibility that comes from integrity—a personal quality that Senator HELMS has carried with him from his very first days in Monroe, NC.

This is a man for whom service is a higher calling, a commitment not only reflected by his years in elective office, but also—and at least as importantly—by his service in the Navy from 1942 to 1945. One cannot help but feel that Senator HELMS later brought the reality of that experience significantly to bear in his legendary work on matters of international import.

When I first came to Congress in 1979, I of course knew of Senator HELMS. And as I worked in the House on State Department authorizations over the years as well as a variety of global issues as a member of the Foreign Affairs Committee and Ranking Member of the International Operations Subcommittee, I became even more familiar with his profound interest in, and impact on, international affairs.

When I came to the Senate, I became a freshman member of the Committee on Foreign Relations, and the Chair of the International Operations Subcommittee. Throughout that time—and ever since Senator HELMS has been relentlessly gracious to me, as he had been whenever we had worked together on various conference committees back when I was in the House.

Here in the Senate, we worked hand-in-glove on the State Department reauthorization, and I appreciated the opportunity he gave me to chair a full committee hearing with then-Secretary Albright on the issue of intelligence sharing with the U.N. in the wake of our involvement in Somalia.

That was a serious concern that he and I shared—how would we protect U.S. intelligence information, particularly in light of the intelligence breach that had taken place in Somalia, where the U.N. had documents they should not have had which were also not properly secured. Issues brought to our attention during that hearing with Secretary Albright were eventually incorporated into the State Department bill.

During my tenure on the Foreign Relations Committee, I worked with Senator HELMS on the reorganization of the State Department, which was passed in 1998. As Chair of the International Operations Subcommittee I also introduced legislation in 1995 to create Terrorist Lookout committees in our embassies. With the help of Senator HELMS, this bill was incorporated in the State Department Authorization Act of 1996–1997, that was subsequently vetoed.

In the wake of 9/11, I re-introduced this legislation with Senator HELMS as a cosponsor and worked with him to seek its inclusion in the USA PATRIOT Act passed last year. With his support, this bill has finally become law as part of the Enhanced Border Security and Visa Entry Reform Act.

Of course, it will come as no surprise that we didn't agree on all the issues. But it can truly be said he has left his mark on the global landscape. And that includes his introduction of legislation last year to prevent mother-to-child transmission of HIV infection—a goal I share by providing $700 million in international emergency AIDS spending.

It is also true that agreement is not the test of friendship or respect in this body—nor should it be. Indeed, this body was founded on the ideals of debate and deliberation among men and women of good conscience who feel strongly about the pressing matters of the day.

I appreciate his candor, his friendship, and his service to North Carolina, America and indeed the world. On the occasion of his retirement, I would like to extend my best wishes to him, as well as his wife Dorothy with whom he has such a special and loving relationship. Senator HELMS will truly be missed, but most assuredly never forgotten.

TRIBUTE TO SEN. STROM THURMOND

Mr. SHELBY. Mr. President, I rise today to pay tribute to South Carolina Senator STROM THURMOND, an institution unto himself who has served with distinction in the U.S. Senate for almost a half-century. Senator THURMOND is the longest-serving member in the history of the Senate and the second Senator in history to cast 15,000 votes. During his tenure, Senator THURMOND has been a enduring witness to history, presiding over the chamber during a tremendous transformation of the American landscape. During this time, Senator THURMOND has steadfastly remained responsible to the voters of South Carolina, who have returned him to the chamber time and time again. Senator THURMOND's enduring legacy will continue on well beyond his retirement at the end of the 107th Congress.

Senator THURMOND was born in 1902, in Edgefield, SC. His early years were spent as an Army reservist, teacher, superintendent and lawyer. Senator THURMOND won election to the South Carolina State Senate in 1933, representing his home district of Edgefield for the next five years. Senator THURMOND then became a Circuit Judge of South Carolina, just as the clouds of war descended over Europe. Never one to shy away from his duty to his country, Senator THURMOND sought and received an exemption to return to military duty. On June 6, 1944, he landed in Normandy on D-Day with the 82nd Airborne Division at the age of 42. For his service in World War II, Senator THURMOND earned eighteen decorations, medals and awards, including the Purple Heart, Legion of Merit with Oak Leaf Cluster and Bronze Star for Valor. He returned to South Carolina a war hero, and was elected Governor of the Palmetto State in 1946. In 1954, Senator THURMOND was elected to the United States Senate, becoming the first, and so far, the only politician elected to the Senate as a write-in candidate.

Senator THURMOND has dedicated his life to preserving, defending and participating in our democracy. He attended the Democratic National Convention in 1932 and voted for Franklin D. Roosevelt. Sixty four years later, he attended the Republican Convention and voted for Bob Dole. In fact, Senator THURMOND was a Democrat for thirty two years and has been a Republican for the past thirty eight. Through it all, he has managed to remain relevant, active and a force on the national scene. Just two years ago, he played a critical role in helping to line up Republican support for George Bush in the South Carolina primary, helping to secure his nomination for President of the United States.

Senator THURMOND'S countless achievements and awards are a testament to his distinguished career in public service. He holds thirty four honorary degrees, is in the South Carolina Hall of Fame, and is a recipient of the Presidential Citizens Award, Presidential Freedom Award, as well as other major awards from American Legion, VFW, DAV, AMVETS, the National Guard, Army and Navy associations, farm groups, business groups, education groups and several foreign countries.

It is with great admiration for Senator THURMOND'S longevity and service that I commend him for his distinguished career in Congress. No one in the history of the Senate can say that they gave more of their life to this body, and while his presence may be gone after the 107th Congress, his spirit will forever remain a part of this chamber. I wish he and his family all the best in the future.

THE JUDICIARY COMMITTEE'S 100TH VOTE IN 15 MONTHS ON JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, today marks the 15-month anniversary of the reorganization of the Senate Judiciary Committee following the change in the Senate majority last summer. This week also became another milestone as the Judiciary Committee voted on the 100th judicial nominee of President George W. Bush. This historic demonstration of bipartisanship toward this President's judicial nominees has been overshadowed by partisan attacks in this very chamber and in the press.

I have worked diligently along with the other Democratic Senators on the Judiciary Committee to hold a record number of hearings for this President's district and circuit court nominees during the past 15 months and to bring as many as we could to a vote this year. Given all of the competing responsibilities of the committee and the Senate in these times of great challenges to our Nation, hearings for 103 judicial nominees, voting on 100, and favorably reporting 98 is a record of which the Judiciary Committee and the Senate can be proud. We have transcended the relative inaction of the prior 6½ years of Republican control by moving forward on judicial nominees twice as quickly as our predecessors did. Indeed, the Senate has already confirmed more judicial nominees in 15 months than the Republican-controlled Senate did during its last 30 months. More achieved, and in half the time.

The raw numbers, not percentages, reveal the true workload of the Senate on nominations and everyone knows that. Anyone who pays attention to the federal judiciary and who does not have a partisan agenda must know that. In addition, Democrats have moved more quickly in voting on judicial nominees of a President of a different party than in any time in recent history. Led by Majority Leader DASCHLE, the Democratic majority in the Senate has confirmed 80 judicial nominees, including 14 circuit court nominees, for a President of a different party, in just 15 months since the reorganization of the Judiciary Committee. In comparison,

in the first two full years of President George H.W. Bush's administration, the Democratic-led Senate confirmed 71 judicial nominees. In fact, during the first 15 months of the first Bush Administration, only 23 judges were confirmed, with eight to the circuit courts. Our confirmation of 80 of President George W. Bush's judicial nominees in just 15 months is historic progress for a President and a Senate led by different parties.

Apparently, however, Republicans believe that there is partisan hay to be harvested in complaining that every single judicial nominee has not yet been confirmed. The fact is that we have proceeded with hearings for 103 of the 110 judicial nominees eligible for hearings 94 percent, for those focused on percentages. The other 17 judicial nominees who have not participated in a hearing either lack home-state consent or peer reviews or both. Thus, when partisans harp on the nominations of Terrence Boyle and Carolyn Kuhl and other nominees without home-State Senator support, they know they are being misleading. Senator HATCH never proceeded on a nomination without home-State Senator support and acknowledges that this is the Senate's tradition. At least six of the President's circuit court nominees fall into this category and, for many if not all of them, the White House knew about the lack of home-State Senator support before the nominations were made.

The committee has voted on 100 of the 103 judicial nominees eligible for votes—97 percent. Of those voted upon, 98—98 percent have been reported favorably to the Senate. In addition to the 80 judges already confirmed, another 18 approved by the Judiciary Committee await Senate action on the Senate Executive Calendar.

It is disappointing that the Republican leader and others are reported to have said that they will not be allowed Senate votes before we adjourn. Earlier this year the majority leader had to work through a problem caused by the administration's failure to work with Senators on executive branch appointments. The majority leader was required by Republican objection to invoke cloture in order to vote on President Bush's judicial nominations. Whether there is time left in this session to overcome Republican objections to action on the roster of President Bush's judicial nominations currently on the calendar is problematic.

To date, and unlike the recent past, every judicial nominee who participated in a hearing has been considered and voted upon by the Judiciary Committee but for the three controversial circuit court nominees we continue to consider.

I know that Senator THURMOND is very disappointed that we could not bring his choice for the Fourth Circuit to a vote this week. I regret that he is upset. The nomination of his former aide for a promotion to the Court of Appeals has grown more controversial. On our committee, as on all committees, controversy takes a toll in the time needed for action on a bill or on a nomination. Members of the committee need time to fully evaluate the merits of concerns about this nomination raised by hundreds if not thousands of citizens from throughout the Fourth Circuit and the Nation. In accordance with our responsibilities under the Constitution to evaluate these nominations for lifetime appointments, the members of the committee continue to work diligently on simultaneously evaluating three controversial circuit court nominations.

As much as I personally would have liked to resolve this nomination by now at the request of the distinguished Senior Senator from South Carolina, and as hard as I have worked to resolve the problems with it, we were not able to vote on it this week. I worked hard to try to move the nomination of his former aide forward to a vote up or down but, with war resolutions pending before the Senate and limited time for debate this Tuesday, I had to make a difficult decision. Seventeen relatively noncontroversial judicial nominations were ready for committee votes this week. I decided to try to bring some relief to 17 vacant seats in district courts across our country rather than begin what promised to be a lengthy and inconclusive debate about Judge Shedd's record as a Federal district court judge and whether he should be elevated. That was a tough decision for me, personally, but the rising tide of citizen distress over the Shedd nomination made bringing that vote to a conclusion an impossibility this week.

Republican efforts to gain some political advantage for this difficult situation are especially unfounded given the stark contrast between what we have achieved in the past 15 months compared with the most recent period of Republican control of the committee. In the 15 months before the reorganization of the Judiciary Committee after the shift in Senate majority, the Senate confirmed only 32 judicial nominees, including three to the circuits. Under Democratic leadership, we have already confirmed 80, including 14 to the circuit courts, in just 15 months. Even if we compare our record with a period of Republican control that is twice as long—the last 30 months of Republican control—our predecessors confirmed only 72 judges, while in half the time, we have confirmed 80. Alternatively, if we go back and compare the Republicans' first 15 months of Senate control in 1995 and 1996, we have accomplished far more: more hearings, 26 versus 14, for more judicial nominees, 103 versus 67, with more committee votes, 100 versus 61, for more confirmations, 80 versus 56. We have reached the century mark for committee votes in less than half the time, 15 months, while it took our predecessors 33 months to vote on 100 judicial nominees.

In another departure from the past, we have had hearings even for several controversial judicial nominees and brought them to votes this year. Most were voted out of committee despite their controversy. Given the number of vacancies that we inherited—110—concentrating on the most controversial, time-consuming nominations would have been to the detriment of the courts. The President has made a number of divisive choices—divisive to the American people and divisive to the Senate—for these lifetime seats on the courts, and they take more time to bring to hearings and votes. None of these nominees, however, have waited as long for hearings or votes as did some of President Clinton's judicial nominees, such as Judge Richard Paez, who waited 1,500 days to be confirmed and 1,237 days to get a final vote by the Republican-controlled Senate Judiciary Committee, or Judge Helene White, whose nomination languished for more than 1,500 days without ever getting a hearing or a committee vote.

As frustrated as Democrats were with the lengthy delays and obstruction of scores of judicial nominees in the prior 6½ years of Republican control, we never attacked the Chairman of the Committee in the manner Republicans chose this week. Similarly, as disappointed as Democrats were with the refusal of Chairman HATCH to include Allen Snyder, Bonnie Campbell, Clarence Sundram, Fred Woocher and other nominees on an agenda for a vote by the committee for months following their hearings, we never resorted to the tactics and tone used by Republicans in committee statements, in hallway discussions, in press conferences or in Senate floor debate. We never tried to override the chairman's prerogative to set the agenda for consideration of judicial nominees by trying to manipulate the committee's cloture rule. We did not try to use the committee rule to hold off consideration of an agenda item for at least a week to force either legislation or nominations to be voted on in one week's time. During Republican rule, even some uncontroversial nominees like Judge Kim Wardlaw were held over more than once. We also never sought to invoke Senate Rule 26.3 to make an end-run around Chairman HATCH—even when weeks and months passed without a single nominee on the agenda or when nominees who had hearings went for months without being placed on the agenda. As frustrated and disappointed as we were that the Republican majority refused to proceed with hearings or votes on scores of judicial nominees, we never sought to override Senator HATCH's judgments and authority as chairman of the committee.

Some in the other party have spared no efforts in making judicial nominations into a partisan, political issue, all the while refusing to acknowledge the progress made in these past 15 months when 100 of President Bush's judicial choices have had committee

votes. We have perhaps moved too quickly on some, relaxing past standards, being more expeditious and generous than Republicans were to a Democratic President's nominees, and trying to take some of them at their word that they will follow the law and the ethical rules for judges.

Just last week, on October 2, 2002, we confirmed Ron Clark to an emergency vacancy in the United States District Court for the Eastern District of Texas. Two other judicial nominees, Larry Block and Judge James Gardner, were confirmed the very same day. The commissions for Judge Block and Judge Gardner were signed by the President on October 3, but the judge for the emergency vacancy in the President's home state was not. Just this week we learned that Mr. Clark was quoted as saying that he asked the White House to delay signing his commission while he runs as a Republican candidate for re-election to a seat in the Texas legislature. The White House apparently has been complicit in these unseemly political actions by a person confirmed to the federal bench. Mr. Clark, who the Senate has confirmed to a seat on the Federal district court in Texas, has been actively campaigning for election despite his confirmation.

These actions call into question Mr. Clark's ability to put aside his partisan roots and be an impartial adjudicator of cases. In his answers under oath to the committee, he swore that if he were ''confirmed'' he would follow the ethical rules. Canon 1 of the Code of Conduct for United States Judges explicitly provides that the Code applies to ''judges and nominees for judicial office,'' and Canon 7 provides quite clearly that partisan political activity is contrary to ethical rules. In his answers to me, Mr. Clark promised: ''[s]hould I be confirmed as a judge, my role will be different than that of a legislator.'' Yet now that he is confirmed, he has been flaunting his written statements to me personally and to the Senate Judiciary Committee and, by proxy, to the Senate as a whole. That the White House would go along with these partisan ploys reveals much about the political way this administration approaches judicial nominations.

Senators KENNEDY and SCHUMER have written a letter of complaint to the Fifth Circuit Judicial Council, which has jurisdiction over ethical complaints arising in that jurisdiction. I ask unanimous consent that the letter and a newspaper report of the Clark scandal be included in the RECORD. Tonight, only after this scandal came to the Nation's attention in today's news account in the New York Times, the President has apparently signed Mr. Clark's commission.

With a White House that is politicizing the Federal courts and making so many nominations, especially to the circuit courts, to appease the far-right wing of the Republican Party, it would be irresponsible for us to simply rubber-stamp these nominations for lifetime appointments to our independent Federal judiciary. Advice and consent does not mean giving any President carte blanche to pack the courts with ideologues from the right or the left.

I have worked hard to bring to a vote an overwhelming majority of this President's judicial nominees, but we cannot afford to make errors in these lifetime appointments out of haste or sentimental considerations, however well intentioned. To help smooth the confirmation process, I have gone out of my way to encourage the White House to work in a bipartisan way with the Senate, as past Presidents have, but, in all too many instances, the White House has chosen to bypass bipartisan cooperation in favor of partisanship.

The American people expect the federal courts to be fair forums and not bastions of favoritism on the right or the left. These are the only lifetime appointments in our whole system of government, and they matter a great deal to the future of each and every American. I will continue to work hard to ensure the independence of our Federal judiciary.

U.S. SENATE,
Washington, DC, October 9, 2002.

The Hon. CAROLYN DINEEN KING,
Chief Judge, U.S. Court of Appeals for the Fifth Circuit, New Orleans, LA.

DEAR CHIEF JUDGE KING: We write to raise an ethics issue regarding Ronald W. Clark, who was nominated by President Bush on January 24 and confirmed by the Senate on October 2, to be a judge on the U.S. District court for the Eastern District of Texas, but whose commission has not yet been signed by the President.

It has come to our attention Mr. Clark continues to hold his seat in the Texas state legislature and continues to campaign for re-election to that seat. Although Mr. Clark does not officially become a federal judge until he takes the oath of office, his continuing campaign activities appear to be in clear violation of Code of Conduct for Untied States Judges. The commentary to Code of Conduct makes clear that the Canons of Ethics define judicial nominees as judges and bind them to the same ethical rules. Canon 7 of the Code states that ''a judge should refrain from political activity'' and should not ''act as a leader or hold any office in a political organization; make speeches for a political organization, or candidate or publicly endorse or oppose a candidate for public office; [or] solicit funds.'' Canon 7 goes on to state that a judge ''should not engage in any other political activity.''

Traditionally, this provision has been construed to have limited application to nominees. Because of the contingent nature of the Senate confirmation process, it would be unfair to require nominees to resign from elective office merely upon being nominated. But once the President's nominees are confirmed by the Senate, the process loses its uncertainty. The only step between nominee and judge is a ministerial act that should be completed promptly, and not delayed for partisan or political reasons.

Despite the clear applicability of the Code of Conduct, Mr. Clark continues to be a candidate for re-election to the Texas House of Representatives. This matter is of grave concern to us. As Members of the United States Senate Judiciary Committee, we take our Constitutional confirmation responsibilities seriously. Mr. Clark's continued candidacy appears to be a flagrant violation of the judicial code of conduct, which is deeply troubling. Judges should be paragons of ethics, and Mr. Clark's actions do not set a sterling standard at the outset of his judicial career.

According to the Code of Conduct, complaints of ethical misconduct may be lodged with the Circuit council, which we understand you chair. We would appreciate your prompt consideration of this inquiry, and we look forward to hearing from you in the near future.

Sincerely,

CHARLES E. SCHUMER,
U.S. Senator.
EDWARD M. KENNEDY,
U.S. Senator.

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

[From the New York Times, Oct. 10, 2002]

BUSH ACTING TO FORESTALL AN ISSUE IN TEXAS

(By Neil A. Lewis)

WASHINGTON, OCT. 9.—The White House moved quickly tonight to quash a politically embarrassing problem with one of President Bush's nominees to a federal court seat.

Although the nominee, Ron Clark, was confirmed by the Senate earlier this month to be a federal district judge based in Texas, he was out campaigning today for re-election as a state representative from his district north of Dallas. Mr. Clark had said he might want to delay taking his seat on the bench to serve one more term in the State Legislature, where his vote might be crucial to Republicans winning the speakership.

Two Democratic Senators, Charles E. Schumer of New York and Edward M. Kennedy of Massachusetts, complained about Mr. Clark's actions today, saying they were a blatant violation of judicial ethics, a view with which some legal scholars agreed. The senators wrote to Carolyn D. King, the chief judge of the United States Court of Appeals for the Fifth Circuit based in New Orleans, asking her to evaluate whether Mr. Clark had violated the judicial canons of ethics even before he had put on his robe.

By evening, the White House intervened, saying President Bush would soon sign the formal commission for Mr. Clark, the last step in making him a federal judge.

In an interview earlier today, Mr. Clark said he was just playing it safe.

''If the president signs the certificate then, I'll move forward,'' he said before going out to a campaign appearance in which he presented a flag to some cub scouts. He said he had no control over Mr. Bush's actions and ''right now, I'm running for state representative.''

Mr. Clark said he had been trapped by circumstances because he was confirmed on Oct. 2 and the last date for withdrawing from the ballot under Texas law was Sept. 3. ''There is no legal way to take it off, so I'm in the race, until Election Day,'' he said. Asked if he intended to keep campaigning for re-election, he said: ''Oh, yes, I go to functions, go block walking, that sort of thing.''

Mr. Clark has asserted that he did not know why Mr. Bush had not yet acted, yet he was quoted in this week in Texas Weekly, a political journal, as saying he had asked the White House to delay signing his commission so he could serve another legislative term. Ross Ramsey, the journal's editor, who wrote the article, said Mr. Clark had told him he would be interested in serving through May, when the 20-week session is expected to end.

In his article, Mr. Ramsey said Mr. Clark's presence in the Legislature when it convenes

in January might be crucial to Republican hopes to retain the speakership in what is expected to be a close race.

Senators Schumer and Kennedy, both of whom serve on the Judiciary committee, said in their letter that Mr. Clark's legislative campaign ''appears to be in clear violation of the Code of Conduct for United States Judges.'' The canons mandate that ''a judge refrain from political activity.''

Steven Gillers, the vice dean of the New York University Law School and an authority on ethics, said that provisions in both the federal and state codes of conduct mandated that Mr. Clark resign his political office. The Texas code, he said, makes it clear that a candidate for a judicial office has to behave as a judge in avoiding politics. The federal rules require a judge to resign from office when he or she becomes a candidate for political office.

''While a person seeking a judgeship may have an argument that he not give up a political office, this man is, for all intents and purposes, a judge,'' Mr. Gillers said.

Erwin Chemerinsky, a visiting law professor at Duke University, said Mr. Clark seemed to be using the formality of Mr. Bush's signature to avoid his obligations.

''But judicial ethics is all about removing judges from politics,'' Mr. Chemerinsky said, and given that Mr. Bush is the president who appointed him, Mr. Clark should not run for office.

Senate Republicans and President Bush have said that there is an urgent need to fill federal judgeships and that action is being blocked by the Democrats who have opposed several of the president's nominees.

In fact, today, at a White House celebration of Hispanic Heritage Month, Mr. Bush criticized the Senate's handling of his nomination of Miguel Estrada to a seat on the United States Court of Appeals for the District of Columbia.

''There are senators who are playing politics with this good man's nomination,'' the president said. ''There are senators who would rather not give him the benefit of the doubt, senators looking for a reason to defeat him as opposed to looking for a reason to herald his intelligence, his capabilities, his talent. I strongly object to the way this man is going to be treated in the United States Senate.''

The Judiciary Committee recently held a hearing on Mr. Estrada's nomination but has not scheduled a vote.

PALESTINIAN SUICIDE BOMBER

Mr. MCCONNELL. Mr. President, as the Senate debates the resolution authorizing the use of force against Iraq, yet another Palestinian suicide bomber killed himself and an innocent bystander in Israel. Twenty-nine others were reportedly injured in that attack.

Those who believe that Saddam Hussein's murderous regime poses no immediate threat to America or our allies would be wise to consider the evidence seized by Israeli forces in their own war against terrorism. According to recent press reports, Iraqi Vice President Taha Yassin Ramadan personally directed the transfer of funds to the families of suicide bombers in amounts ranging from $10,000 to $25,000. The delusional butchers in Baghdad may view this money as a sort of ''martyr fund'', in reality it is no more than a ''murder fund.''

Palestinian and Iraqi extremists are cut from the same cloth as the al-Qaida terrorists who attacked our shores. As a threat to human life and decency, there is only one way to deal with these fanatics and that is to destroy them.

The innocent victims of this latest suicide bombing are in my thoughts and prayers. I ask all my colleagues to join me in honoring all those killed by terrorists in the United States and abroad, particularly in Israel.

SENATOR BYRD: ELOQUENTLY RESISTING THE RUSH TO WAR

Mr. KENNEDY. Mr. President, I welcome this opportunity to commend our outstanding colleague, Senator ROBERT BYRD, for his thoughtful and eloquent op-ed article in The New York Times this morning. In his article, Senator BYRD rightfully condemns the failure of Congress to take adequate time to exercise our all-important constitutional responsibility in deciding whether or not America should go to war with Iraq.

Instead of fairly assessing the full consequences of the administration's proposal, Congress is allowing itself to be rushed into a premature decision to go to war. Many of us agree with Senator BYRD, and so do large numbers of Americans across the country.

We owe the Senate and the Nation a more thoughtful deliberation about war. Senator BYRD's article is a powerful statement urging Congress not delegate our constitutional power to the President, and I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Oct. 10, 2002]

CONGRESS MUST RESIST THE RUSH TO WAR

(By Robert C. Byrd)

WASHINGTON.—A sudden appetite for war with Iraq seems to have consumed the Bush administration and Congress. The debate that began in the Senate last week is centered not on the fundamental and monumental questions of whether and why the United States should go to war with Iraq, but rather on the mechanics of how best to wordsmith the president's use-of-force resolution in order give him virtually unchecked authority to commit the nation's military to an unprovoked attack on a sovereign nation.

How have we gotten to this low point in the history of Congress? Are we too feeble to resist the demands of a president who is determined to bend the collective will of Congress to his will—a president who is changing the conventional understanding of the term ''self-defense''? And why are we allowing the executive to rush our decision-making right before an election? Congress, under pressure from the executive branch, should not hand away its Constitutional powers. We should not hamstring future Congresses by casting such a shortsighted vote. We owe our country a due deliberation.

I have listened closely to the president, I have questioned the members of his war cabinet. I have searched for that single piece of evidence that would convince me that the president must have in his hands, before the month is out, open-ended Congressional authorization to deliver an unprovoked attack on Iraq. I remain unconvinced. The president's case for an unprovoked attack is circumstantial at best. Saddam Hussein is a threat, but the threat is not so great that we must be stampeded to provide such authority to this president just weeks before an election.

Why are we being hounded into action on a resolution that turns over to President Bush the Congress's Constitutional power to declare war? This resolution would authorize the president to use the military forces of this nation wherever, whenever and however he determines, and for as long as he determines, if he can somehow make a connection to Iraq. It is a blank check for the president to take whatever action he feels ''is necessary and appropriate in order to defend the national security of the United States against the continuing threat posted by Iraq.'' This broad resolution underwrites, promotes and endorses the unprecedented Bush doctrine of preventive war and preemptive strikes—detailed in a recent publication, ''National Security Strategy of the United Staets''—against any nation that the president, and the president alone, determines to be a threat.

We are at the gravest of moments. Members of Congress must not simply walk away from their Constitutional responsibilities. We are the directly elected representatives of the American people, and the American people expect us to carry out our duty, not simply hand it off to this or any other president. To do so would be to fail the people we represent and to fall woefully short of our sworn oath to support and defend the Constitution.

We may not always be able to avoid war, particularly if it is thrust upon us, but Congress must not attempt to give away the authority to determine when war is to be declared. We must not allow any president to unleash the dogs of war at his own discretion and for an unlimited period of time.

Yet that is what we are being asked to do. The judgment of history will not be kind to us if we take this step.

Members of Congress should take time out and go home to listen to their constituents. We must not yield to this absurd pressure to act now, 27 days before an election that will determine the entire membership of the House of Representatives and that of a third of the Senate. Congress should take the time to hear form the American people, to answer their remaining questions and to put the frenzy of ballot-box politics behind us before we vote. We should hear them well, because while it is Congress that casts the vote, it is the American people who will pay for a war with the lives of their sons and daughters.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 20, 2000 in New York NY. Amanda Milan, a 27-year-old transgendered woman, died after her throat was slashed with a knife outside the Port Authority. Witnesses say that a group of taxi drivers cheered and applauded as the crime was committed and shouted anti-

transgender remarks. One of the perpetrators shouted phrases like ''You're a man!'' and made crude reference to the victim's gender. Three men were arrested in connection with the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ISRAELI-PALESTINIAN CONFLICT

Mr. HOLLINGS. Mr. President, during the summer I cautioned that we had problems: the terrorism war, the Middle East, Iraq, and we needed to put first things first. Success in the terrorism war depends in large measure on the cooperation and support of the Arab world. Obviously, this support would sharply diminish with an invasion of Iraq. The Israeli-Palestinian conflict had gotten out of hand with daily suicide bombings and we needed to stablize the peace process before invading. More importantly, I was convinced that any imminent threat from Saddam would be handled by Israel without debate. I ask unanimous consent a copy of these thoughts published in the Charleston, SC Post and Courier back in August be printed in the RECORD.

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

[From the Post and Courier, Aug. 30, 2002]

ISRAEL-PALESTINE CRISIS, NOT SADDAM, SHOULD BE BUSH'S PRIORITY

(By Senator Ernest F. Hollings)

We have problems:

(1) The Muslim extremists' attack on 9/11 starting the Terrorism War.

(2) The Israeli-Palestinian conflict.

(3) The Saudi Arabian and other Muslim support of terrorists.

(4) At the same time, the need for Muslim support in the Terrorism War.

(5) Iraq.

For the moment, the Iraq problem is easily solved. Our friend Israel, with its Mossad Intelligence, knows the Iraqi threat—nuclear, chemical, or biological. In 1981, they didn't wait for the nuclear plant to be completed in Baghdad. They knocked it out and today stand ready to knock out such a threat again. We can depend on Israel for this. But Israel must depend on America to get it out of its present fix. Prime Minister Sharon's approach to peace—bulldozing homes, sending in gun ships, and reoccupying Palestinian territories—is creating more terrorists than are being eliminated. We must put first things first. Secure Israel and deal later with Saddam. Mention the Middle East and the extremes take over. There are those who want to eliminate Israel; and those who want to prevent a Palestinian state. It's important to remember a few historical ''non-extremes'':

(1) We supported the settlement of Holocaust survivors into the Middle East, and the United States and the United Nations recognized the State of Israel.

(2) Egypt, Syria, Jordan and the Palestinians went to war with Israel over this and Israel won.

(3) As a result, the Palestinian losers have been holed up in Gaza and the West Bank for 35 years. The Israelis use the Palestinians in Israel as a workforce, but Palestinian living conditions in Gaza and the West Bank have been semi-prisoner and now prisoner.

(4) Israel and the world leadership recognized that the condition of the Palestinians could not be sustained and all have announced for a Palestinian state.

Trying to define a Palestinian state and guaranteeing the security of Israel at the same time has always been tenuous. Anwar Sadat tried and was assassinated. Yitzhak Rabin tried and was assassinated. In forming the state of Israel, Palestinians were scattered to Lebanon, Syria, Jordan, Egypt, Kuwait and the world around. Many still consider themselves refugees and live for the day that they can return to Israel. They feel the U.S. support for Israel prevents that return. This enmity toward the U.S. in exacerbated by our support of the corrupt government of Saudi Arabia.

The Saudis are two-faced. They maintain the kingdom by financing the clerics and Madrassa schools against the ''Great Satan'' United States while securing their national defense from the United States with cheap oil. Not surprisingly 15 of the terrorists on September 11th were from Saudi Arabia. A feeling of hopelessness has developed in Gaza and the West Bank. Youngsters with nothing to lose willingly give their lives to terrorize Israel.

Frustration with the United States' support of Israel is exemplified by attacks on the World Trade Towers in 1993, on our barracks in Lebanon and Saudi Arabia, our embassies in Kenya and Tanzania, the consulate now in Pakistan and martyrs willingly giving their lives to blow up the USS Cole, the Pentagon and again the World Trade Center. A cause against Israel and the United States has developed in the Muslim world. A recent Gallup poll in Pakistan shows that 80 percent of the people in Pakistan consider Osama bin Laden a war hero.

When President Bush took office, he was determined not to pursue President Clinton's full-court press for peace in the Middle East. He applied ''benign neglect'' for 16 months. Now that it has his attention, he dismisses the problem by calling for the removal of the elected leader of the Palestinians and the forming of a democratic government in three years. In the Middle East forming a democracy would be more like 30 years. And the best way to guarantee the continuation of Yasser Arafat is for the U.S. president to call for his removal.

Whining, ''they hate us,'' we refuse to discuss or recognize the Palestinian cause. The cause must be confronted. ''You can't kill an idea with a sword.'' The Terrorism War won't be won militarily. Our foreign policy must not be left to the extremes, Sharon and Arafat. Five years from now, 10 years from now, 50 years from now there will be an Israel and there will be a Palestine. The only course is for the Israelis and the Palestinians to learn to live together. For this to occur, President Bush must personally meet with the Middle East leaders and work out a realistic step-by-step institution for the security of Israel and the State of Palestine. Only after that can America get the support we need around the globe for the Terrorism War and the overthrow of Saddam.

Mr. HOLLINGS. The President's policy is correct, but his implementation miserable. One would hope that, with an imminent threat, the Congressional leadership is corralled quietly, briefed, and allies consulted for whatever action is taken. On the contrary, this President started off by threatening friends and foes alike blabbing, ''You are either with us or against us,'' ''We are the world superpower,'' ''I don't need the U.N.,'' ''I don't need the Congress.'' He seemed totally oblivious to the fact that he is going in two different directions at the same time. Success in the war on terrorism is largely dependent on support of the Arab world, but with the President's abruptness and braggadocio, that support could disappear with the invasion of an Arab country. The President thinks leadership is announcing without any massaging. His policy of preventive war was made to appear that war was our first choice. At one time the President managed to have the international community united against us.

Now, it seems that President Bush has been housebroken on foreign policy. He has asked for the approval of Congress; he has presented his case to the United Nations; and, amazingly, last week said that for the United States, ''War is the last option.'' In turn, some of our European allies have come on board so that we now have a coalition, the United Nations is strengthening its inspection resolution and finally—itself. The resolution of approval by the Congress for the President to take action has now been changed to make sense. While the threat is not imminent, the goal is desirable and the failure of Congress and the President to move together at this point would seriously damage our creditbility and cause us irreparable harm in foreign affairs.

LIGHTS ON AFTER SCHOOL! DAY

Mr. DODD. Mr. President, I rise to recognize today as Lights On After School! Day. Lights On After School! is a project of the Afterschool Alliance to open the doors of after-school programs around the country to neighbors, community leaders, and the media so that everyone understands the importance of after-school programs to providing children of working parents with a safe place to be until their parents are home and providing all children with cultural and academic opportunities. Last year, more than 400,000 people participated in Lights On After School! events and I hope that even more will participate this year.

I have been a longtime supporter of the 21st Century Community Learning Centers program, which provides federal support for local after-school centers. For years, I have worked hard, as have many others, including Senator JEFFORDS and Senator BOXER, to increase support for these centers. And, with the appropriation having grown from $750,000 in fiscal year 1995 to $1 billion in fiscal year 2002, I think we've been phenomenally successful. I'm very disappointed that the President wants to freeze support for these programs, but I'm pleased that the Senate Appropriations Committee's education appropriations bill increases funding for

fiscal year 2003 by $90 million. I hope that we can do even better in the end.

I can think of few programs with as wide-ranging support as these centers. Parents, teachers, youth groups, law enforcement, and others all recognize that providing extensive, effective after-school programs is one of the most important things we can do to support working parents and to help our children be safe and reach their potential in school and in life.

As evidence, a survey taken in August by the Afterschool Alliance found that nine in ten voters agree that there should be organized activities for children and teens after school every day that provide opportunities for them to learn.

By more than two to one, voters disagree with the President's proposal to freeze federal funding for after-school programs, and sixty-three percent are concerned that existing programs may have to reduce their services or close their doors due to lack of increased funding.

More than nine in ten voters who have children in after-school programs believe that their children are safer and less likely to be involved in juvenile crime than children who aren't in after-school programs.

Finally, 92 percent of these parents say their children do better in reading, writing and math because of afterschool programs, and 87 percent say that their children are less likely to use alcohol and drugs because of afterschool programs.

I thank the Afterschool Alliance for all their work, and urge my colleagues to join me in commemorating Lights On After School!

Mrs. BOXER. Mr. President, I would like to take this opportunity to discuss an issue of great importance to our Nation's children: afterschool programs. Children are much more likely to be involved in crime, substance abuse, and teenage pregnancy in the hours after school. In fact, about 10 percent of violent juvenile crimes are committed between 3 p.m. and 4 p.m. alone. The Urban Institute estimates that at least 7 million and as many as 15 million ''latchkey kids'' go to an empty house on any given afternoon. These children need a place to go—an empty house should not be an option.

It is essential that we provide children with organized activities or programs to go to during the critical afterschool hours. According to the Departments of Education and Health and Human Services, extracurricular activities like those provided by afterschool programs have proven to reduce the number of students likely to use drugs by 50 percent and the number of students likely to become teen parents by 33 percent. Furthermore, studies have shown that students who participate in extracurricular activities have better grades, feel greater attachment to school, have lower truancy rates and reach higher levels of achievement in college.

We have made great progress in the last 5 years toward making these kinds of programs more widely available. Through the 21st Century Community Learning Center Program, federal support for local afterschool programs increased from $1 million in fiscal year 1997 to $1 billion in fiscal year 2002. As a result, over 900 communities across the Nation are now providing their children with a positive alternative to unsupervised care. In addition, Senator ENSIGN and I offered an amendment to the Leave No Child Behind Act to increase funding for afterschool programs. As enacted, the bill will raise afterschool funding to $2.5 billion by the year 2007.

To highlight the growing need for afterschool programs, the Afterschool Alliance—a nonprofit organization dedicated to ensuring that all children and youth have access to quality, affordable afterschool programs by the year 2010—has announced the third annual nationwide day of awareness for afterschool programs called ''Lights On After School!.'' Today, schools, community centers, museums, libraries, and parks across America will host activities to inform families about the places currently open to children after school and the need to provide additional centers where children can participate in engaging, stimulating activities until their parents return from work.

I applaud the Afterschool Alliance for recognizing the important role of afterschool programs in the lives of children, families, and communities, and I enthusiastically support the effort to build awareness through ''Lights On After School!.'' Promoting the safety and well-being of our children is the best way to ensure that they have a genuine opportunity to succeed.

CATOCTIN MOUNTAIN NATIONAL RECREATION AREA

Mr. SARBANES. Mr. President, on October 1, I introduced legislation, together with Senator MIKULSKI, to redesignate Catoctin Mountain Park as the Catoctin Mountain National Recreation Area.

Catoctin Mountain Park is a hidden gem in our National Park System. Home to Camp David, the Presidential retreat, it has been aptly described as ''America's most famous unknown park.'' Comprising nearly 6,000 acres of the eastern reach of the Appalachian Mountains in Maryland, the park is rich in history as well as outdoor recreation opportunities. Visitors can enjoy camping, picnicking, cross-country skiing, fishing, as well as the solitude and beauty of the woodland mountain and streams in the park.

Catoctin Mountain Park had its origins during the Great Depression as one of 46 Recreational Demonstration Areas, RDA, established under the authority of the National Industrial Recovery Act. The Federal Government purchased more than 10,000 acres of mountain land that had been heavily logged and was no longer productive to demonstrate how sub-marginal land could be turned into a productive recreational area and help put people back to work. From 1936 through 1941, hundreds of workers under the Works Progress Administration and later the Civilian Conservation Corps were employed in reforestation activities and in the construction of a number of camps, roads and other facilities, including the camp now known as Camp David, and one of the earliest, if not the oldest, camps for disabled individuals. In November 1936, administrative authority for the Catoctin RDA was transferred to the National Park Service by Executive Order.

In 1942, concern about President Roosevelt's health and safety led to the selection of Catoctin Mountain, and specifically Camp Hi-Catoctin as the location for the President's new retreat. Subsequently approximately 5,000 acres of the area was transferred to the State of Maryland, becoming Cunningham Falls State Park in 1954. The remaining 5,770 acres of the Catoctin Recreation Demonstration Area was renamed Catoctin Mountain Park by the Director of the National Park Service in 1954. Unfortunately, the Director failed to include the term ''National'' in the title and the park today remains one of eleven units in the National Park System, all in the National Capital Region, that do not have this designation.

The proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park, and the differences between national and State park management, has caused longstanding confusion for visitors to the area. Catoctin Mountain Park is continually misidentified by the public as containing lake and beach areas associated with Cunningham Falls State Park, being operated by the State of Maryland, or being closed to the public because of the presence of Camp David. National Park employees spend countless hours explaining, assisting and redirecting visitors to their desired destinations.

My legislation would help to address this situation and clearly identify this park as a unit of the National Park System by renaming it the Catoctin Mountain National Recreation Area. The mission and characteristics of this park, which include the preservation of significant historic resources and important natural areas in locations that provide outdoor recreation for large numbers of people, make this designation appropriate. This measure would not change access requirements or current recreational uses occurring within the park. But it would assist the visiting public in distinguishing between the many units of the State and Federal systems. It will also, in my judgment, help promote tourism by enhancing public awareness of the National Park unit.

I urge approval of this legislation.

ECONOMIC GROWTH NOW

Mr. EDWARDS. Mr. President, today the members of the Senate are focused on Iraq. There's no task more serious than deciding whether to send our young men and women into harm's way. My position is clear: The time has come for decisive action to eliminate the threat of Iraq's weapons of mass destruction once and for all.

But as we act to defend America's interests abroad, we must also act to make America strong at home. With 8 million people out of work and millions more struggling to make ends meet, our government is falling down on the job of protecting economic security. To restore an economic environment where businesses are creating jobs and parents are earning a better living for their children, I believe we need to act, and act now. I want to explain very specifically why and how we should act. And I call on the President and my colleagues to join together immediately to take decisive action.

Nobody is a greater optimist about America's future than me. Our long-term economic outlook remains strong because our free enterprise system remains strong—our spirit of innovation, our leadership in new technologies, and of course our people's hard work and productivity.

But sound economic fundamentals and strong economic growth are not things we can take for granted. They are things we have to work for.

Like all Americans, I have hoped that our economy is on the way to a speedy recovery. While I continue to hold out hope, I do not believe that hope can stand in the way of action any longer. There is too much uncertainty and there are too many disturbing signs. Economic indicators that had started to turn up, including consumer confidence and manufacturing, have turned back down again. Many industries, particularly telecommunications, have far too much capacity, and they will continue to cut back in order to restore profitability. Job growth remains stagnant, and CEOs report that they are planning to cut jobs rather than hire. As more and more Americans worry about their prospects, the last bulwark of the economy, consumer spending, shows signs of weakening.

We should not overreact. We need to keep our faith in the fundamental strength of our economy. But we cannot turn away from the reality we face. This administration has spent months saying that recovery is just around the corner, but wishful thinking will not create jobs, pay the bills, or get the economy going again.

America is right to prepare for action against Iraq. But we ought to apply that same logic to our economy. If you look at the recent economic evidence, the risks of inaction on our economy now outweigh the risks of action. We cannot wait until thousands more people lose their jobs before taking steps to defend our economic security. We can and should take preemptive action against this economic slump.

The President's plan is: Do nothing to promote economic growth in the short-run, and pretend that deficit-exploding tax cuts for the wealthiest will promote economic growth in the long-run. That is wrong for our economy and our security.

What our economy needs is the reverse prescription: a shot-in-the arm in the short-term, and a tighter grip on fiscal discipline in the long-term.

Contracting the economy in this environment makes no economic sense. On the other hand, stimulating the economy while exploding the long-term deficit would be self-defeating. The loss of confidence in long-term fiscal discipline can undermine both long-term confidence and short-term progress.

With a shot-in-the-arm now and a tighter grip on fiscal discipline in the long run, we can have the best of both worlds. Right now, we can increase demand, prevent a negative or even deflationary cycle, create jobs, and get incomes growing again. In the long run, we can get back to balanced budgets and maintain the investment climate we need for prosperity.

Let me be very specific about what we should do.

On the long-run side, we have to take two major steps. Number one, we have to tackle excessive spending by restoring the budget enforcement rules that have lapsed. Congress should not go home without making sure these rules are back in place. If Congress and the administration can't agree on spending bills before the election, let us at least show the voters that we are serious about holding down spending.

Number two, we must ask our most fortunate citizens to forgo the full extent of future tax cuts. Since the President took office, a $5.6 trillion surplus has almost entirely disappeared, and the biggest single reason was a tax cut whose full cost was over $2 trillion. As I have said before, we need to ask Americans at the very top of the economic ladder to live with smaller tax cuts than the tax bill passed last year. If we stop cuts in the top two rates, eliminate new deductions for very high-income earners, and triple the estate tax exemption without repealing it, we can save over $1.3 trillion in the next two decades.

This kind of fiscal discipline will have at least five advantages for our country: Number one, it will help bring us back to the strong economic fundamentals that led to growth during the 1990s. Number two, it will enable us to save for grave national security needs. Number three, it will help us save Social Security and address the coming explosion of baby boom retirements. Number four, it will reduce our dependence on foreign capital. Number five, it will allow us to confront emergencies when we need to. The fiscal surplus inherited by President Bush has helped our country to meet its challenges since September 11. Restoring long-term fiscal discipline will help us meet the challenges of the future.

To meet the challenge of today, we need decisive action that satisfies two basic principles. First, we should provide an efficient and effective spur to the economy. Second, the effect must be immediate and temporary—with incentives for business investment and consumer demand that will jumpstart the economy now, and get out of the way when they are no longer needed.

We all have to admit that the stimulus package of last spring did not meet that test. In the fall, I advocated a stimulus package that would have provided greater depreciation in the near-term, then tapered off quickly. That package would have been efficient and temporary. Unfortunately, the President and his party blocked proposals like that because they supported special-interest giveaways that the independent Congressional Budget Office found to be the most ineffective on the market. While we all hoped for the best, the business incentives that eventually passed did not create the surge our country needed. In addition, the tax rebates bypassed in part or in full 50 million Americans who would have been most likely to spend the money and increase economic activity.

This time, we should do it right. Here is how.

First, and most important, we have to make sure the economic uncertainty and higher energy prices we're likely to face this winter don't hurt the economic confidence and consumer spending that have been so critical over the last year. Today, I am proposing a one-time refundable energy tax cut of $500 per family. This tax cut will put money into the pockets of Americans who will spend it where they need it most: to pay their heating bills; make their homes more energy-efficient, and prevent higher energy prices from squeezing out other vital needs. Unlike last year's rebate, this energy tax credit will leave no American behind.

Earlier this week, this administration's own experts said that families in the Midwest will be paying 19 percent more for natural gas and 22 percent more for heating oil. Increases in the Northeast will be even higher. All the price hikes will fall particularly hard on the elderly, who have watched their life savings disappear in the stock market and have no way to make up the lost income.

Americans are prepared to sacrifice to win the war on terrorism and in Iraq. But America can win a war without leaving old people to cut back on their medicine to keep from shivering in the dark. We can protect people against rising oil prices and, at the same time, reduce our country's dependence on Middle Eastern oil. This administration approaches energy the same way it approaches the economy: doing nothing in the short-term and ignoring the big problems in the long-term. That is wrong.

I also continue to believe we should take the steps to stimulate the economy that the administration failed to take earlier this year. To encourage businesses to invest, we should raise the bonus for investing in new equipment from 30 percent to 45 percent—a 50 percent increase—but do it through June 30 of next year only. This will do what the administration's stimulus has failed to do so far: persuade businesses to get off the fence and put their money to work in our economy.

We also should act to prevent painful property tax increases and education cuts at the State level, giving States relief to deal with what the Wall Street Journal this week said is a $58 billion budget gap. The Senate has already acted to provide relief in the quickest possible way—through the Medicaid program—and there is no excuse for further delay.

Last but not least, we have to change a terrible reality: At a time when the index of Help Wanted listings is at historic lows, we are set to cut off unemployment benefits for nearly a million out-of-work Americans just three days after Christmas. These are good people who want nothing more than to get back to work. Last September, 800,000 Americans had been out of work for 6 months or more. By December, that total will have climbed to over 2 million. We have to do what is right for the workers who have done the worst in this economy and extend their benefits. They are sure to pump the money right back into our economy.

I call on the President and my colleagues in both parties to put politics aside and come together immediately to take these urgent steps to get our economy going again. Americans deserve nothing less from us.

HISPANIC HERITAGE MONTH

Mr. CRAIG. Mr. President, as the ranking member of the Special Committee on Aging, and in honor of this year's Hispanic Heritage Month, I rise today to give special recognition to 104-year-old Jose Rodriguez, who recently has been determined to be the Oldest Hispanic American now living in my State of Idaho. In honoring one man, Jose Rodriguez, this Nation honors all Americans of Hispanic descent.

Hispanic Heritage Month began on September 15 a day which marks the anniversary of independence for five Latin American countries Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Mexico achieved its independence on September 16, and Chile on September 18.

This being a Nation of immigrants, it is only fitting that Jose Rodriguez is himself an immigrant from Mexico. Some of us have been blessed by being born in Idaho. Others, like Jose, have been wise and bold enough to journey, sometimes great distances, to claim these blessings. He chose Idaho because Idaho was in his heart a place where family, faith, and freedom flourish.

Jose was born in Doctor Arrollo, in the State of Nuevo Leon, Mexico, on March 19, 1898. In 1913, at the tender age of 15, he joined in the Mexican revolution led by Pancho Villa. He arrived in the United States in 1922 and settled in Eagle Pass, TX. He married his wife Guadalupe, who he knew from childhood, in 1929. They had seven children together: Five sons and two daughters. While his wife passed away a few years ago and he misses her, Mr. Rodriguez enjoys his more than 80 grandchildren and numerous great-grandchildren, who carry on his legacy.

In the 1950s, Mr. Rodriguez moved his family to Idaho where he worked as a farm worker and crew leader for most of his life. According to one of his sons, the hallmark of Jose's life has been his generosity. He is a man known to help others, especially those in need.

Still living independently today, Mr. Rodriguez spends summers in Idaho with his son Meliton and winters in Arizona with his daughter Marina. Jose still cares for himself, takes daily walks, and credits his long life to, in his words, ''God's good will and living a healthy life.'' That is what aging should be.

That type of wonderfully positive outlook have no doubt contributed to his longevity.

When Jose Rodriguez was born, Idaho had only been a State for 7 years and 8 months. That year, the first photographs taken with a flashbulb were produced and 1,000 automobiles were manufactured, up from a total of 100 the year before. Around that time, a child born in the United States was expected to live less than fifty years. Jose, a child born in Mexico, has more than doubled that expectation.

Jose is part of a large and growing population of Hispanic Americans throughout the nation and especially in Idaho. Within the past decade, the Hispanic population in Idaho has doubled from approximately 50,000 in 1990 to more than 100,000 today. Nationwide, there are now some 26 million people of Hispanic origin in the United States approximately ten percent of the American population. We honor their contributions during Hispanic Heritage Month, which have maintained America's tradition as a rich, cultural melting pot and strengthened our shared national values.

Jose is a trendsetter in another way. Following his example, the number of centenarians those 100 years old or older has grown to 50,000 Americans today. In the next 50 years, according to Census Bureau estimates, there will be between 800,000 and one million people 100 years or older living in the United States.

Jose Rodriguez is a man of honor. It is with great pride that I rise today to recognize him, and I thank him for allowing me this privilege.

LOW-FAT, LOW-CALORIE CUISINE

Mr. SPECTER. Mr. President, today at the weekly Thursday Republican Lunch group, Lifestyle Advantage from Highmark Blue Cross/Blue Shield, in collaboration with Dr. Dean Ornish, served a gourmet, low-calorie, virtually no-fat, lunch with the following menu: Tuscan Vegetable Minestrone, Roasted Vegetable Lasagne, Caesar Salad, Apple-Raisin Strudel, Vanilla ala mode with caramel sauce.

As explained by Ms. Anna Silberman and Ms. Marlene Janco, Executives of Lifestyle Advantage/Highmark, the lunch contained approximately 450 calories compared to about 850 calories with regular ingredients.

There was real enthusiasm among the 27 Republican Senators who were very complimentary about the taste, elegance, and healthy content of the cuisine.

When one senator was being served the apple-raisin strudel with vanilla ice cream—actually ice milk—topped by caramel sauce and was told it was fat-free and low-calorie, he replied:

''Next they'll want to sell me the Brooklyn Bridge.''

When assured that it was fat-free and low-calorie, he was very much impressed. Other senators marveled at the tastiness of the caesar salad, especially contrasted to its ordinarily high-caloric content. The Tuscan vegetable minestrone had a special quality with roasted vegetables. Again, the roasted vegetables in the lasagne made it especially tasty.

The Capitol dining service is now considering adding to the regular menu on both the House and Senate sides low-fat, low-calorie tasty cuisine as demonstrated by today's lunch.

ADDITIONAL STATEMENTS

IN RECOGNITION OF JOSEPH TORREZ

• Mr. DOMENICI. Mr. President, today I honor the accomplishments of Principal Joseph Torrez of Tucumcari, NM, who is in the Nation's capital today to be recognized as the 2002 New Mexico National Distinguished Principal of the Year. He was one of 63 principals from across the country who will be honored by the United States Department of Education and the National Association of Elementary School Principals.

Joseph is a product of the New Mexico higher education system, having received both his undergraduate degree and Master's degree from New Mexico Highlands University. Since completing his master's degree, he has dedicated his life to educating New Mexico's children. As a language arts teacher at Taos High School, Thoreau High School and Memorial Middle School in Las Vegas, NM, he has touched the hearts and minds of his students, while generating interest and enthusiasm in learning.

Three years ago Joseph agreed to move from the classroom to the principal's office. In this role he has shown leadership skills that have earned him the respect of parents and teachers alike.

One of his many accomplishments is the development of a program that targets at-risk kids by providing them with after-school activities. These include recreation, assistance with school work, and instruction on ways to become involved as volunteers in the community.

This program is not limited simply to the children in these families, however. He has used money from a state grant to assist parents of his students obtain the skills needed to succeed in the workforce.

Joseph's contributions to the community are not limited simply to his work in the Tucumcari schools. He has also encouraged his students to aid the local homeless shelter, collect food, and visit senior citizens.

I commend Joseph for his hard work and dedication to help students, their parents and the community of Tucumcari. Joseph has set the bar for excellence through his exemplary efforts. He has used creative and innovative means to improve the lives of his students and beyond, through reaching out to the community.

I am proud to honor Principal Joseph Torrez, our 2002 New Mexico National Distinguished Principal. On behalf of the Senate and New Mexico, I thank this fellow New Mexican for making a difference in our children's lives.●

NORTH DAKOTA'S 164TH INFANTRY REGIMENT

● Mr. DORGAN. Mr. President, it was 60 years ago that 2,000 men from North Dakota's 164th Infantry Regiment performed heroically in a savage battle in the South Pacific. It marked the first time the U.S. Army launched an offensive operation in that war and stands today as a critical juncture in World War II.

Coming from almost every city and village in North Dakota, the members of the 164th Infantry were North Dakota's National Guard and traced their unit's heritage to the Indian wars on the American frontier. Its history was one of distinction, most notably marked by a spectacular ten Medals of Honor its men won in the Philippines in 1899.

Called to active duty early in 1941, the North Dakotans were ordered to the West Coast the day after Pearl Harbor, and landed in the South Pacific in the spring of 1942.

Meanwhile, on the island of Guadalcanal, U.S. Marines had begun America's first offensive action against Japan. By autumn, it was a precarious deadlock and the 164th Infantry was sent in October 13. By noon it had its first casualty. Corporal Kenneth Foubert of Company M of Grand Forks, North Dakota, was killed in a bombing run by Japanese planes. As Japanese ground patrols tested U.S. positions, the 164th Infantry advanced, the first unit of the Army to go on the offensive in WWII.

An intense Japanese attack, the largest battle fought on Guadalcanal, occurred October 24–25. In ''Citizens as Soldiers,'' a history of the North Dakota National Guard, authors Jerry Cooper and Glenn Smith tell how a battalion of the 164th Infantry was sent to reinforce the Marines. Despite the blackness of night, made darker by a heavy tropical rain, the 164th Infantry, over narrow trails slippery with mud, followed its Marine escorts to the front line, holding on to the backpacks of the man in front of them to avoid being lost.

Fighting side by side with the Marines, the 164th Infantry poured relentless fire through the night into continuous waves of oncoming Japanese. At dusk of the next day, the Japanese attacked again. The situation was precarious and cooks, messengers, and clerks manned positions and waited for the worst. Even the musicians of the North Dakota band were pressed into service as litter bearers. Every member of the 164th had a role in that battle, the fiercest of the campaign.

At one outpost, 18 Marines, many seriously wounded, were surrounded. The 164th Infantry's Sgt. Kevin McCarthy of Jamestown, ND, used a small, lightly armored, open topped vehicle to make repeated trips to the desperate men and, under heavy fire, rescued them all. For his bravery, he was awarded the Distinguished Service Cross.

By dawn, it was clear the enemy had suffered a disastrous defeat. In front of the 164th Infantry were 1,700 dead Japanese. The North Dakota unit, meanwhile, suffered only 26 killed and 52 wounded.

Impressed, the Marines' commanding general sent the North Dakotans a message that said the Marines ''salute you for a most wonderful piece of work. We are honored to serve with such a unit. Our hat is off to you.''

Lt. Col. Robert Hall of Jamestown, ND, received the Navy Cross for his leadership of the battalion during this crucial action.

The fight for Guadalcanal continued into November when the 164th was assigned to drive Japanese defenders off a series of ridges. From November 20–27, the battle raged. It was the bloodiest week of the entire war for the unit. More than 100 men were killed and some 200 wounded. Not until February did the Japanese finally flee the island.

It was none too soon. Guadalcanal had taken its toll. The 164th was no longer combat effective. It was down to less than two-thirds its authorized number. Most men had lost 20 pounds or more. They suffered from malaria, heat exhaustion, exotic tropical diseases. All told, the unit buried 147 men on the island, had 309 wounded, and another 133 casualties from shock, trauma, and neurosis.

It was little wonder that the Americans called the island ''green hell'' and Japanese referred to it as the ''island of death.''

The regiment received a Presidential Unit Citation for its outstanding contributions and personal plaudits from General George Marshall, chairman of the Joint Chiefs of Staff, and Admiral William Halsey, commander of the South Pacific forces. For Guadalcanal, men of the regiment won a Navy Cross, five Distinguished Service Crosses, 40 Silver Stars, more than 300 Purple Hearts, and many Soldier's Medals and Legions of Merit. One of its proud boasts was that it would leave no one behind and, indeed, it had no men missing in action.

The survivors are now old men. They have had America's hat tipped to them before, but they deserve it again, one more time before they leave us to rejoin their comrades, brave young men who left North Dakota on troop trains in the bitter February cold so long ago to answer their Nation's call.●

COMMEMORATING THE BIRTH OF GEORGE ROGERS CLARK

● Mr. LUGAR. Mr. President, I rise today to speak about an important event in Indiana, the 250th birthday of George Rogers Clark. Vincennes University, located in Vincennes, IN, is hosting a celebration that will be held on November 19, 2002. I am pleased to add my voice to those honoring a man who is one of the greatest figures in American frontier history.

George Rogers Clark was born on November 19, 1752, to John and Ann Rogers Clark. Although Clark was literate, he was not known as a scholar. Instead, like George Washington, he took an interest in surveying, a high risk profession that presented the possibility of great reward. Surveying required intelligence, determination, physical strength, resilience, and a thorough knowledge of wilderness survival skills.

When the Revolution began, the Virginia legislature appointed Clark to the position of Commander of the Frontier Militia. He set out, in May 1778, with a small force to battle the British and their Native American allies. During the summer, Clark and his troops ousted the British from Kaskaskia, Cohokia, and Vincennes.

On December 17, 1778, British Lt. Governor Henry Hamilton and his troops retook Fort Sackville, the important stronghold in the City of Vincennes. Clark led about 170 men on a grueling 18-day winter trek from Kaskaskia, through present day Illinois, up to Fort Sackville. Clark and his men moved relentlessly, braving cold weather and crossing freezing rivers, in an effort to stop further British incursions. Then, in a brilliant maneuver, he duped the British into believing that he had gathered a considerably larger militia than he actually had. This tactic worked, and Lt. Governor Henry Hamilton surrendered Fort Sackville to Clark on February 25, 1779. For the next several years, Clark conducted successful campaigns against

the Shawnee. He and his forces maintained control of most of the Northwest. This success not only had military significance, but it also strengthened America's post-war claims to the western territories. During this period, Clark spent his own money to help maintain his small army.

George Rogers Clark's courage and leadership have been recognized and carefully remembered in the Hoosier State. President Franklin Roosevelt dedicated the memorial of George Rogers Clark in the City of Vincennes on June 14, 1936. This memorial is the focal point of George Rogers Clark National Historical Park that had 128,000 visitors last year.

I appreciate the efforts of Vincennes University and the George Rogers Clark National Historical Park to honor this remarkable man and his contributions to American history. This event will be a testament to the exceptional accomplishments and overall character of George Rogers Clark and his men.●

THE AWARDING OF THE 2002 NOBEL PRIZE IN CHEMISTRY TO PROFESSOR JOHN B. FENN

● Mr. LIEBERMAN. Mr. President, I rise today to express my heartfelt congratulations to a former long-time Connecticut resident and member of the Yale University faculty, Professor John B. Fenn, for being jointly awarded the 2002 Nobel Prize in Chemistry, the world's highest honor for scientific achievement.

I cannot imagine another person for whom this prestigious award is more richly deserved. Professor Fenn has conducted pioneering research on powerful analytical methods for studying biological macromolecules such as proteins. His work has revolutionized the development of new medicines and has broken new ground in the early diagnosis of certain cancers. The possibility of analyzing proteins in detail has led to an increased understanding of the processes of life. Because of the advances resulting from Professor Fenn's work, researchers can now rapidly and simply identify the constituent proteins contained within a substance. They can also create three-dimensional pictures showing what protein molecules look like in solution in order to better understand their functions within a cell. In addition to assisting the diagnosis of breast and prostate cancer, applications of this groundbreaking area of research are also being reported in other areas; for example, foodstuff control, pharmaceutical development, environmental analysis, and the diagnosis of malaria.

Mass spectrometry is a very important analytical method used in practically all chemistry laboratories the world over. This process lets scientists rapidly identify a substance and is used in areas such as testing for doping and illegal drugs. For much of the 20th century, the technique had been used to identify only small-or medium-sized molecules. In the latter half of the 1980s, Professor Fenn and his colleague Koichi Tanaka, with whom he is sharing the prize, developed methods that make it possible to analyze biological macromolecules as well. Professor Fenn has been honored for finding ways to extend the technique to large molecules by making the individual molecules separate and spread out as a cloud in a gas without losing their original structure. In the method that he published in 1988, electrospray ionisation—ESI—charged droplets of protein solution are produced which shrink as the water evaporates. Eventually, freely hovering protein ions remain, and their masses may then be determined by setting them in motion and measuring their time of flight over a known distance.

Professor Fenn received a B.A. in chemistry from Berea College in 1937 and a Ph.D. from Yale in 1940. After a dozen years in industry, he was appointed director of Project SQUID, a Navy program of basic and applied research in jet propulsion administered by Princeton University, where he later became professor of aerospace and mechanical sciences in 1959. He returned to Yale in 1967 as professor of applied science and chemistry, a post he held for 13 years. From 1980 until his retirement in 1987, he was a professor of chemical engineering. He became a research scientist at Yale after being named Emeritus in 1987. In 1994, he moved to Virginia Commonwealth University as a research professor. He has served as a visiting professor at Trento University in Italy, the University of Tokyo, the Indian Institute of Science at Bangalore, and the Chinese Academy of Science in Beijing, and as a distinguished lecturer at several other institutions. Author of one book and over a hundred papers, he is sole or co-inventor on 19 patents. Much of his research has centered on the properties and uses of supersonic free jets expanding into vacuum. Such jets can produce molecular beams with much higher intensities and energies than can the classical effusion ovens they have replaced. Their ability to cool molecules to ultra low temperatures, with or without condensation, has revolutionized molecular spectroscopy and made them versatile sources of clusters and van der Waals molecules. In mass spectrometry, Professor Fenn is best known for his work in the development and applications of electrospray ionization.

I speak with utmost sincerity in expressing my gratitude to Professor Fenn for the lifetime of contributions or, more accurately, several lifetimes' worth of contributions that he has rendered in service to our Nation in his research on mass spectrometry. The work resulting from his drive and genius will no doubt improve our lives and our society, and it fills me with exceptional pride to see him recognized for his efforts. Outstanding scientists such as he undertake research to fully realize human and societal potential, and by having had someone as accomplished as Professor Fenn on its faculty, both Connecticut and Yale University have greatly benefited from his groundbreaking work. On behalf of your State and your country, Professor Fenn, please accept my deepest congratulations and thanks.●

TRIBUTE TO DR. LURA POWELL

● Mrs. MURRAY Mr. President, I would like to take a moment today to recognize the accomplishments of Dr. Lura Powell, the Laboratory Director of the Department of Energy's Pacific Northwest National Laboratory in Richland, WA. Dr. Powell will be stepping down at the end of this year and, over the past 2 years as director, has provided many contributions while leading this National Laboratory. I would also like to thank her for her leadership and her commitment to the Tri-Cities Community.

Lura Powell joined the Laboratory after a lengthy career at the Department of Commerce's National Institute of Standards and Technology. During her tenure at NIST, she served as Director of the Advanced Technology Program. She earned the Department of Commerce Gold Medal in 1998. In 2000, Dr. Powell joined Battelle and became the first woman director of the Laboratory. There are several noteworthy successes to mention, including two ''Outstanding'' ratings from the Department of Energy, the highest rating available, during her tenure. In addition, DOE recently announced its intention to renew the 5-year contract for the Laboratory.

During her tenure, the acquisition of two major pieces of equipment, including a leading-edge supercomputer and the world's first 900 Megahertz wide bore Nuclear Magnetic Resonance spectrometer, will position the laboratory to be a leader in molecular research. Dr. Powell can also be credited with enhancing university partnerships in the Northwest with the University of Washington and Washington State University, as well as the University of Idaho and Oregon State University. Dr. Powell's legacy is the successful combination of academic partnerships with this state-of-the-art laboratory, securing a strong economic future for my state of Washington and the Pacific Northwest region of the United States.

In the Tri-City Community, Dr. Powell has been active in promoting economic growth and providing leadership in the role that science and technology can play in education, work, and our daily lives. In Washington State, Dr. Powell has been a member of the Washington Roundtable and the Washington Technology Alliance Board where she has cared deeply about bringing growth to the state economy.

On behalf of the people of the Tri-Cities and Washington State, I would like to thank Lura Powell for her hard

work and know that wherever she goes, those around her will benefit from her leadership, insight, and commitment.●

WEST VIRGINIA VET CENTER RECEIVES AWARD

● Mr. ROCKEFELLER. Mr. President, once again I rise to congratulate the Morgantown Vet Center in my State of West Virginia for receiving both the ''Clinical Programs of Excellence'' award presented by the Department of Veterans Affairs Health Administration and the ''Vet Center of Excellence'' award presented by VA's Readjustment Counseling Service.

For the second time in a row, the skilled, dedicated staff of the Morgantown Vet Center has been recognized by VA for providing the best of VA care in their field. To receive either of these two awards once would be an outstanding accomplishment. But to receive both of them, twice in a row, by continuing to meet such high standards of care is something to be enormously proud of.

The services provided by the staff at the Morgantown Vet Center include individual and group counseling, family/marital counseling, sexual trauma counseling, substance abuse counseling, vocational and employment assistance, VA claims and benefits information, help for the homeless, and social service and health care referrals. They provide readjustment counseling to combat veterans and their families, including veterans who served during Vietnam, Korea, World War II, and the Persian Gulf.

The staff at the Morgantown Vet Center is extremely dedicated, and literally hundreds of veterans have benefitted from their expertise. In fiscal year 2001, 11,528 visits were made to the Morgantown Vet Center, a 41 percent increase in the number of visits for fiscal year 1998. This growth is just one of the many positive facets of Morgantown's program that allowed VA to select them once again as a ''Clinical Program of Excellence.''

So to each and every one of the staff at the Morgantown Vet Center, thank you again for the exemplary work you do, for your professionalism, your dedication, and your compassion.

Congratulations for a job well done.●

NATIONAL WILDLIFE REFUGE WEEK

● Mr. DOMENICI. Mr. President, I rise today to celebrate National Wildlife Refuge Week. This week of wildlife education and activities marks the 99th birthday of the National Wildlife Refuge System. Following in the footsteps of one of our first conservationist Presidents, Theodore Roosevelt, who in 1903 instituted the National Wildlife Refuge on Pelican Island in Florida, the National Wildlife Refuge System attentively monitors and preserves wildlife habitats on 538 National Wildlife Refugees spanning 94 million acres. The National Wildlife Refuge System plays a unique and critical role in ensuring Americans a safe, clean, and natural ecosystem where both wildlife and people benefit from a healthy environment.

The National Wildlife Refuge System protects a wide range of wildlife and landscapes throughout the country. In particular, the refuges in the Southwest are necessary to secure the well-being and survival of an assortment of migratory birds, including the bald eagle, who make the Southwest their home during the fall and spring months. The National Wildlife Refuge System concentrates not only on the hands-on aspect of environmental protection but, focuses on the importance of science in determining the future and well-being of wildlife. Specifically, they direct their scientific endeavors towards the accelerating rate of extinction of species and the associated loss of biological diversity coupled with habitat alteration and destruction. Their efforts towards the preservation of wildlife are in conjunction with and for the well-being of Americans and their ability to enjoy a peaceful, natural, and unspoiled national refuge.

The National Wildlife Refuge contributes greatly to ensuring many of New Mexico's natural landmark treasures such as Bitter Lake, Bosque del Apache, Grulla, Las Vegas, Maxwell, San Andres, and Sevilleta. The National Wildlife Refuge has been devoted to the restoration of Sevilleta, making native animals such as deer, elk, coyotes, mountain lions, and various birds and reptiles more abundant and visible. In particular, and of great interest to me, is the Long-Term Ecological Research Project the National Wildlife Refuge System they have launched. Such programs are key to the revitalization of not just Sevilletta, but to all of New Mexico's varying ecosystems. Their project is in line with the Sevilleta National Wild Refuge program and the Rio Grande Bosque Initiative that was implemented in 1991.

As part of my concern for New Mexico's wildlife, I included a provision in this year's Interior Appropriations bill providing $1.25 million for the Fish and Wildlife program to design a new research complex for Sevilleta NWR. This facility will support numerous university and Federal agency research programs.

The National Wildlife Refuge System consistently helps prevent and regulate environmental disasters through their highly cultivated set of management tools that includes farming, prescribed burning, exotic plant control, moist soil management, and water level manipulation. Without the perseverance of such organizations as the National Wildlife Refuge System, we would not be able to successfully tackle the many environmental obstacles that stand in the way of a healthy and well managed ecosystem.

I wish the National Wildlife Refuge System a great week of learning, exploration, and fun and a continued success in their wildlife and environmental work. Although I cannot be in my beloved home of New Mexico for this noble event, I congratulate this organization for their almost one hundred years of conservation and public works.●

PROFESSIONAL DEVELOPMENT IN CIVICS AND GOVERNMENT

● Mrs. FEINSTEIN. Mr. President, I rise today to bring to the attention of my colleagues the work of the Center for Civic Education. The center offers outstanding professional development institutes for teachers of civics and government throughout the United States.

While the center is based in my home State of California, their programs are administered nationally by a network of State and congressional district coordinators. Many of you are familiar with We the People: The Citizen and the Constitution, a nationally acclaimed civic education program for upper elementary, middle, and high school students. I know that a number of you have met with the high school students who participate in the We the People national finals, a three-day academic competition in which students respond to questions on the U.S. Constitution and Bill of Rights.

The center-sponsored professional development institutes are offered at national, regional, and State levels. These institutes are designed to instruct teachers in the content and methodology required to deliver quality education in civics and government. Institutes are usually one week long and provide rigorous content knowledge, innovative teaching techniques, and authentic assessment practices. Regional institutes provide an opportunity for teachers from neighboring states to share best practices in civic education.

This past year, 27 regional and State institutes were held in Arizona, California, Colorado, Florida, Idaho, Indiana, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, Oregon, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin. A Juvenile Justice Institute was offered for teachers of incarcerated youth, and a civics and government institute was held for university professors of education.

The center also sponsors a more intensive 3-week National Academy for teachers from across the country; the academy is held in California. Participants in the academy study major works of political theory such as Aristotle's Politics, Hobbes' Leviathan, Locke's Second Treatise, The Federalist, anti-federalist writings, and U.S. Supreme Court opinions. They also discuss relevant knowledge and creative ways to apply this experience when they return to the classroom.

National institutes for elementary school teachers and teachers interested

in advanced content knowledge were held for the first time this year. These institutes were conducted in Virginia and Missouri, respectively. In 2003, the center will increase the number of summer professional development institutes offered.

The poor performance of students on the 1998 National Assessment for Educational Progress, NAEP, Civics Report Card can be traced to inadequate teacher preparation and insufficient quantity of instruction. We know that outstanding programs and student outcomes are directly attributed to adequately prepared teachers.

Investment in professional development opportunities, such as the summer institutes and the National Academy sponsored by the Center for Civic Education, are helping to address this critical situation of teacher preparedness in the field of civics and government.

I commend the center for their efforts and applaud their investment in one of our most treasured resources, the American classroom teacher. ●

TRIBUTE TO DANIEL A. BENAC

● Mr. LEVIN. Mr. President, I am delighted to bring to the attention of my colleagues a great American. Mr. Daniel A. Benac of Hillman, MI has made service to his country and community a cornerstone of his life. In 1942, Daniel answered the call to serve his country and joined the United States Army's 103rd Infantry Division. After being honorably discharged from the Army, Dan went back to Michigan where he became a member of a variety of important organizations including the International Brotherhood of Electrical Workers and the United Auto Workers. As a skilled tradesman, Dan also ran a successful small business. In the military, business and personal life, he has demonstrated his commitment to his country, family, and friends.

Dan's leadership capabilities are highlighted by his commitment to a variety of community-based organizations including the Masons, Shriners, Disabled American Veterans, and the American Legion. He also serves as a Board member for the United Auto Worker's state-wide coordinating committee for the Democratic Party and the National Council for Senior Citizens. Furthermore, Dan is the Chairman of the Michigan Veterans Trust Fund for Montmorency County and Past Chairman of the Montmorency County Democratic Party. Dan currently serves as the chairman of Region 1D, United Auto Worker Retirees, a region which encompasses 62 counties. Daniel was instrumental in the formation of the Montmorency County Democratic Party and has served as the party chairman for many years.

Dan and his wife Geraldine will celebrate their 60th wedding anniversary on February 9, 2003. They have three children, eight grandchildren, and fifteen great grandchildren. At 80 years of age, he has been, and continues to be, an inspiration to all who know him. I know my colleagues will join me in saluting Daniel Benac for his leadership in the community dedication to his country, and loyalty to his family and friends.●

● Mr. HATCH. Mr. President, I rise today to introduce ''Feed America Thursday,'' a resolution which designates November 21, 2002, the Thursday before Thanksgiving Day, as ''Feed America Thursday.''

This resolution encourages Americans to sacrifice two meals on November 21 and donate the money they would have used for food to a charity or religious organization of their choice. The charities and churches, in turn, are encouraged to feed the hungry with the funds received. ''Feed America Thursday'' will not only encourage Americans to help those in need, it will encourage a spirit of selflessness and sacrifice vital to our strength as a nation.

Each day people in our Nation suffer due to hunger. The United States Department of Agriculture recently reported that 33 million Americans, 13 million of whom are children, live in homes that do not have an adequate supply of food. Hunger among children is especially devastating because it has a serious impact on physical growth and brain development. The contributions this resolution encourages will serve the needs of those who suffer from hunger in our Nation, especially the children. This resolution will not only help alleviate hunger, it will both affirm and restore the spirit of giving in our society. Hunger affects people from every state and in all age groups.

I ask every American to join me in feeding the hungry and affirming the values that make our Nation great. This resolution, if passed, will provide food to the hungry and hope to our nation.●

THE RETIREMENT OF SHERIFF BILL BREWER

● Mr. ENZI. Mr. President, I have often heard it said that Wyoming is such a remarkable place to live because of the remarkable people who live there. For my part, I can not only assure you that it is true, but I have the proof in the form of one of the stories of our remarkable citizenry that I would like to share with my colleagues today.

In just a few weeks, Bill Brewer will be retiring after serving for 26 years as our Sheriff for Park Country. All told, he will be closing the books on a career in law enforcement that totals almost 40 years.

As a former Mayor, I know full well the importance of a good Sheriff in city and county management and the important role law enforcement plays in the services we provide to the citizens of our communities. If nothing else, good city and county government demands that we ensure the safety of our people to the fullest extent possible. That is why law enforcement officers like Bill Brewer are so important in the day to day life of our communities.

Sheriff Brewer has been an integral part of the daily life of the community of Cody and Park County since 1972, when he became the Sheriff of Park County. Over the years, he proved to be instrumental in bringing the Cody Police Department and the Park County Sheriff's Department together as he worked to bring both offices into the modern age. Through his efforts, he was able to improve the technology both offices have come to depend on as they became more effective and responsive to the needs of the people of the area. Thanks to his dedication to improving the system he was a part of, numerable changes were made in the way the offices communicated with each other. And thanks to his willingness to try new things, the kind of information they exchanged and the speed with which it was shared increased dramatically.

Sheriff Brewer's vision and commitment to making a difference in his corner of the world did not go unnoticed through the years, and he was named Wyoming Peace Officer of the Year in 1981. The award was presented to him to recognize his devotion to duty as well as his dedication and commitment to improving the tools his officers had access to in the performance of their daily duties.

For example, in the 1980's, Sheriff Brewer's foresight and commitment to ensuring Cody and Park County had the most modern crime fighting tools possible led him to create a SWAT team for the County. Although there was quite a bit of dissension about the formation of such a force, it proved to be an important addition to the law enforcement team of the area when there was a shooting at a bar in Cody. The perpetrators fled the scene and barricaded themselves in a cabin. It was then up to the newly formed SWAT team to capture them and bring them to justice. They were subsequently convicted and the story was broadcast across the nation as part of a television series of law enforcement.

In addition to his duties as a Sheriff, Bill has also been very involved with the youth of the community. He was a boxing coach and referee, as well as a baseball and basketball coach.

I would be remiss if I didn't also point out Bill's participation in the music community of the area. He plays the banjo and the guitar and he and his father played with the Wyoming Fiddlers Association. He also enjoys playing horseshoes and now that he's retired, I have no doubt that he is going to get into a lot more activities in the years to come.

Bill Brewer will long be remembered for all he has done to make his community a better place to live. For his almost forty years of service, he has made a huge difference in his neck of the woods of Wyoming. There is no way

to measure all Bill has accomplished as Sheriff and the lives he has touched in all his activities. A lot of the area bears his remarkable and gentle touch and is better for his having passed by.

Now, I have a hunch Bill and his remarkable wife Janet won't be slowing down so much as changing gears and direction in retirement. I wish them all the best in whatever they decide to do in the coming years. After all, Bill has done all we could have asked him to do, and more, for almost forty years. I hope he and Janet enjoy their retirement. They have been a great team for Park County and Wyoming and they have earned it.●

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.)

MESSAGES FROM THE HOUSE

At 3:57 p.m., a message from the House or Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 114. A joint resolution to authorize the use of the United States Armed Forces against Iraq.

At 5:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment to the Senate to the bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

The message further announced that the Speaker has signed the following enrolled bills:

ENROLLED BILLS SIGNED

H.R. 2121. An act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order promote and strengthen democratic government and civil society and independent media in that country.

H.R. 4085. An act to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD.)

At 8:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it request the concurrence of the Senate:

H.J. Res. 122. A joint resolution making further appropriations for the fiscal year 2003, and for other purposes.

At 11:05 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 508. Concurrent resolution resolving all disagreements between the House of Representatives and Senate with respect to H.R. 3295.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the text to the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections and for other purposes.

The House insists on its disagreement to the amendment of the Senate to the title to the aforesaid bill.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 5427. An act to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the ''Joe Skeen Federal Building''.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4968. An act to provide for the exchange of certain lands in Utah.

S. 3099. A bill to provide emergency disaster assistance to agricultural producers.

S. 3100. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9285. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the reimbursements to countries for support of U.S. military operations in connection with the global war on terrorism; to the Committee on Appropriations.

EC–9286. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act case number 00–07; to the Committee on Appropriations.

EC–9287. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Special Rules Applicable to Surface Coal Mining Hearings and Appeals'' (RIN1090–AA82) received on October 2 , 2002; to the Committee on Energy and Natural Resources.

EC–9288. A communication from the Deputy Congressional Liaison, Board of Governor of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation Z (Truth in Lending)'' received on October 3, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9289. A communication from the Secretary of Labor, transmitting , a draft of proposed legislation entitled ''Black Lung Consolidation of Administrative Responsibilities Act''; to the Committee on Health, Education, Labor, and Pensions.

EC–9290. A communication from the Acting Director, Office of Regulatory Law, Veterans Health Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Priorities for Outpatient Medical Services and Inpatient Hospital Care'' (RIN2900–AL39) received on October 2, 2002; to the Committee on Veterans' Affairs.

EC–9291. A communication from the Director of Regulations and Forms Services Division, Immigration and Naturalization, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Delegating the Secretary of Labor the Authority to Adjudicate Certain Temporary Agricultural Worker (H–2A) Petitions'' (RIN1115–AF29) received on October 2, 2002; to the Committee on the Judiciary.

EC–9292. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9293. A communication from the Director of Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Overseas Use of the Purchase Card in Contingency, Humanitarian, or Peacekeeping Operations'' (DFARS Case 2000–D019) received on October 2, 2002; to the Committee on Armed Services.

EC–9294. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, a report on Fiscal Year 2001 funds obligated in support of the procurement of a vaccine for biological agent Anthrax; to the Committee on Armed Services.

EC–9295. A communication from the Acting Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, the Affirmative Action Employment Program Accomplishment Report for the period of October 1, 2000 through October 1, 2001; to the Committee on Foreign Relations.

EC–9296. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation to extend through Fiscal Year 2003 the authorities necessary to continue the unified campaign against drugs and terrorism in Colombia; to the Committee on Foreign Relations.

EC–9297. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9298. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, National Aeronautics and Space Administration, General Service Administration, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001–09'' (FAC 2001–09) received on October 2, 2002; to the Committee on Governmental Affairs.

EC–9299. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–9300. A communication from the Commissioner of the Social Security Administration, transmitting, a draft of proposed legislation entitled ''Supplemental Security Income Program Amendments of 2002''; to the Committee on Finance.

EC–9301. A communication from the Secretary of Labor, transmitting , a draft of proposed legislation entitled ''Black Lung Disability Trust Fund Debt Restructuring Act''; to the Committee on Finance.

EC–9302. A communication from the Secretary of Labor, transmitting , a draft of proposed legislation entitled ''Employment Security Reform Act of 2002''; to the Committee on Finance.

EC–9303. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Conditions of Participation: Immunization Standards for Hospitals, Long-Term Care Facilities, and Home Health Agencies'' (RIN0938–AM00) received on October 2, 2002; to the Committee on Finance.

EC–9304. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Duty-free Treatment for Certain Beverages Made with Caribbean Rum'' (RIN1515–AC78) received on October 4, 2002; to the Committee on Finance.

EC–9305. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Effect of Collars on Qualified Covered Calls'' (Rev. Proc. 2002–66, 2002–43) received on October 3, 2002; to the Committee on Finance.

EC–9306. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Annual Report for 2002 entitled ''Evaluation of Medicare's Competitive Bidding Demonstration for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies''; to the Committee on Finance.

EC–9307. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reallocation of Projected Unused Amounts of Bering Sea Subarea (BS) Pollock from the Incidental Catch Account to the Directed Fisheries. This Action is Necessary to Allow the 2002 Total Allowable Catch (TAC) of Pollock to be Harvested'' received on October 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9308. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure Notice for Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 3'' (RIN0648–AP06) received on October 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9309. A communication from the Acting Director, Office of Sustainable Fisheries, Nation Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NMFS is prohibiting retention of all rockfish defined in the category ''other rockfish'' in Table 3 of 2002 harvest specifications and associated management measures for groundfish fisheries off Alaska (67 FR 956, January 8, 2002) in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is required that catch of ''other rockfish'' in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of 2002 total allowable catch (TAC) of ''other rockfish'' in this area has been achieved'' received on October 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9310. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, the report of a correction of EC 4629, a rule entitled ''Procedures for Compensation of Air Carriers'' (RIN2105–AD06) that was received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–9311. A communication from the Senior Transportation Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, the report of a correction of EC 5109, a rule entitled ''Procedures for Compensation of Air Carriers'' ((RIN2105–AD06)(2002–0001)) that was received on January 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9312. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, the report of a correction of EC 9153, a rule entitled ''Procedures for Compensation of Air Carriers'' ((RIN2105–AD06)(2002–0002)) that was received on September 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9313. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Tecumseh, MI; Correction'' (RIN2120–AA66) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9314. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model EC 155B Helicopters'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9315. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Vulcanair SpA P 68 Series Airplanes'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9316. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Series Airplanes'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9317. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron, Inc. Model 212 Helicopters'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9318. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Lockheed C–130A Airplanes; Type Certification in the Restricted Category'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9319. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9320. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Certain Airplanes Originally Manufactured by Lockheed'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9321. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Textron Lycoming IO–540, LTIO–540, and TIO–540 Series Reciprocating Engines'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9322. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (25); Amdt. No. 3024)'' (RIN2120–AA65) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9323. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (20); Amdt. No. 3023'' (RIN2120–AA65) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9324. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Rotax GmbH Type 912 F and 912 S Series Reciprocating Engines'' (RIN2120–AA64) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9325. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Lapeer, MI'' (RIN2120–AA66) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9326. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Ponce Bay, Tallaboa Bay, and Guayanilla Bay, Puerto Rico and Limetree Bay, St. Croix, U.S. Virgin Islands'' ((RIN2115–AA97)(2002–0192)) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9327. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Shipping—Technical and Conforming Amendments'' (RIN2115–AG48) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9328. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Zanesville, OH'' (RIN2120–AA64) received on October 4, 2002 ; to the Committee on Commerce, Science, and Transportation.

EC–9329. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Athens, OH'' (RIN2120–AA66) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9330. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Implementation Guidance for the Arsenic Rule: Drinking Water Regulations for Arsenic and Clarifications to Compliance and New Source Containments Monitoring''; to the Committee on Environment and Public Works.

EC–9331. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Prevention of Significant Deterioration (PSD) of Air Quality Permit Requirement'' (FRL7376–5) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9332. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Vehicle Inspection and Maintenance Programs; Salt Lake County and General Requirements and Applicability'' (FRL7262–2) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9333. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; To Prevent and Control Air Pollution from the Operation of Hot Mix Asphalt Plants'' (FRL7391–3) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9334. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Indiana'' (FRL7390–3) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9335. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Iowa'' (FRL7392–6) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9336. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Massachusetts; Plan for Controlling MWC Emissions from Existing Large MWC Plants'' (FRL7387–5a) received on October 7, 2002; to the Committee on Environment and Public Works.

EC–9337. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Montana: General Conformity'' (FRL7383–2) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9338. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Reasonably Available Control Technology (RACT) Plans and Regulation'' (FRL7374–9) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9339. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Generic VOC and NO_x RACT Regulation and Revised Definitions'' (FRL7389–2) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9340. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia, Regulation to Prevent and Control Air Pollution from the Operation of Coal Preparation Plants, Coal Handling Operations and Coal Refuse Disposal Areas'' (FRL7381–7) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9341. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standard for Carbon Monoxide and Ozone'' (FRL7388–9) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9342. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standard for Nitrogen Dioxide'' (FRL7381–9) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9343. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Approval of PM10 State Implementation Plan (SIP) Revisions and Designation of Areas for Air Quality Planning Purposes'' (FRL7374–7) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9344. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules; Delegation of Authority for New Source Performance Standards and National Emission Standards for Hazardous Air Pollution'' (FRL7379–8) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9345. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water; Revisions to EPA Method 1631'' (FRL7390–6) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9346. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination to Stay Sanctions; Bay Area Air Quality Management District'' (FRL7387–2) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9347. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactivity Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries'' (FRL7390–7) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9348. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District and South Coast Air Quality Management District'' (FRL7380–8) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9349. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Bay Area Air Quality Management District'' (FRL7387–1) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9350. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL7385–3) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9351. A communication from the Deputy Assistant for the Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled ''Injurious Wildlife Species; Snakeheads (family Channidae)'' (RIN1018–AI36) received on October 2, 2002 ; to the Committee on Environment and Public Works.

EC–9352. A communication from the Secretary of Agriculture and the Secretary of the Interior, transmitting jointly, four legislative proposals to implement the President's Healthy Forests Initiative; to the Committee on Environment and Public Works.

EC–9353. A communication from the Director of the Office of Congressional Affairs, Nuclear Material Safety and Safeguards, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Specification of a Probability for Unlikely Features, Events and Processes'' (RIN3150–AG91) received on October 4, 2002; to the Committee on Environment and Public Works.

EC–9354. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for Thlaspi californicum (Kneeland Prairie Penny-cress)'' (RIN1018–AG92) received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9355. A communication from the Assistant Secretary of the Interior for Fish, Wildlife and Parks, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Appalachian Elktoe'' received on October 2, 2002; to the Committee on Environment and Public Works.

EC–9356. A communication from the Assistant Secretary of the Interior for Fish, Wildlife and Parks, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Holocarpha macradenia (Santa Cruz Tarplant)'' (RIN1018–AG73) received on October 2 , 2002; to the Committee on Environment and Public Works.

EC–9357. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Compensation of Air Carriers'' ((RIN2105–AD06)(2002–0003)) received on October 4, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9358. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's monthly report on the status of licensing and regulatory duties for June 2002; to the Committee on Environment and Public Works.

EC–9359. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''CERCLA Future Response Costs: Settlement, Billing and Collection''; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2951: A bill to authorize appropriations for the Federal Aviation Administration, and for other purposes. (Rept. No. 107–309).

H.R. 2486: To authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes. (Rept. No. 107–310).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2950: A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005, and for other purposes. (Rept. No. 107–311).

From the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2667: A bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes..

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

S. 3054: A bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes..

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. LEVIN:

S. 3089. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine , and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 3090. A bill to provide for the testing of chronic wasting disease and other infectious disease in deer and elk herds, to establish the Interagency Task Force on Epizootic Hemorrhagic Disease, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself, Mr. REID, Mr. ROCKEFELLER, Mr . KERRY, Mr. BINGAMAN, Mr. GRAHAM, Mr. MILLER, Mr. BREAUX, Mr. NELSON of Florida, Ms. LANDRIEU, and Mrs. LINCOLN):

S. 3091. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 3092. A bill to amend title XXI of the Social Security Act to extend the availability of allotments to States for fiscal years 1998 through 2000, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. KYL):

S. 3093. A bill to develop and deploy technologies to defeat Internet jamming and censorship; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. CONRAD, Mr . CRAPO, Mr. CRAIG, Mr. BURNS, Mr. JOHNSON, Mr. ALLARD, Mr. BROWNBACK, and Mr. CAMPBELL):

S. 3094. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds, dry peas, lentils, and small chickpeas; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN:

S. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself, Mrs. FEINSTEIN, Mr. SCHUMER, and Mr. REED):

S. 3096. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. CRAPO):

S. 3097. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for holders of qualified highway bonds; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. GRAMM):

S. 3098. A bill to amend title XVIII of the Social Security Act to establish a program for the competitive acquisition of items and services under the medicare program; to the Committee on Finance.

By Mr. DASCHLE:

S. 3099. A bill to provide emergency disaster assistance to agricultural producers.

By Mrs. FEINSTEIN:

S. 3100. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

By Mr. LEAHY (for himself, Mr. HATCH, and Mr. BIDEN):

S. 3101. A bill to amend title IV of the Missing Children's Assistance Act to provide for increased funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3102. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of broadcast transmission facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3103. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of personal wireless services facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3104. A bill to amend the Marine Mammal Protection Act of 1972 to repeal the long-term goal for reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations, and to modify the goal of take reduction plans for reducing such takings; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself, Mr. DODD, Mr. SANTORUM, Mr. BAYH, Mr. COCHRAN, and Mr. DEWINE):

S. 3105. A bill to amend the Public Health Service Act to provide grants for the operation of enhanced mosquito control programs to prevent and control mosquito-borne diseases; to the Committee on Health , Education, Labor, and Pensions.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3106. A bill to amend the Denali Commission Act of 1998 to establish the Denali transportation system in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. MCCAIN):

S. 3107. A bill to improve the security of State-issued driver's licenses, enhance highway safety, verify personal identity, and for

other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BUNNING:

S. 3108. A bill to authorize the conveyance of a portion of the Bluegrass Army Depot, Kentucky, to preserve a historic Civil War battlefield; to the Committee on Armed Services.

By Mr. BUNNING:

S. 3109. A bill to authorize the conveyance of a portion of the Bluegrass Army Depot, Richmond, Kentucky, to facilitate construction of a State veterans' center; to the Committee on Armed Services.

By Ms. COLLINS:

S. 3110. A bill to require further study before amendment 13 to the Northeast Multispecies (Groundfish) Management Plan is implemented; to the Committee on Commerce, Science, and Transportation. RN35G

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, Mrs. HUTCHISON, Mr. ALLEN, Mr. CLELAND, Mr. BROWNBACK, Mr. CRAIG, Mrs. CLINTON, Ms. CANTWELL, Mr. DURBIN, Mr. EDWARDS, Mr. DODD, Mr . KERRY, Mr. BUNNING, Mr. HATCH, Mr. BENNETT, Mr. HUTCHINSON, and Ms. SNOWE):

S. Res. 338. A resolution designating the month of October, 2002, as ''Children's Internet Safety Month''; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself and Ms. COLLINS):

S. Res. 339. A resolution designating November 2002, as ''National Runaway Prevention Month''; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself and Mr. HAGEL):

S. Con. Res. 152. A concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 724

At the request of Mr. BOND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 2006

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2006, a bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit.

S. 2663

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2790

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2790, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 2848

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2848, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 2872

At the request of Mr. FITZGERALD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2872, a bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2968

At the request of Mr. SARBANES, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2968, a bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program.

S. 2972

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2972, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for a cooperative research and management program, and for other purposes.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3054

At the request of Mr. LIEBERMAN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 3054, a bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes.

S. 3057

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3057, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S.J. RES. 46

At the request of Mr. THURMOND, his name was added as a cosponsor of S.J. Res. 46, A joint resolution to authorize the use of United States Armed Forces against Iraq.

S.J. RES. 49

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S.J. Res. 49, A joint resolution recognizing the contributions of Patsy Takemoto Mink.

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 307, A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Con. Res. 3, A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 135

At the request of Mr. NICKLES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 135, A concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expeditious review by international trade tribunals to ensure

a competitive North American market for softwood lumber.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Con. Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

S. CON. RES. 148

At the request of Mr. BROWNBACK, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Colorado (Mr. ALLARD), the Senator from Idaho (Mr. CRAIG), and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. Con. Res. 148, A concurrent resolution recognizing the significance of bread in American history, culture, and daily diet.

AMENDMENT NO. 4856

At the request of Mr. THURMOND, his name was added as a cosponsor of amendment No. 4856 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

AMENDMENT NO. 4862

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 4862 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

AMENDMENT NO. 4868

At the request of Mrs. DAYTON, his name was added as a cosponsor of amendment No. 4868 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 3089. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, today I introduce a bill to grant normal trade treatment to the products of Ukraine. My brother, Congressman SANDER LEVIN, has introduced an identical bill, H.R. 4723, in the House. It is our hope that enactment of this legislation will help to build stronger economic ties between the United States and Ukraine.

The cold war era Jackson-Vanik immigration restrictions that deny most favored nation trade status to imports from former Soviet-Block countries are outdated and when applied to Ukraine, inappropriate. Those restrictions were established as a tool to pressure Communist nations to allow their people to freely emigrate in exchange for favorable trade treatment by the United States.

Ukraine does allow it citizens the right and opportunity to emigrate. It has met the Jackson-Vanik test. In fact, Ukraine has been found to be in full compliance with the freedom of emigration requirements under the Jackson-Vanik law. Ukraine has been certified as meeting the Jackson-Vanik requirements on an annual basis since 1992 when a bilateral trade agreement went into effect. It is time the United States recognize this reality by eliminating the Jackson-Vanik restrictions and granting Ukraine normal trading status on a permanent basis. Our bill does this as well as addressing traditional Jackson-Vanik issues such as emigration, religious freedom, restoration of property, and human rights. It also deals with the important trade issues that must be considered when granting a country permanent normal trade relations, PNTR, such as making progress toward World Trade Organization, WTO, accession and tariff and excise tax reductions.

Since reestablishing independence in 1991, Ukraine has taken important steps toward the creation of democratic institutions and a free-market economy. As a member state of the Organization for Security and Cooperation in Europe, OSCE, Ukraine is committed to developing a system of governance in accordance with the principles regarding human rights and humanitarian affairs that are set forth in the Final Act of the Conference on Security and Cooperation in Europe, the Helsinki Final Act. I believe that more needs to be done to reform Ukraine's economy and legal structures, but I believe that the hope for PNTR and thus PNTR itself, can encourage these reforms.

Drawing Ukraine into normal trade relations should lead Ukraine to achieve greater market reform and continue its commitment to safeguarding religious liberty and enforcing laws to combat discrimination as well as expand on the restitution of religious and communal properties. Also, PNTR status will hopefully do more than increase bilateral trade between the United States and Ukraine and encourage increased international investment in Ukraine. Hopefully it will also stimulate the reform we all want and Ukraine deserves on their way to achieving a mature nation statehood.

Ukraine is important to U.S. strategic interests and objectives in Central and Eastern Europe and has participated with the United States in its peacekeeping operations in Europe and has provided important cooperation in the global struggle against international terrorism. It's time we recognize Ukraine's accomplishments and status as an emerging democracy and market economy and graduate it from the Jackson-Vanik restrictions.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 3090. A bill to provide for the testing of chronic wasting disease and other infectious disease in deer and elk herds, to establish the Interagency Task Force on Epizootic Hemorrhagic Disease, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President. I rise today to introduce legislation to address two emergent wildlife diseases in my state, chronic wasting disease, or CWD, and epizootic hemorrhagic disease, or EHD, both of which have been found in Wisconsin's deer. I am pleased to be joined in introducing this legislation today by the Senior Senator from Wisconsin, Mr. KOHL. CWD was detected in wild deer in my state earlier this year, and, unfortunately, has now spread to captive herds. EHD was detected in wild deer in the last week of September. These diseases have become serious and substantial management problems in my home State of Wisconsin.

To address CWD, the State of Wisconsin has decided to eradicate free-ranging white tailed deer within eastern Iowa, western Dane, and southern Sauk counties in an effort to try to eradicate the disease. Wisconsin will sample and test another 50,000 deer statewide. This represents an unprecedented eradication and sampling effort in Wisconsin. Most likely, it is the largest ever undertaken in the United States.

For months, the Wisconsin delegation has been unified, on a bipartisan basis, in seeking Federal assistance from the Administration to combat this problem. We have sought assistance from the United States Department of Agriculture and the Department of the Interior. We have pursued any and every other Federal agency that might be able to provide us with assistance. Some help has been forthcoming, and we are grateful for the help that we have received.

But the help our State has gotten so far to combat CWD isn't near enough. We need to be ready for the deer hunt that begins next month. We need to expand the availability of CWD testing in our State, and we need to expand it now. Wisconsin is undertaking an unprecedented testing program, but USDA has refused to allow Wisconsin to certify private labs to run CWD tests. That is why I have authored this new bill to require USDA to make CWD

screening tests available to the public, that's the only way Wisconsinites can make informed decisions when hunting season arrives.

USDA is concerned that the public may interpret the results of the currently available CWD tests to be more than a determination of whether the deer does or does not have CWD. USDA is concerned because the current tests have certain limitations and are only accurate in determining whether a deer is infected with CWD. No test has yet been approved by the Food and Drug Administration as a way of proving that deer meat is safe to eat.

While I understand USDA's concern that an animal screening test for CWD should not be viewed by the public as a food safety test, at present there is no food safety test for venison. The CWD screening tests are the only tests that are available today. We should make the public aware of the limitations of today's tests, but we should also make those tests available and let the public use their own judgment. The World Health Organization has advised that meat from CWD-infected deer should not be consumed. The only way Wisconsinites can follow the WHO's advice and make an informed decision is to have their deer tested.

This bill addresses Wisconsin's urgent short term need for enhanced testing capacity in two ways. First, the bill requires USDA to release, within 30 days, protocols both for labs to use in performing tests for chronic wasting disease and for the proper collection of animal tissue to be tested. Second, the bill requires USDA to develop a certification program for Federal and non-federal labs, including private labs, allowing them to conduct chronic wasting disease tests within 30 days of enactment. I hope these measures will enhance Wisconsin's capacity to expand deer testing this year. To address longer-term needs the bill directs USDA to accelerate research into the development of live animal tests for chronic wasting disease, including field diagnostic tests, and to develop testing protocols that reduce laboratory test processing time.

I believe that the alternative to not expanding testing in Wisconsin is much worse, and much more challenging than undertaking an effort to educate our hunters about the limitations of current tests. The alternative, frankly, is the spread of this disease. We should be very clear that the Federal Government will be allowing this disease to spread if it does not act to make more testing available.

Concerned hunters, faced with limited information, will simply choose not to hunt Already, the lack of testing is affecting the number of hunters who will take to the woods in Wisconsin this fall. Registration for hunting licenses in my State is already down 30 percent from this time last year. If we do not expand testing in Wisconsin, we will likely guarantee the spread of the disease.

Failure to aggressively work to eradicate CWD before it spreads could allow the very resilient prions that spread the disease to survive in the environment for years, further complicating eradication efforts. And although CWD has never spread to other species, scientists have not ruled out that possibility, and more deer with the disease may well increase the risk.

The bill also addresses another issue, the emergence of another animal disease, this time a viral disease, EHD. This disease has apparently killed eighteen deer in Iowa County, and could have spread beyond the deer population in Iowa County.

This disease affects not only our deer population, but could also harm our world famous dairy industry. While I am told that cows don't frequently die from EHD, they can carry the disease, and some are worried that this disease could subject our dairy herds to quarantine if they were found to have EHD.

Our hunters and dairy industry do seem to have caught a break when it comes to EHD. I understand that colder weather will kill off the biting insects that spread the EHD virus. This should provide some protection for deer and dairy cattle for the next few months. In the meantime, however, we must take steps to prevent the spread of this disease now before it becomes a problem in the spring and to prevent its possibly spreading to our dairy industry.

The Administration has simply not taken sufficient steps on CWD, and I am concerned that it will again fail to do enough if EHD becomes a problem. That's why my legislation today also includes a provision to create an action plan to address concerns about EHD. It would require that the Secretary of Agriculture create a federal working group to outline what actions the federal government is taking now, and to determine the future actions that are important to take in addressing EHD.

My legislation is also budget neutral. It won't cost taxpayers a dime. It asks USDA to undertake these activities using current funds. I refuse to accept that USDA cannot find the resources within its budget of over seventy three billion dollars to take these actions. The Department must find the means to develop an efficient and accurate way to certify private labs to conduct CWD tests following the standards that the USDA labs use.

Legislative action on this problem is urgently needed. We cannot afford to wait, or we will allow these wildlife diseases to spread. This legislation is a necessary step in ensuring that we can bring these diseases under control and I urge its swift consideration.

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. 3090

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 ''Comprehensive Wildlife Disease Testing Acceleration Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CHRONIC WASTING DISEASE.—The term ''chronic wasting disease'' means the animal disease that afflicts deer and elk—

(A) that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain; and

(B) that belongs to the group of diseases—

(i) that is known as transmissible spongiform encephalopathies; and

(ii) that includes scrapie, bovine spongiform encephalopathy, and Cruetzfeldt-Jakob disease.

(2) EPIZOOTIC HEMORRHAGIC DISEASE.—The term ''epizootic hemorrhagic disease'' means the animal disease afflicting deer and other wild ruminants—

(A) that is an insect-borne transmissible viral disease; and

(B) that results in spontaneous hemorraging in the muscles and organs of the afflicted animals.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(4) TASK FORCE.—The term ''Task Force'' means the Interagency Task Force on Epizootic Hemorrhagic Disease established by section 4(a).

SEC. 3. CHRONIC WASTING DISEASE SAMPLING GUIDELINES AND TESTING PROTOCOL.

(a) SAMPLING GUIDELINES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidelines for the collection of animal tissue by Federal, State, tribal, and local agencies for testing for chronic wasting disease.

(2) REQUIREMENTS.—Guidelines issued under paragraph (1) shall—

(A) include procedures for the stabilization of tissue samples for transport to a laboratory for assessment; and

(B) be updated as the Secretary determines to be appropriate.

(b) TESTING PROTOCOL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue a protocol to be used in the laboratory assessment of samples of animal tissue that may be contaminated with chronic wasting disease.

(c) LABORATORY CERTIFICATION AND INSPECTION PROGRAM.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a program for the certification and inspection of Federal and non-Federal laboratories (including private laboratories) under which the Secretary shall authorize laboratories certified under the program to conduct tests for chronic wasting disease.

(2) VERIFICATION.—In carrying out the program established under paragraph (1), the Secretary may require that the results of any tests conducted by private laboratories shall be verified by Federal laboratories.

(d) DEVELOPMENT OF NEW TESTS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall accelerate research into—

(1) the development of animal tests for chronic wasting disease, including—

(A) tests for live animals; and

(B) field diagnostic tests; and

(2) the development of testing protocols that reduce laboratory test processing time.

SEC. 4. INTERAGENCY TASK FORCE ON EPIZOOTIC HEMORRHAGIC DISEASE.

(a) IN GENERAL.—There is established a Federal interagency task force to be known as the ''Interagency Task Force on Epizootic Hemorrhagic Disease'' to coordinate activities to prevent the outbreak of epizootic hemorrhagic disease and related diseases in the United States.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary, who shall serve as the chairperson of the Task Force;

(2) the Secretary of the Interior;

(3) the Secretary of Commerce;

(4) the Secretary of Health and Human Services;

(5) the Secretary of the Treasury;

(6) the Commissioner of Food and Drugs;

(7) the Director of the National Institutes of Health;

(8) the Director of the Centers for Disease Control and Prevention;

(9) the Commissioner of Customs; and

(10) the heads of any other Federal agencies that the President determines to be appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Task Force shall submit to Congress a report that—

(1) describes any activities that are being carried out, or that will be carried out, to prevent—

(A) the outbreak of epizootic hemorrhagic disease and related diseases in the United States; and

(B) the spread or transmission of epizootic hemorrhagic disease and related diseases to dairy cattle or other livestock; and

(2) includes recommendations for—

(A) legislation that should be enacted or regulations that should be promulgated to prevent the outbreak of epizootic hemorrhagic disease and related diseases in the United States; and

(B) coordination of the surveillance of and diagnostic testing for epizootic hemorrhagic disease, chronic wasting disease, and related diseases.

SEC. 5. FUNDING.

To carry out this Act, the Secretary may use funds made available to the Secretary for administrative purposes.

By Mr. KOHL (for himself, Mr. REID, Mr. ROCKEFELLER, Mr. KERRY, Mr. BINGAMAN, Mr. GRAHAM, Mr. MILLER, Mr. BREAUX, Mr. NELSON of Florida, Ms. LANDRIEU, and Mrs. LINCOLN):

S. 3091. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to reintroduce the Patient Abuse Prevention Act, which will help protect patients in long-term care from abuse and neglect by those who are supposed to care for them. This legislation will establish a National Registry of abusive long-term care workers and require criminal background checks for potential employees. The changes we are making today are technical in nature and are designed to ensure that the background check system runs as smoothly and efficiently as possible.

There is absolutely no excuse for abuse or neglect of the elderly and disabled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult circumstances. But it only takes a few abusive staff to case a dark shadow over what should be a healing environment.

Current State and national safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that long-term care facilities conduct criminal background checks on prospective employees. People with violent criminal backgrounds, people who have already been convicted of murder, rape, and assault, could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate a FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working with patients.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem. In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two States they studied, between 5–10 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15–20 percent of them had at least one conviction in their past.

In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

And on July 30, 2001, the House Government Reform Committee's Special Investigations Division of the Minority staff issued a report which found that in the past two years, over 30 percent of nursing homes in the U.S. were cited for a physical, sexual, or verbal abuse violation that had the potential to harm residents. Even more striking, the report found that nearly 10 percent of nursing homes had violations that caused actual harm to residents.

Clearly, this is a critical tool that long-term care providers should have, they don't want abusive caregivers working for them any more than families do. I am pleased that the nursing home industry has worked with me over the years to refine this legislation, and I greatly appreciate their support of the bill with the changes we are incorporating today. This bill reflects their input and will help ensure a smooth transition to an efficient, accurate background check system. This is a common-sense, cost-effective step we can and should take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don't.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates, who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in this effort. Our Nation's seniors and disabled deserve nothing less than our full attention.

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. 3091

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 ''Patient Abuse Prevention Act''.

SEC. 2. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) SCREENING OF SKILLED NURSING FACILITY AND NURSING FACILITY EMPLOYEE APPLICANTS.—

(1) MEDICARE PROGRAM.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following:

''(8) SCREENING OF SKILLED NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a skilled nursing facility worker, a skilled nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(6); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any skilled nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a provisional period of employment for a skilled nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a skilled nursing facility that—

''(I) knowingly continues to employ a skilled nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) SKILLED NURSING FACILITY WORKER.—The term 'skilled nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a skilled nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(2) MEDICAID PROGRAM.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a provisional period of employment for a nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the worker during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that a nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about a nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant

provided by the State pursuant to subsection (e)(8) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a nursing facility that—

''(I) knowingly continues to employ a nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) NURSING FACILITY WORKER.—The term 'nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(3) FEDERAL RESPONSIBILITIES.—

(A) DEVELOPMENT OF STANDARD FEDERAL AND STATE BACKGROUND CHECK FORM.—The Secretary of Health and Human Services, in consultation with the Attorney General and representatives of appropriate State agencies, shall develop a model form that an applicant for employment at a nursing facility may complete and Federal and State agencies may use to conduct the criminal background checks required under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section).

(B) PERIODIC EVALUATION.—The Secretary of Health and Human Services, in consultation with the Attorney General, periodically shall evaluate the background check system imposed under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section) and shall implement changes, as necessary, based on available technology, to make the background check system more efficient and able to provide a more immediate response to long-term care providers using the system.

(4) NO PREEMPTION OF STRICTER STATE LAWS.—Nothing in section 1819(b)(8) or 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)) (as so added) shall be construed to supersede any provision of State law that—

(A) specifies a relevant crime for purposes of prohibiting the employment of an individual at a long-term care facility (as defined in section 1128E(g)(6) of the Social Security Act (as added by section 3(f) of this Act) that is not included in the list of such crimes specified in such sections or in regulations promulgated by the Secretary of Health and Human Services to carry out such sections; or

(B) requires a long-term care facility (as so defined) to conduct a background check prior to employing an individual in an employment position that is not included in the positions for which a background check is required under such sections.

(5) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 941 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–585), as enacted into law by section 1(a)(6) of Public Law 106–554, sections 1819(b) and 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)), as amended by such section 941 (as so enacted into law) are each amended by redesignating the paragraph (8) added by such section as paragraph (9).

(b) FEDERAL AND STATE REQUIREMENTS CONCERNING BACKGROUND CHECKS.—

(1) MEDICARE.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

''(6) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO SKILLED NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the skilled nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(2) MEDICAID.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following:

''(8) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State

records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(c) APPLICATION TO OTHER ENTITIES PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES.—

(1) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

''SEC. 1897. (a) IN GENERAL.—The requirements of subsections (b)(8) and (e)(6) of section 1819 shall apply to any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services to an individual entitled to benefits under part A or enrolled under part B, including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C (in this section referred to as a 'medicare beneficiary').

''(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

''(1) IN GENERAL.—With respect to an entity that provides home health services, such entity shall be considered to have satisfied the requirements of section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the entity meets such requirements for supervision of provisional employees of the entity as the Secretary shall, by regulation, specify in accordance with paragraph (2).

''(2) REQUIREMENTS.—The regulations required under paragraph (1) shall provide the following:

''(A) Supervision of a provisional employee shall consist of ongoing, good faith, verifiable efforts by the supervisor of the provisional employee to conduct monitoring and oversight activities to ensure the safety of a medicare beneficiary.

''(B) For purposes of subparagraph (A), monitoring and oversight activities may include (but are not limited to) the following:

''(i) Follow-up telephone calls to the medicare beneficiary.

''(ii) Unannounced visits to the medicare beneficiary's home while the provisional employee is serving the medicare beneficiary.

''(iii) To the extent practicable, limiting the provisional employee's duties to serving only those medicare beneficiaries in a home or setting where another family member or resident of the home or setting of the medicare beneficiary is present.''.

(2) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (64), by striking ''and'' at the end;

(B) in paragraph (65), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (65) the following:

''(66) provide that any entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title XVIII), or long-term care services for which medical assistance is available under the State plan to individuals requiring long-term care complies with the requirements of subsections (b)(8) and (e)(8) of section 1919 and section 1897(b) (in the same manner as such section applies to a medicare beneficiary).''.

(3) EXPANSION OF STATE NURSE AIDE REGISTRY.—

(A) MEDICARE.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of skilled nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a skilled nursing facility employee of a resident in a skilled nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).''; and

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility''; and

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE''; and

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(B) MEDICAID.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of an entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title

XVIII), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a nursing facility employee of a resident in a nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).''; and

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility''; and

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE''; and

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(d) REIMBURSEMENT OF COSTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall reimburse nursing facilities, skilled nursing facilities, and other entities for costs incurred by the facilities and entities in order to comply with the requirements imposed under sections 1819(b)(8) and 1919(b)(8) of such Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)), as added by this section.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

''(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient's or resident's property.''.

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting '', and includes any individual of a long-term care facility or provider (other than any volunteer) that has access to a patient or resident of such a facility under an employment or other contract, or both, with the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, providing services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants)'' before the period.

(c) REPORTING BY LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) IN GENERAL.—Section 1128E(b)(1) of the Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(2) CORRECTION OF INFORMATION.—Section 1128E(c)(2) of the Social Security Act (42 U.S.C. 1320a–7e(c)(2)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(d) ACCESS TO REPORTED INFORMATION.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended by striking ''and health plans'' and inserting '', health plans, and long-term care facilities or providers''.

(e) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—Section 1128E(d) of the Social Security Act (42 U.S.C. 1320a–7e(d)) is amended by adding at the end the following:

''(3) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—A long-term care facility or provider shall check the database maintained under this section prior to hiring under an employment or other contract, or both, any individual as an employee of such a facility or provider who will have access to a patient or resident of the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, that will provide services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants).''.

(f) DEFINITION OF LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g) of the Social Security Act (42 U.S.C. 1320a–7e(g)) is amended by adding at the end the following:

''(6) LONG-TERM CARE FACILITY OR PROVIDER.—The term 'long-term care facility or provider' means a skilled nursing facility (as defined in section 1819(a)), a nursing facility (as defined in section 1919(a)), a home health agency, a provider of hospice care (as defined in section 1861(dd)(1)), a long-term care hospital (as described in section 1886(d)(1)(B)(iv)), an intermediate care facility for the mentally retarded (as defined in section 1905(d)), or any other facility or entity that provides, or is a provider of, long-term care services, home health services, or hospice care (including routine home care and other services included in hospice care under title XVIII), and receives payment for such services under the medicare program under title XVIII or the medicaid program under title XIX.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section, $10,200,000 for fiscal year 2003.

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management, and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 5. SFFECTIVE DATE.

This Act and the amendments made by the Act shall take effect on the date that is 6 months after the effective date of final regulations promulgated to carry out this Act and such amendments.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 3092. A bill to amend title XXI of the Social Security Act to extend the availability of allotments to States for fiscal years 1998 through 2000, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Children's Health Protection and Eligibility Act. I am delighted to be joined on this bill with my good friend, Senator PATTY MURRAY. Senator MURRAY has been a champion for children's health issues throughout her career in the Senate. This important legislation addresses the allocation of budgeted but unspent SCHIP funds that are currently out of reach of states and, under current law, are scheduled to be returned to the federal treasury. This legislation also helps those States with the highest unemployment rates use more of their SCHIP dollars to provide health insurance coverage for low-income children.

Washington State is in the middle of an economic crisis resulting from a downturn in both our aviation and high-tech sectors. With the jobless rate at 7.2 percent, we have one of the highest unemployment rates in the country, 202,000 Washingtonians are unable to find work. And over the last 12 months, our State has lost 50,000 jobs, and 60 percent of those are in the high-paying manufacturing sector.

In 2000, before the recession began, there were 780,000 uninsured people in Washington state, including 155,000 children. That number has surely grown as the economy has worsened and our population has risen. In fact, just last week the Census Bureau reported that the number of uninsured increased for the first time in two years. Sadly, there are 41.2 million people nationwide without health insurance, 8.5 million of whom are children.

The increasing number of uninsured isn't the only problem facing the health care system. In September, the Kaiser Family Foundation reported the largest increase in health insurance premium costs since 1990, while the Center for Studying Health System Change found that health care spending has returned to double-digit growth for the first time since that year.

The lack of health insurance has very real consequences. We know that the uninsured are four times as likely as the insured to delay or forego needed care, and uninsured children are six times as likely as insured children to go without needed medical care. Health insurance matters for kids, and coverage today defrays costs tomorrow.

Five years ago, Congress created a new $40 billion state grant program to provide health insurance to low-income, uninsured children who live in families that earn too much to qualify for Medicaid but not enough to afford private insurance. In most states, the State Children's Health Insurance Program, SCHIP, has been extremely successful. Nearly one million children

gained coverage each year through SCHIP and, by December 2001, 3.5 million children were enrolled in the program.

Unfortunately, however, not all States have been able to participate in this success, and perversely, these are the states that had taken bold initiatives by expanding their Medicaid programs to cover low-income children at higher levels of poverty. Sadly, the recession and high unemployment means that the health insurance coverage we do have for children, pregnant women, and low-income individuals is in jeopardy due to State budget crises.

Washington State has been a leader in providing health insurance to our constituents. We have long provided optional coverage to Medicaid populations and began covering children up to 200 percent of poverty in 1994, three years before Congress passed SCHIP

When SCHIP was enacted in 1997, most States were prohibited from using the new funding for already covered populations. This flaw made it difficult for Washington to access the money and essentially penalized the few States that had led the nation on expanding coverage for kids. This means that my State only receives the enhanced SCHIP matching dollars for covering kids between 200 and 250 percent of the Federal poverty level. Washington has been able to use less than four percent of the funding the Federal Government gave us for SCHIP.

Today, Washington has the highest unemployment in the country, an enormous budget deficit, and may need to cut as many as 150,000 kids from the Medicaid roles. Because it is penalized by SCHIP rules and cannot use funds like other States, Washington State is sending $95 million back to the Federal treasury or to other States. This defies common sense, and I do not believe that innovative States should be penalized for having expanded coverage to children before the enactment of SCHIP.

This is why we are introducing the Children's Health Protection and Eligibility Act. This bill will give States the ability to use SCHIP funds more efficiently to prevent the loss of health care coverage for children. This bill targets expiring funds to States that otherwise may have to cut health care coverage for kids. States that have made a commitment to insuring children could use expiring SCHIP funds and a portion of current SCHIP funds on a short-term basis to maintain access to health care coverage for all low-income children in the State. The bill also ensures that all states that have demonstrated a commitment to providing health care coverage to children can access SCHIP funds in the same manner to support children's health care coverage.

First, as my colleagues know, 1998 and 1999 State allotments ''expired'' at the end of fiscal year 2002 and are scheduled to be returned to the federal treasury. Our bill allows states to keep their remaining 1998 and 1999 funds, and use these funds for the for the purposes of this legislation.

Second, unused SCHIP dollars from the fiscal year 2000 allotment are due to be redistributed at the end of fiscal year 2002 among those States that have spent all of their SCHIP funds. Our bill would allow the retention and redistribution these funds as was done two years ago through the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act, P.L. 106–554. However, under our bill, States that had an unemployment rate higher than six percent for two consecutive months in 2002 would be eligible to keep all of their unspent 2000 SCHIP allotment.

Third, at State option, for certain Medicaid expenditures, qualifying States would receive the difference between their Medicaid federal matching assistance percentage, or FMAP, and their enhanced SCHIP matching rate. This temporary measure would be paid out of a State's current SCHIP allotment to ensure children's health care coverage does not erode as states face enormous budget deficits. States would be able to use any remaining funds from fiscal years 1998, 1999, and 2000 SCHIP allotments, plus ten percent of fiscal 2001, 2002, and 2003 allotments.

Finally, our bill allows States that have expanded coverage to the highest eligibility levels allowed under SCHIP, and meet certain requirements, to receive the enhanced SCHIP match rate for any kids that had previously been covered above the mandatory level.

Children are the leaders of tomorrow; they are the very future of our great nation. We owe them nothing less than the sum of our energies, our talents, and our efforts in providing them a foundation on which to build happy, healthy and productive lives. During this tough economic time, it is more important than ever to maintain existing health care coverage for children in order to hold down health care costs and to keep children healthy. I urge my colleagues to join us in support of this bill.

By Mr. WYDEN (for himself and Mr. KYL):

S. 3093. A bill to develop and deploy technologies to defeat Internet jamming and censorship; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, over the past seven years, Congressman CHRIS COX and I have teamed up several times on legislation affecting the Internet. The Global Internet Freedom Act that I will introduce today could be called ''Cox-Wyden V,'' because this is our fifth collaboration. I am pleased to be joined by Senator KYL in introducing this bill in the Senate.

This legislation aims to foster the development and deployment of technologies to defeat state-sponsored Internet jamming and censorship, and in turn, to help unleash the potential of the Internet to promote the causes of freedom and democracy worldwide.

This is a time when Americans are acutely focused on security threats emanating from sources beyond U.S. borders. The terrorist attacks of September 11 made plain that ignorance, extremism, and hate abroad can have terrible consequences not just in other countries, but right here at home. And the daily drumbeat of debate over Iraq emphasizes that oppressive foreign regimes can pose serious hazards. The world is truly getting smaller.

In the field of information technology, Americans have rightly responded with a renewed emphasis on cybersecurity. The interlinked computer networks that make up the Internet, and on which American's critical infrastructure increasingly relies, must be secured against would-be cyberterrorists. This is a matter of top importance, and I have sponsored legislation, as Chairman of the Science and Technology Subcommittee, to promote research and innovation in this area. It is my hope that the Cybersecurity Research and Development Act will be signed by the President in the coming weeks.

But it is important to remember that the international nature of the Internet does not just create new threats. It also presents tremendous new opportunities.

Openness, transparency, and the unfettered flow of information have always been the allies of freedom and democracy. Over time, nothing erodes oppression and intolerance like the widespread dissemination of knowledge and ideas. And technology has often played a key role in this process. From the printing press to radio, technological advances have revolutionized the spread information and ideas and opened up new horizons for people everywhere. Not surprisingly, the foes of freedom, understanding the threat these technologies pose, have often responded with such steps as censoring the press, jamming radio broadcasts, and putting media outlets under state control.

The Internet promises to revolutionize the spread of information yet again. Unlike its predecessor technologies, it offers a truly worldwide network that makes geographic distance irrelevant. It enables any person connected to it to exchange ideas quickly and easily with people and organizations on the other side of the globe. The quantity and variety of information it permits access to are virtually unlimited.

So once again, governments that fear freedom are trying to rein in the technology's potential. They block access to websites. They censor websites and email. They interrupt Internet search engines when users try explore the ''wrong'' topics. They closely monitor citizens' Internet usage and make it known that those who visit the ''wrong'' websites will be punished. Or

they prevent Internet access altogether, by prohibiting ownership of personal computers.

For a confirmed example of this, I would simply call attention to the inaugural report of the Congressional-Executive Commission on China, issued just last week, October 2. This report, the product of a bipartisan commission with members from the Senate, the House of Representatives, and the Administration, finds that ''over the last 18 months, the Chinese government has issued an extensive and still growing series of regulations restricting Internet content and placing monitoring requirements on industry.'' It goes on to cite accounts of the Chinese government using high-tech software and hardware to ''block, filter, and hack websites and e-mail.'' Offshore dissident websites, foreign news websites, search engines, and Voice of America's weekly e-mail to China are all subject to being blocked. Internet users attempting to access foreign websites often find themselves redirected to Chinese government-approved websites.

Other countries, from Cuba to Burma to Tunisia to Vietnam, engage in similar activity.

There are technologies that can help defeat the firewalls and filters that these governments choose to erect. Proxy servers, intermediaries, ''mirrors,'' and encryption may all have useful applications in this regard. But the U.S. Government has done little to promote technological approaches. This country devotes considerable resources to combat the jamming of Voice of America broadcasting abroad. But to date, it has budgeted only about $1 million for technologies to counter Internet jamming and censorship.

This country can and should do better. The Internet is too important a communications medium, and its potential as a force for freedom and democracy is too great, to make a second-rate effort in this area.

That is why Senator KYL and I are introducing the Global Internet Freedom Act today. It is time for the U.S. Government to make a serious commitment to support technology that can help keep the Internet open, available, and free of political censorship for people all over the world.

This legislation would establish an Office of Global Internet Freedom, with the express mission of promoting technology to combat state-sponsored Internet jamming. The office would be based in the Department of Commerce's National Telecommunications and Information Administration, NTIA, to take advantage of NTIA's extensive expertise in international telecommunications and Internet issues. Location within the Department of Commerce will also help ensure close ties with American technology companies, whose active involvement will be essential for any technology-based effort to succeed. Cooperation with the International Broadcasting Bureau will be indispensable as well, and is required in the legislation.

Funding for the new office would be authorized at $30 million for each of the next two fiscal years. The office would make an annual report to Congress on its activities, and on the extent of state-sponsored Internet blocking in different countries around the world.

Finally, the bill would express the sense of Congress that the United States should denounce the practice of state-sponsored blocking of access to the Internet, should submit a resolution on the topic to the United Nations Human Rights Convention, and should deploy technologies to address the problem as soon as practicable.

As I mentioned at the outset, Representatives CHRIS COX and TOM LANTOS have already introduced companion legislation in the House, and I strongly applaud them for taking the lead on this issue. Here in the Senate, I urge my colleagues to join Senator KYL and myself in this important, bipartisan effort.

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. 3093

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 ''Global Internet Freedom Act''.

SEC. 2 FINDINGS.

The Congress makes the following findings:

(1) Freedom of speech, freedom of the press, and freedom of association are fundamental characteristics of a free society. The first amendment to the Constitution of the United States guarantees that ''Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.'' These constitutional provisions guarantee the rights of Americans to communicate and associate with one another without restriction, including unfettered communication and association via the Internet. Article 19 of the United Nation's Universal Declaration of Human Rights explicitly guarantees the freedom to ''receive and impart information and ideas through any media and regardless of frontiers''.

(2) All people have the right to communicate freely with others, and to have unrestricted access to news and information, on the Internet.

(3) With nearly 10 percent of the world's population now online, and more gaining access each day, the Internet stands to become the most powerful engine for democratization and the free exchange of ideas ever invented.

(4) Unrestricted access to news and information on the Internet is a check on repressive rule by authoritarian regimes around the world.

(5) The governments of Burma, Cuba, Laos, North Korea, the People's Republic of China, Saudi Arabia, Syria, and Vietnam, among others, are taking active measures to keep their citizens from freely accessing the Internet and obtaining international political, religious, and economic news and information.

(6) Intergovernmental, nongovernmental, and media organizations have reported the widespread and increasing pattern by authoritarian governments to block, jam, and monitor Internet access and content, using technologies such as firewalls, filters, and ''black boxes''. Such jamming and monitoring of individual activity on the Internet includes surveillance of e-mail messages, message boards, and the use of particular words; ''stealth blocking'' individuals from visiting websites; the development of ''black lists'' of users that seek to visit these websites; and the denial of access to the Internet.

(7) The Voice of America and Radio Free Asia, as well as hundreds of news sources with an Internet presence, are routinely being jammed by repressive governments.

(8) Since the 1940s, the United States has deployed anti-jamming technologies to make Voice of America and other United States Government sponsored broadcasting available to people in nations with governments that seek to block news and information.

(9) The United States Government has thus far commenced only modest steps to fund and deploy technologies to defeat Internet censorship. To date, the Voice of America and Radio Free Asia have committed a total of $1,000,000 for technology to counter Internet jamming by the People's Republic of China. This technology, which has been successful in attracting 100,000 electronic hits per day from the People's Republic of China, has been relied upon by Voice of America and Radio Free Asia to ensure access to their programming by citizens of the People's Republic of China, but United States Government financial support for the technology has lapsed. In most other countries there is no meaningful United States support for Internet freedom.

(10) The success of United States policy in support of freedom of speech, press, and association requires new initiatives and technologies to defeat totalitarian and authoritarian controls on news and information over the Internet.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to adopt an effective and robust global Internet freedom policy;

(2) to establish an office within the National Telecommunications and Information Administration with the sole mission of promoting technological means of countering Internet jamming and blocking by repressive regimes;

(3) to expedite the development and deployment of technology to protect Internet freedom around the world;

(4) to authorize the commitment of a substantial portion of United States Government resources to the continued development and implementation of technologies to counter the jamming of the Internet;

(5) to utilize the expertise of the private sector in the development and implementation of such technologies, so that the many current technologies used commercially for securing business transactions and providing virtual meeting space can be used to promote democracy and freedom; and

(6 to bring to bear the pressure of the free world on repressive governments guilty of Internet censorship and the intimidation and persecution of their citizens who use the Internet.

SEC. 4. DEVELOPMENT AND DEPLOYMENT OF TECHNOLOGIES TO DEFEAT INTERNET JAMMING AND CENSORSHIP.

(a) ESTABLISHMENT OF OFFICE OF GLOBAL INTERNET FREEDOM.—There is established in the National Telecommunications and Information Administration the Office of Global Internet Freedom (hereinafter in this Act referred to as the ''Office''). The Office shall be

headed by a Director who shall develop and implement, in consultation with the International Broadcasting Bureau, a comprehensive global strategy for promoting technology to combat state-sponsored and state-directed Internet jamming and persecution of those who use the Internet.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $30,000,000 for each of the fiscal years 2003 and 2004.

(c) CORPORATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—Each department and agency of the United States Government shall cooperate fully with, and assist in the implementation of, the strategy developed by the Office and shall make such resources and information available to the Office as is necessary to the achievement of the purposes of this Act.

(d) REPORT TO CONGRESS.—On March 1 following the date of the enactment of this Act and annually thereafter, the Director of the Office shall submit to the Congress a report on the status of state interference with Internet use and of efforts by the United States to counter such interference. Each report shall list the countries that pursue policies of Internet censorship, blocking, and other abuses; provide information concerning the government agencies or quasi-governmental organizations that implement Internet censorship; and describe with the greatest particularity practicable the technological means by which such blocking and other abuses are accomplished. In the discretion of the Director, such report may be submitted in both a classified and nonclassified version.

(e) LIMITATION ON AUTHORITY.—Nothing in this Act shall be interpreted to authorize any action by the United States to interfere with foreign national censorship for the purpose of protecting minors from harm, preserving public morality, or assisting with legitimate law enforcement aims.

SEC. 5. SENSE OF CONGRESS.

It is the sense of the Congress that the United States should—

(1) publicly, prominently, and consistently denounce governments that restrict, censor, ban, and block access to information on the Internet;

(2) direct the United States Representative to the United Nations to submit a resolution at the next annual meeting of the United Nations Human Rights Commission condemning all governments that practice Internet censorship and deny freedom to access and share information; and

(3) deploy, at the earliest practicable date, technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.

Mr. KYL. Mr. President, I rise today to introduce, with Senator WYDEN, the Global Internet Freedom Act.

The Internet is one of the most powerful tools to promote the exchange of ideas and to disseminate information. In that regard, it is a key component in our efforts to reach populations living under undemocratic governments that continue to restrict freedom of speech, the press, and association. Unfortunately, however, many authoritarian governments including the regimes in the People's Republic of China, Saudi Arabia, Syria, Vietnam, Cuba, and North Korea aggressively block and censor the Internet, often subjecting to torture and imprisonment those individuals who dare to resist the controls.

In Vietnam, for example, the Prime Minister issued a decree in August 2000 that prohibits individuals from using the Internet ''for the purpose of hostile actions against the country or to destabilize security, violate morality, or violate other laws and regulations.'' The Communist government owns and controls the sole Internet access provider, which is authorized to monitor the sites that subscribers use. It erects firewalls to block sites it deems politically or culturally inappropriate. And it is seeking additional authority to monitor some 4,000 Internet cafes in Vietnam, and hold responsible the owners of these cafes for customer use of the Internet.

The situation in Syria is no better. Like Vietnam, that country has only one government-run Internet service provider. The Government blocks access to Internet sites that contain information deemed politically sensitive including pro-Israel sites and also periodically blocks access to servers that provide free e-mail services. In 2000, the Syrian Government which monitors e-mail detained one individual for simply forwarding via e-mail a political cartoon.

The Chinese Government is one of the worst offenders. Beijing has passed sweeping regulations in the past 2 years prohibiting news and commentary on Internet sites in China that are not state-sanctioned. The Ministry of Information Industry regulates Internet access, and the Ministries of Public and State Security monitor its use. According to the State Department's most recent Country Reports on Human Rights Practices.

Despite the continued expansion of the Internet in the country, the Chinese government maintained its efforts to monitor and control content on the Internet. . . . The authorities block access to Web sites they find offensive. Authorities have at times blocked politically sensitive Web sites, including those of dissident groups and some major foreign news organizations, such as the VOA, the Washington Post, the New York Times, and the BBC.

The U.S.-China Security Review Commission noted in its recent report that China has even convinced American companies like Yahoo! to assist in its censorship efforts, and others, like America Online, to leave open the possibility of turning over names, e-mail addresses, or records of political dissidents if the Chinese Government demands them.

Those who attempt to circumvent Internet restrictions in China are often subject to harsh punishment. For example, Huang Qi, the operator of an Internet site that posted information about missing persons, including students who disappeared in the 1989 Tiananmen massacre, was tried secretly and found guilty of ''subverting state power.'' According to the State Department, Huang was bound hand and foot and beaten by police while they tried to force him to confess.

These are but a few examples of the incredible lengths that authoritarian governments will go to in order to preserve control over their populations and prevent change. Voice of America, Radio Free Asia, Amnesty International, and the National Endowment for Democracy—just to name a few—all utilize the Internet to try to provide news, spread democratic values, and promote human rights in these countries. But the obstacles they face are great.

The U.S. private sector is developing a number of techniques and technologies to combat Internet blocking. Unfortunately, however, the U.S. Government has contributed few resources to assist these efforts and to put the new techniques to use. For example, Voice of America and Radio Free Asia have budgeted only $1 million for technology to counter Chinese Government Internet jamming, and that funding has now expired.

This is why I am pleased to introduce the Global Internet Freedom Act. This bill will take an important step toward promoting Internet freedom throughout the world. Specifically, it establishes, within the Commerce Department's National Telecommunications and Information Administration, the Office of Global Internet Freedom. It authorizes $30 million per year in fiscal years 2003 and 2004 for this office, which would be responsible for developing and implementing a comprehensive global strategy to combat state-sponsored Internet jamming and persecution of Internet users. Additionally, the director of the office would be required to submit to Congress an annual report on U.S. efforts to counter state interference with Internet use.

Similar legislation has already been introduced in the House of Representatives by Congressmen COX and LANTOS.

I cannot stress enough the importance of the Internet in promoting the flow of democratic ideas. If the benefits of the Internet are able to reach more and more people around the globe, repressive governments will begin to be challenged by individuals who are freely exchanging views and getting uncensored news and information.

The United States should take full advantage of the opportunities inherent in worldwide access to the Internet, and should make clear to the international community that fostering Internet freedom is a top priority. Creation of an Office of Global Internet Freedom will enable us to do just that.

I ask unanimous consent that the bill be printed in the RECORD.

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. CONRAD, Mr. CRAPO, Mr. CRAIG, Mr. BURNS, Mr. JOHNSON, Mr. ALLARD, Mr. BROWNBACK, and Mr. CAMPBELL):

S. 3094. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds, dry peas, lentils, and small chickpeas; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, today along with Senators ROBERTS, CONRAD, CRAPO, CRAIG, BURNS, JOHNSON, ALLARD, BROWNBACK, and CAMPBELL I am introducing legislation to clarify Congressional intent regarding minor oilseed and pulse crop loan rates in the Farm Security and Rural Investment Act, FSRIA, of 2002. This is a redraft of legislation introduced last July.

In June, the United States Department of Agriculture incorrectly interpreted the intent of the new farm bill when the Farm Service Agency arbitrarily announced a wide range of minor oilseed loan rates. For some minor oilseed crops, the loan rate increased substantially, while for others, the rates plunged. A few months later, in early September, the Farm Service Agency continued to err when it announced the loan rates for dry peas, lentils and small chickpeas that completely ignored the instructions laid down by the Statement of Managers that accompanied the conference report of the new farm bill.

Not once during the farm bill debate was there ever discussion of splitting apart minor oilseed loan rates. In fact, the minor oilseed industry and farmers alike anticipated a county-level increase in loan rates from $9.30 to 9.60/cwt. The announcement by the Farm Service Agency caught virtually everyone in the agriculture community by surprise.

This legislation is intended to correct this misinterpretation of the new farm bill, and to prevent what will certainly be extreme acreage shifts among these crops in the coming years should these rates be allowed to stand. These acreage shifts will destroy segments of the minor oilseed and pulse crop industry that have been painstakingly developed over a number of years.

For instance, already, users of the oil derived from oil sunflowers anticipate supply shortages next year and have indicated they may remove sunflower oil from their product mix. Conversely, incentives caused by the much higher confectionery sunflower loan rate could deluge USDA with massive loan forfeitures of low quality confectionery sunflowers if farmers simply grow for the loan rate rather than a quality crop that has a market.

The legislation amends the new farm bill by simply and redundantly listing each minor oilseed crop after the stated loan rate. The legislation reinstates the cramby and sesame seed loan rates that were eliminated by USDA. The legislation also puts into bill language the instructions that were spelled out in the Statement of Managers regarding a single loan rate for all sunflowers and the quality grades for the loan rates for dry peas, lentils and small chickpeas.

This legislation should not be needed. USDA could easily repeal the current announcement of minor oilseed and pulse crop loan rates in favor of rates consistent with this legislation and the new farm bill, as I and my colleagues have asked in recent meetings and letters on this issue.

I request 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. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR OTHER OILSEEDS, DRY PEAS, LENTILS, AND SMALL CHICKPEAS.

(a) DEFINITION OF OTHER OILSEED.—Section 1001(9) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901(9)) is amended by inserting ''crambe, sesame seed,'' after ''mustard seed,''.

(b) LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.—Section 1202 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932) is amended—

(1) in subsection (a), by striking paragraph (10) and inserting the following:

''(10) In the case of other oilseeds, $.0960 per pound for each of the following kinds of oilseeds:

''(A) Sunflower seed.
''(B) Rapeseed.
''(C) Canola.
''(D) Safflower.
''(E) Flaxseed.
''(F) Mustard seed.
''(G) Crambe.
''(H) Sesame seed.
''(I) Other oilseeds designated by the Secretary.'';

(2) in subsection (b), by striking paragraph (10) and inserting the following:

''(10) In the case of other oilseeds, $.0930 per pound for each of the following kinds of oilseeds:

''(A) Sunflower seed.
''(B) Rapeseed.
''(C) Canola.
''(D) Safflower.
''(E) Flaxseed.
''(F) Mustard seed.
''(G) Crambe.
''(H) Sesame seed.
''(I) Other oilseeds designated by the Secretary.'';

(3) by adding at the end the following:

''(c) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(10) and (b)(10).

''(d) QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.—The loan rate for dry peas, lentils, and small chickpeas shall be based on—

''(1) in the case of dry peas, United States feed peas;

''(2) in the case of lentils, United States number 3 lentils; and

''(3) in the case of small chickpeas, United States number 3 small chickpeas that drop below a 20/64 screen.''.

(c) REPAYMENT OF LOANS.—Section 1204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7934) is amended—

(1) in subsection (a), by striking ''and extra long staple cotton'' and inserting ''extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)'';

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

''(f) REPAYMENT RATES FOR CONFECTIONERY AND OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

''(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

''(2) the repayment rate established for oil sunflower seed.

''(g) QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.—The loan repayment rate for dry peas, lentils, and small chickpeas shall be based on the quality grades for the applicable commodity specified in section 1202(d).''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the provisions of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) to which this section and the amendments relate.

By Mr. DURBIN:

S. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that would strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. This bill, known as the Genetically Engineered Foods Act, requires an FDA review of all genetically engineered foods, and requires an environmental review to be conducted as part of the safety review for genetically engineered animals. In addition, the Genetically Engineered Foods Act creates a transparent process that will better inform and involve the public as decisions are made regarding the safety of all genetically engineered foods and animals.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world, but we can always do better. Genetically engineered foods have become a major part of the American food supply in recent years. Many of the foods we consume now contain genetically engineered ingredients such as corn and soy. These foods have been enhanced with important qualities that help farmers grow crops more efficiently. However, their development has raised important questions about the safety of these foods and the adequacy of government oversight.

Currently, genetically engineered foods are screened by the Federal Food and Drug Administration under a voluntary consultation program. The Genetically Engineered Foods Act will make this review program mandatory, and will strengthen government oversight in several important ways.

Mandatory Review: Producers of genetically engineered foods must receive approval from the FDA before introducing their products into interstate

commerce. The FDA will scientifically ensure that genetically engineered foods are just as safe as comparable food products before allowing them on the market.

Public Involvement: Scientific studies and other materials submitted to the FDA as part of the mandatory review of genetically engineered foods will be made available for public review and comment. Members of the public can submit any new information on genetically engineered foods not previously available to the FDA and request a new review of a particular genetically engineered food product even if that food is already on the market.

Testing: The FDA, in conjunction with other Federal agencies, will be given the authority to conduct scientifically-sound testing to determine whether genetically engineered foods are inappropriately entering the food supply.

Communication: The FDA and other Federal agencies will establish a registry of genetically engineered foods for easy access to information about those foods that have been cleared for market. The genetically engineered food review process will be fully transparent so that the public has access to all non-confidential information.

Environmental Review with respect to Animals: While genetically engineered foods such as corn and soy are already part of our food supply, genetically engineered animals will also soon be ready for market approval. These animals hold much promise for serving as an additional source of food for our nation. However, in the case of animals, we must ensure not only the safety of these products as they enter the food supply, but also the safety of these products as they come in contact with the environment.

The FDA has a mandatory review process in place that will be used to review the safety of genetically engineered animals before they enter the food supply. However, this bill will provide the FDA will additional oversight authorities to be used during the safety approval of genetically engineered animals.

Environmental issues have been identified as a major science-based concern associated with genetically engineered animals. Therefore, to obtain approval to market a genetically engineered animal, an environmental assessment must be conducted that analyzes the potential effects of the genetically engineered animal on the environment. A plan must also be in place to reduce or eliminate any negative effects. If the environmental assessment is not adequate, approval will not be granted.

Transparency: In order to gain the benefits that genetically engineered animals can offer as an additional source of food, public confidence must be maintained in the safety of the product. This bill will provide for public involvement in the approval process by providing information to consumers, as well as the opportunity to provide comments. Adding transparency will increase the public's understanding and confidence in the safety of these animals as they enter the food supply.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. The Genetically Engineered Foods Act can help provide the public with the added assurance that genetically engineered foods and animals are safe to produce and consume. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3095

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 ''Genetically Engineered Foods Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) genetically engineered food is rapidly becoming an integral part of domestic and international food supplies;

(2) the potential positive effects of genetically engineered foods are enormous;

(3) the potential for both anticipated and unanticipated effects exists with genetic engineering of foods;

(4) genetically engineered food not approved for human consumption has, in the past, entered the human food supply;

(5) environmental issues have been identified as a major science-based concern associated with animal biotechnology;

(6) it is essential to maintain—

(A) public confidence in—

(i) the safety of the food supply; and

(ii) the ability of the Federal Government to exercise adequate oversight of genetically engineered foods; and

(B) the ability of agricultural producers and other food producers of the United States to market, domestically and internationally, foods that have been genetically engineered;

(7) public confidence can best be maintained through careful review and formal determination of the safety of genetically engineered foods, and monitoring of the positive and negative effects of genetically engineered foods as the foods become integrated into the food supply, through a review and monitoring process that—

(A) is scientifically sound, open, and transparent;

(B) fully involves the general public; and

(C) does not subject most genetically engineered foods to the lengthy food additive approval process; and

(8) because genetically engineered foods are developed worldwide and imported into the United States, it is imperative that imported genetically engineered food be subject to the same level of oversight as domestic genetically engineered food.

SEC. 3. DEFINITIONS.

(a) THIS ACT.—In this Act, the terms ''genetic engineering technique'', ''genetically engineered animal'', ''genetically engineered food'', ''interstate commerce'', ''producer'', ''safe'', and ''Secretary'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by subsection (b)).

(b) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in subsection (v)—

(A) by striking ''(v) The term'' and inserting the following:

''(v) NEW ANIMAL DRUG.—

''(1) IN GENERAL.—The term'';

(B) by striking ''(1) the composition'' and inserting ''(A) the composition'';

(C) by striking ''(2) the composition'' and inserting ''(B) the composition''; and

(D) by adding at the end the following:

''(2) INCLUSION.—The term 'new animal drug' includes—

''(A) a genetic engineering technique intended to be used to produce an animal; and

''(B) a genetically engineered animal.''; and

(2) by adding at the end the following:

''(ll) GENETIC ENGINEERING TECHNIQUE.—The term 'genetic engineering technique' means the use of a transformation event to derive food from a plant or animal or to produce an animal.

''(mm) GENETICALLY ENGINEERED ANIMAL.—The term 'genetically engineered animal' means an animal that—

''(1) is intended to be used—

''(A) in the production of a food or dietary supplement; or

''(B) for any other purpose;

''(2)(A) is produced in the United States; or

''(B) is offered for import into the United States; and

''(3) is produced using a genetic engineering technique.

''(nn) GENETICALLY ENGINEERED FOOD.—

''(1) IN GENERAL.—The term 'genetically engineered food' means a food or dietary supplement, or a seed, microorganism, or ingredient intended to be used to produce a food or dietary supplement, that—

''(A)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(B) is produced using a genetic engineering technique.

''(2) INCLUSION.—The term 'genetically engineered food' includes a split use food.

''(3) EXCLUSION.—The term 'genetically engineered food' does not include a genetically engineered animal.

''(oo) PRODUCER.—The term 'producer', with respect to a genetically engineered animal, genetically engineered food, or genetic engineering technique, means a person, company, or other entity that—

''(1) develops, manufactures, or imports the genetically engineered animal, genetically engineered food, or genetic engineering technique; or

''(2) takes other action to introduce the genetically engineered animal, genetically engineered food, or genetic engineering technique into interstate commerce.

''(pp) SAFE.—The term 'safe', with respect to a genetically engineered food, means as safe as comparable food that is not produced using a genetic engineering technique.

''(qq) SPLIT USE FOOD.—The term 'split use food' means a product that—

''(1)(A) is produced in the United States; or

''(B) is offered for import into the United States;

''(2) is produced using a genetic engineering technique; and

''(3) could be used as food by both humans and animals but that the producer does not intend to market as food for humans.

''(rr) TRANSFORMATION EVENT.—The term 'transformation event' means the introduction into an organism of genetic material that has been manipulated in vitro.''.

SEC. 4. GENETICALLY ENGINEERED FOODS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended—

(1) by inserting after the chapter heading the following:

"Subchapter A—General Provisions"; and

(2) by adding at the end the following:

"Subchapter B—Genetically Engineered Foods

"SEC. 421. PREMARKET CONSULTATION AND APPROVAL.

''(a) IN GENERAL.—A producer of genetically engineered food, before introducing a genetically engineered food into interstate commerce, shall first obtain approval through the use of a premarket consultation and approval process.

''(b) REGULATIONS.—The Secretary shall promulgate regulations that describe—

''(1) all information that is required to be submitted for the premarketing approval process, including—

''(A) specification of the species or other taxonomic classification of plants for which approval is sought;

''(B) identification of the genetically engineered food;

''(C)(i) a description of each type of genetic manipulation made to the genetically engineered food;

''(ii) identification of the manipulated genetic material; and

''(iii) the techniques used in making the manipulation;

''(D) the effect of the genetic manipulation on the composition of the genetically engineered food (including information describing the specific substances that were expressed, removed, or otherwise manipulated);

''(E) a description of the actual or proposed applications and uses of the genetically engineered food;

''(F) information pertaining to—

''(i) the safety of the genetically engineered food as a whole; and

''(ii) the safety of any specific substances introduced or altered as a result of the genetic manipulation (including information on allergenicity and toxicity);

''(G) test methods for detection of the genetically engineered ingredients in food;

''(H) a summary and overview of information and issues that have been or will be addressed by other regulatory programs for the review of genetically engineered food;

''(I) procedures to be followed to initiate and complete the premarket approval process (including any preconsultation and consultation procedures); and

''(J) any other matters that the Secretary determines to be necessary.

''(2) SPLIT USE FOOD.—

''(A) IN GENERAL.—The regulations under paragraph (1) shall provide for the approval of—

''(i) split use foods that are not approved for human consumption;

''(ii) split use foods that are intended for human use but are marketed under restricted conditions; and

''(iii) other categories of split use food.

''(B) ISSUES.—For each category of split use food, the regulations shall address—

''(i)(I) whether a protocol is needed for segregating a restricted split use food from the food supply; and

''(II) if so, what the protocol shall be;

''(ii)(I) whether action is needed to ensure the purity of any seed to prevent unintended introduction of a genetically engineered trait into a seed that is not designed for that trait; and

''(II) if so, what action is needed and what industry practices represent the best practices for maintaining the purity of the seed;

''(iii)(I) whether a tolerance level should exist regarding cross-mixing of segregated split use foods; and

''(II) if so, the means by which the tolerance level shall be determined;

''(iv) the manner in which the food safety analysis under this section should be conducted, specifying different standards and procedures depending on the degree of containment for that product and the likelihood of the product to enter the food supply;

''(v)(I) the kinds of surveillance that are needed to ensure that appropriate segregation of split use foods is being maintained;

''(II) the manner in which and by whom the surveillance shall be conducted; and

''(III) the manner in which the results of surveillance shall be reported; and

''(vi) clarification of responsibility in cases of breakdown of segregation of a split use food.

''(C) RECALL AUTHORITY.—The regulations shall provide that, in addition to other authority that the Secretary has regarding split use food, the Secretary may order a recall of any split use food (whether or not the split use food has been approved under this section) that—

''(i) is not approved, but has entered the food supply; or

''(ii) has entered the food supply in violation of a condition of restriction under an approval.

''(c) APPLICATION.—The regulations shall require that, as part of the consultation and approval process, a producer submit to the Secretary an application that includes a summary and a complete copy of each research study, test result, or other information referenced by the producer.

''(d) REVIEW.—

''(1) IN GENERAL.—After receiving an application under subsection (c), the Secretary shall—

''(A) determine whether the producer submitted information that appears to be adequate to enable the Secretary to fully assess the safety of the genetically engineered food, and make a description of the determination publicly available; and

''(B) if the Secretary determines that the producer submitted adequate information—

''(i) provide public notice regarding the initiation of the consultation and approval process;

''(ii) make the notice, application, summaries submitted by the producer, and research, test results, and other information referenced by the producer publicly available, including, to the maximum extent practicable, publication in the Federal Register and on the Internet; and

''(iii) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—The Secretary may withhold information in an application from public dissemination to protect a trade secret if—

''(A) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(B) the applicant—

''(i) identifies with specificity the trade secret information in the application; and

''(ii) provides the Secretary with a detailed justification for each trade secret claim; and

''(C) the Secretary—

''(i) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(ii) makes the determination available to the public.

''(3) DETERMINATION.—Not later than 180 days after receiving the application, the Secretary shall issue and make publicly available a determination that—

''(A) summarizes the information referenced by the producer in light of the public comments; and

''(B) contains a finding that the genetically engineered food—

''(i) is safe and may be introduced into interstate commerce;

''(ii) is safe under specified conditions of use and may be introduced into interstate commerce if those conditions are met; or

''(iii) is not safe and may not be introduced into interstate commerce, because the genetically engineered food—

''(I) contains genes that confer antibiotic resistance;

''(II) contains an allergen; or

''(III) presents 1 or more other safety concerns described by the Secretary.

''(4) EXTENSION.—The Secretary may extend the period specified in paragraph (3) if the Secretary determines that an extension of the period is necessary to allow the Secretary to—

''(A) review additional information; or

''(B) address 1 or more issues or concerns of unusual complexity.

''(e) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the petition of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetically engineered food on the basis of information that was not available before the approval.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered food that were not considered in the earlier review; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—In conducting the reconsideration, the Secretary may require the producer to provide information needed to facilitate the reconsideration.

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered food; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a reconsideration under this section, the Secretary determines that the genetically engineered food is not safe, the Secretary shall—

''(A) rescind the approval of the genetically engineered food for introduction into interstate commerce;

''(B) recall the genetically engineered food; or

''(C) take such other action as the Secretary determines to be appropriate.

''(f) EXEMPTIONS.—

''(1) IN GENERAL.—The Secretary may by regulation exempt a category of genetically engineered food from the regulations under subsection (b) if the Secretary determines that the category of food does not pose a food safety risk.

''(2) REQUIREMENTS.—A regulation under paragraph (1) shall—

''(A) contain a narrowly specified definition of the category that is exempted;

''(B) describe with specificity the genetically engineered foods that are included in the category; and

''(C) describe with specificity the genes, proteins, and adjunct technologies (including

use of markers or promoters) that are involved in the genetic engineering of the foods included in the category.

''(3) PUBLIC COMMENT.—The Secretary shall provide an opportunity for the submission of comments by interested persons on a proposed regulation under paragraph (1).

''SEC. 422. MARKETPLACE TESTING.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall establish a program to conduct testing that the Secretary determines to be necessary to detect, at all stages of production and distribution (from agricultural production to retail sale), the presence of genetically engineered ingredients in food.

''(b) PERMISSIBLE TESTING.—Under the program, the Secretary may conduct tests on foods to detect genetically engineered ingredients—

''(1) that have not been approved for use under this Act, including foods that are developed in foreign countries that have not been approved for marketing in the United States under this Act; or

''(2) the use of which is restricted under this Act (including approval for use as animal feed only, approval only if properly labeled, and approval for growing or marketing only in certain regions).

''SEC. 423. REGISTRY.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other agencies, as appropriate, shall establish a registry for genetically engineered food that contains a description of the regulatory status of all genetically engineered foods approved under section 421.

''(b) REQUIREMENTS.—The registry under subsection (a) shall contain, for each genetically engineered food—

''(1) the technical and common names of the genetically engineered food; and

''(2) a description of the regulatory status, under all Federal programs pertaining to the testing and approval of genetically engineered foods, of the genetically engineered food;

''(3) a technical and nontechnical summary of the type of, and a statement of the reason for, each genetic manipulation made to the genetically engineered food;

''(4) the name, title, address, and telephone number of an official at each producer of the genetically engineered food whom members of the public may contact for information about the genetically engineered food;

''(5) the name, title, address, and telephone number of an official at each Federal agency with oversight responsibility over the genetically engineered food whom members of the public may contact for information about the genetically engineered food; and

''(6) such other information as the Secretary determines should be included.

''(c) PUBLIC AVAILABILITY.—The registry under subsection (a) shall be made available to the public, including availability on the Internet.''.

SEC. 5. GENETICALLY ENGINEERED ANIMALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 512 the following:

''SEC. 512A. GENETICALLY ENGINEERED ANIMALS.

''(a) IN GENERAL.—Section 512 shall apply to genetic engineering techniques intended to be used to produce an animal, and to genetically engineered animals, as provided in this section.

''(b) APPLICATION.—An application under section 512(b)(1) shall include—

''(1) specification of the species or other taxonomic classification of the animal for which approval is sought;

''(2) an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment, including the potential effect on any nongenetically engineered animal or other part of the environment as a result of any intentional or unintentional exposure of the genetically engineered animal to the environment; and

''(3) a plan to eliminate or mitigate the potential effects to the environment from the release of the genetically engineered animal.

''(c) DISSEMINATION OF APPLICATION AND OPPORTUNITY FOR PUBLIC COMMENT.—

''(1) IN GENERAL.—On receipt of an application under section 512(b)(1), the Secretary shall—

''(A) provide public notice regarding the application, including making the notice available on the Internet;

''(B) make the application and all supporting material available to the public, including availability on the Internet; and

''(C) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may withhold information in an application from public dissemination to protect a trade secret if—

''(i) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(ii) the applicant—

''(I) identifies with specificity the trade secret information in the application; and

''(II) provides the Secretary with a detailed justification for each trade secret claim; and

''(iii) the Secretary—

''(I) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(II) makes the determination available to the public.

''(B) RISK ASSESSMENT INFORMATION.—This paragraph does not apply to information that assesses risks from the release into the environment of a genetically engineered animal (including any environmental assessment or environmental impact statement performed to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)).

''(d) DENIAL OF APPLICATION.—Under section 512(d)(1), the Secretary shall deny an application if—

''(1) the environmental assessment for a genetically engineered animal is not adequate; or

''(2) the plan to eliminate or mitigate the potential environmental effects to the environment from the release of the genetically engineered animal does not adequately protect the environment.

''(e) ENVIRONMENTAL ASSESSMENT.—

''(1) IN GENERAL.—Before determining whether to approve an application under section 512 for approval of a genetic engineering technique intended to be used to produce an animal, or of a genetically engineered animal, the Secretary shall—

''(A) conduct an environmental assessment to evaluate the potential effects of such a genetically engineered animal on the environment; and

''(B) determine that the genetically engineered animal will not have an unreasonable adverse effect on the environment.

''(2) CONSULTATION.—In conducting an environmental assessment under paragraph (1), the Secretary may consult, as appropriate, with the Department of Agriculture, the United States Fish and Wildlife Service, and any other Federal agency that has expertise relating to the animal species that is the subject of the application.

''(f) SAFETY DETERMINATION.—In determining the safety of a genetic engineering technique or genetically engineered animal, the Secretary shall consider the potential effects of the genetically engineered animal on the environment, including the potential effect on nongenetically engineered animals.

''(g) PROGENY.—If an application for approval of a genetic engineering technique to produce an animal of a species or other taxonomic classification, or genetically engineered animal, has been approved, no additional application shall be required for animals of that species or other taxonomic classification produced using that genetic engineering technique or for the progeny of that genetically engineered animal.

''(h) CONDITIONS OF APPROVAL.—The Secretary may require as a condition of approval of an application that any producer of a genetically engineered animal that is the subject of the application—

''(1) take specified actions to eliminate or mitigate any potential harm to the environment that would be caused by a release of the genetically engineered animal, including actions specified in the plan submitted by the applicant; and

''(2) conduct post-approval monitoring for environmental effects of any release of the genetically engineered animal

''(i) RECALL; SUSPENSION OF APPROVAL.—

''(1) RECALL.—The Secretary may order a recall of any genetically engineered animal (whether or not the genetically engineered animal, or a genetic engineering technique used to produce the genetically engineered animal, has been approved) that the Secretary determines is harmful to—

''(A) humans;

''(B) the environment;

''(C) any animal that is subjected to a genetic engineering technique; or

''(D) any animal that is not subjected to a genetic engineering technique.

''(2) SUSPENSION OF APPROVAL.—If the Secretary determines that a genetically engineered animal is harmful to the health of humans or animals or to the environment, the Secretary may—

''(A) immediately suspend the approval of application for the genetically engineered animal;

''(B) give the applicant prompt notice of the action; and

''(C) afford the applicant an opportunity for an expedited hearing.

''(j) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the motion of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetic engineering technique or genetically engineered animal on the basis of information that was not available during an earlier review.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered animal that were not considered before the approval; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—In conducting the reconsideration, the Secretary may require the producer to provide information needed to facilitate the reconsideration.

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered animal; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a review under this subsection, the Secretary determines that the genetically engineered animal is not safe, the Secretary shall—

''(A) rescind the approval of the genetic engineering technique or genetically engineered animal for introduction into interstate commerce;

''(B) recall the genetically engineered animal; or

''(C) take such other action as the Secretary determines to be appropriate.''.

SEC. 6. PROHIBITED ACTS.

(a) UNLAWFUL USE OF TRADE SECRET INFORMATION.—Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended in the first sentence—

(1) by inserting ''421,'' after ''414,''; and

(2) by inserting ''512A,'' after ''512,''.

(b) ADULTERATED FOOD.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(i) GENETICALLY ENGINEERED ANIMALS.—If it is a genetically engineered animal, or is a genetically engineered animal produced using a genetic engineering technique, that is not approved under sections 512 and 512A.

''(j) GENETICALLY ENGINEERED FOODS.—

''(1) IN GENERAL.—If it is a genetically engineered food, or is a genetically engineered food produced using a genetic engineering technique, that is not approved under section 421.

''(2) SPLIT USE FOODS.—If it is a split use food that does not maintain proper segregation as required under regulations promulgated under section 421.''.

SEC. 7. TRANSITION PROVISION.

(a) IN GENERAL.—A genetic engineering technique, genetically engineered animal, or genetically engineered food that entered interstate commerce before the date of enactment of this Act shall not require approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), but shall be considered to have been so approved, if—

(1) the producer, not later than 90 days after the date of enactment of this Act, submits to the Secretary—

(A) a notice stating that the genetic engineering technique, genetically engineered animal, or genetically engineered food entered interstate commerce before the date of enactment of this Act, providing such information as the Secretary may require; and

(B) a request that the Secretary conduct a review of the genetic engineering technique, genetically engineered animal, or genetically engineered food under subsection (b); and

(2) the Secretary does not issue, on or before the date that is 2 years after the date of enactment of this Act, a notice under subsection (b)(2) that an application for approval is required.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 months after the date on which the Secretary receives a notice and request for review under subsection (a), the Secretary shall review all relevant information in the possession of the Secretary, all information provided by the producer, and other relevant public information to determine whether a review of new scientific information is necessary to ensure that the genetic engineering technique, genetically engineered animal, or genetically engineered food is safe.

(2) NOTICE THAT APPLICATION IS REQUIRED.—If the Secretary determines that new scientific information is necessary to determine whether a genetic engineering technique, genetically engineered animal, or genetically engineered food is safe, the Secretary, not later than 2 years after the date of enactment of this Act, shall issue to the producer a notice stating that the producer is required to submit an application for approval of the genetic engineering technique, genetically engineered animal, or genetically engineered food under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FAILURE TO SUBMIT APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a genetically engineered animal or genetically engineered food with respect to which the Secretary issues a notice that an application is required under subsection (b)(2) shall be considered adulterated under section 402 or 501, as the case may be, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351) unless—

(A) not later than 45 days after the producer receives the notice, the producer submits an application for approval; and

(B) the Secretary approves the application.

(2) PENDING APPLICATION.—A genetically engineered animal or genetically engineered food with respect to which the producer submits an application for approval shall not be considered to be adulterated during the pendency of the application.

SEC. 8. REPORTS.

(a) IN GENERAL.—Not later than 2 years, 4 years, and 6 years after the date of enactment of this Act, the Secretary and the heads of other Federal agencies, as appropriate, shall jointly submit to Congress a report on genetically engineered animals, genetically engineered foods, and genetic engineering techniques.

(b) CONTENTS.—A report under subsection (a) shall contain—

(1) information on the types and quantities of genetically engineered foods being offered for sale or being developed, domestically and internationally;

(2) a summary (including discussion of new developments and trends) of the legal status and acceptability of genetically engineered foods in major markets, including the European Union and Japan;

(3) information on current and emerging issues of concern relating to genetic engineering techniques, including issues relating to—

(A) the ecological impact of, antibiotic markers for, insect resistance to, nongerminating or terminator seeds for, or cross-species gene transfer for genetically engineered foods;

(B) foods from genetically engineered animals;

(C) nonfood crops (such as cotton) produced using a genetic engineering technique; and

(D) socioeconomic concerns (such as the impact of genetically engineered animals and genetically engineered foods on small farms);

(4) a response to, and information concerning the status of implementation of, the recommendations contained in the reports entitled ''Genetically Modified Pest Protected Plants'', ''Environmental Effects of Transgenic Plants'', and ''Animal Biotechnology Identifying Science-Based Concerns'', issued by the National Academy of Sciences;

(5) an assessment of the need for data relating to genetically engineered animals and genetically engineered foods;

(6) a projection of—

(A) the number of genetically engineered animals, genetically engineered foods, and genetic engineering techniques that will require regulatory review during the 5-year period following the date of the report; and

(B) the adequacy of the resources of the Food and Drug Administration; and

(7) an evaluation of the national capacity to test foods for the presence of genetically engineered ingredients in food.

By Mr. KOHL (for himself, Mrs. FEINSTEIN, Mr. SCHUMER, and Mr. REED):

S. 3096. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with my colleagues Senator FEINSTEIN, Senator SCHUMER, and Senator REED to introduce ''BLAST'', the Ballistics, Law Assistance, and Safety Technology Act.

Never before have the tremendous law enforcement benefits of ballistics testing been so apparent. We have the technology to ''fingerprint'' every new gun, and if we were using it today, we would be well on our way toward stopping the serial killer who even now is preying on the residents of suburban Washington.

Every gun has a unique ''fingerprint'', the distinct patterns left on spent casings and bullets after it is fired. What we need to do is create a comprehensive library of the ballistic images of all new guns sold in the U.S. as they come off the assembly line and a library of the images of all guns used in crimes. With those libraries in place, new technology would allow us to compare those ''gun prints'' with bullets found at crime scenes, bullets like those found from the Washington area sniper's gun.

By keeping a computerized image of each new gun's fingerprint, police can compare the microscopic differences in markings left by each gun until they find a match. Once a match is found, law enforcement can begin tracing that weapon from its original sale to the person who used it to commit the crime.

Police tell of solving multiple crimes simply by comparing bullets and shell casings found at the scene of a crime to a gun seized in a seemingly unrelated incident. Let me explain how ballistics testing works and how our measure is crucial to the fight against crime.

The only evidence at the scene of a recent brutal homicide in Milwaukee was 9 millimeter cartridge casings, there were no other clues. But four months later, when a teenage male was arrested on an unrelated charge, he was found to be in possession of the firearm that had discharged those casings. Ballistics linked the two cases. Prosecutors successfully prosecuted three adult suspects for the homicide and convicted the teen in juvenile court.

On September 9, 2000, several suspects were arrested in Boston for the illegal possession of three handguns. Each of the guns was test fired, and the ballistics information was compared to evidence found at other crime scenes. The police quickly found that the three guns were used in the commission of 15 felonies in Massachusetts and Rhode Island. This routine arrest for illegal possession of firearms provided police with new leads in the investigation of 15 unsolved crimes. Without the ballistics testing, these crimes would not have been linked and might have never been solved.

Since the early 1990's, more than 250 crime labs and law enforcement agencies in more than 40 states have been operating independent ballistics systems maintained by either the ATF or the FBI. Together, ATF's Integrated Ballistics Identification System, ''IBIS'', and the FBI's DRUGFIRE system have been responsible for linking 5,700 guns to two or more crimes where corroborating evidence was otherwise lacking.

While success stories are increasingly frequent, the potential of ballistics testing is still untapped. One way that the Bureau of Alcohol, Tobacco and Firearms is making ballistics testing more accessible to State and local law enforcement is through the installation of a new network of ballistics imaging machines. The final introduction of the machines across the country is almost complete and, once it is, the computers will be able to access each other and search for a greater number of images. The National Integrated Ballistics Information network, better know as ''NIBIN,'' will permit law enforcement in one locality access to information stored in other gun crime databases around the entire country. This will help law enforcement exponentially in their efforts to solve gun crimes.

But ballistics testing is only as useful as the number of images in the database. Today, almost all jurisdictions are limited to images of bullets and cartridge casings that come from guns used in crimes. Our bill would dramatically expand the scope of that database by mandating that all guns manufactured or imported would be test fired before being placed into the stream of commerce. The images collected from the test firing would then be collected and accessible to law enforcement, and law enforcement only, for the purpose of investigating and prosecuting gun crimes.

As local, State and Federal law enforcement authorities search for the deranged murderer who has been terrorizing the Washington D.C. metropolitan area, they are using ballistics testing to determine whether the bullets and shell casings found at the scene of each crime are from the same gun. They can then identify the gun, giving them a better idea of what, and who, they are looking for in their manhunt. Had the gun used in these crimes been subject to a test fire before being placed in the stream of commerce, authorities would be able to identify the gun based on the bullets and casings. With that information, law enforcement could then trace the sale and transfer of the firearm in an effort to identify the owner of the gun and solve the crime.

Today, police can find out more about a human being than they can about a gun used in a crime. Law enforcement can use DNA testing, take fingerprints and blood samples, search a person's health records, peruse bank records and credit card statements, obtain phone records and get a list of book purchases to link a suspect to a crime. Yet, the bullets found at the scene of a crime often cannot be traced back to the gun used because our ballistics images database is not comprehensive. We are unnecessarily limiting law enforcement's ability to track the criminals who have used guns in the commission of a crime. The BLAST bill will change all that. by making gun crimes easier to solve, all of us will be safer.

The burden on manufacturers is minimal, we authorize funds to underwrite the cost of testing, and the assistance to law enforcement is considerable. And don't take my word for it, ask the gun manufacturers and the police. Listen to what Paul Januzzo, the vice-president of the gun manufacturer Glock, said in reference to ballistics testing, ''our mantra has been that the issue is crime control, not gun control . . . it would be two-faced of us not to want this.'' In their agreement with the Department of Housing and Urban Development, Smith & Wesson agreed to perform ballistics testing on all new handguns. And Ben Wilson, the chief of the firearms section at ATF, emphasized the importance of ballistics testing as a investigative device, ''This [ballistics] allows you literally to find a needle in a haystack.''

To be sure, we are sensitive to the notion that law abiding hunters and sportsmen need to be protected from any misuse of the ballistics database by government. The BLAST bill explicitly prohibits ballistics information from being used for any purpose unless it is necessary for the investigation of a gun crime.

The BLAST bill will enhance a revolutionary new technology that helps solve crime. BLAST is a worthwhile piece of crime control legislation. I hope that the Senate will quickly move to pass it.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3096

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 ''Ballistics, Law Assistance, and Safety Technology Act'' or the ''BLAST Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 3. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets and cartridge casings were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.''.

SEC. 4. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

''(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

''(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

''(C) make the records available to the Secretary for entry in a computerized database; and

''(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

''(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

''(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

''(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet and cartridge casing recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

''(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

''(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

''(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

''(v) any other steps necessary to make ballistics testing effective.

''(B) The Attorney General and the Secretary shall—

''(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such a capability is available; and

''(ii) encourage training for all ballistics examiners.

''(4) Not later than 1 year after the date of enactment of this subsection and annually

thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

''(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool in the prosecution of gun crimes;

''(B) the extent to which ballistics records are accessible across jurisdictions; and

''(C) a statistical evaluation of the test programs conducted pursuant to section 6 of the Ballistics, Law Assistance, and State Technology Act.

''(5) There is authorized to be appropriated to the Department of Justice and the Department of the Treasury for each of fiscal years 2001 through 2004, $20,000,000 to carry out this subsection, including—

''(A) installation of ballistics equipment and bullet and cartridge casing recovery equipment;

''(B) establishment of sites for ballistics testing;

''(C) salaries and expenses of necessary personnel; and

''(D) research and evaluation.

''(6) The Secretary and the Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) BALLISTICS TESTING.—Section 923(m)(1) of title 18, United States Code, as added by subsection (a), shall take effect 5 years after the date of enactment of this Act.

(3) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 5. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime.

Mr. REED. Mr. President, I rise today to join my colleague Senator KOHL in introducing the Ballistics, Law Assistance, and Safety Technology Act. This legislation would build on the success of the existing National Integrated Ballistic Information Network by requiring, for the first time, ballistics testing of all new firearms so that law enforcement can more effectively trace bullets or cartridge casings recovered from shootings.

As we have learned from the horrific series of sniper shootings in the Washington, D.C. metropolitan area over the past week, law enforcement already has the technology to link bullets or casings found at separate crime scenes back to a single gun. Every firearm has individual characteristics that are as unique to it as fingerprints are to human beings. When a gun is fired, it transfers these characteristics, in the form of small, sometimes microscopic scratches and dents, to the projectiles and cartridge casings fired in it.

These unique fingerprints offer a great crime-solving tool for law enforcement. When bullets or cartridge casings are found at a crime scene, firearms examiners can use the marks for comparison, to determine whether or not the bullets or casings were expelled from a suspect's firearm. If a firearm is recovered at the scene, a test fire of the weapon creates example bullets and cartridge casings for comparison to those found in or near a victim. Bullets and casings found at one crime scene can also be compared with those found at another in order to link the crimes.

On the national level, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms recently combined their ballistics identification programs into the National Integrated Ballistic Information Network, or NIBIN, which provides for the installation and networking of automated ballistic imaging equipment in state and local law enforcement agencies across the country. Because thousands more pieces of recovered ballistic evidence can be compared using digital automation than would be possible using only manual comparisons, links between otherwise seemingly unrelated crimes are discovered, and investigative leads are generated for police followup.

Ballistics imaging technology is already demonstrating its potential to revolutionize criminal investigation. But a major tool for law enforcement is missing here, and that is a national ballistics fingerprint system that would enable law enforcement to trace crime scene evidence back to a suspect. The current NIBIN system provides valuable information on guns that have been used in crime, but unless such a gun was used in a previous crime for which ballistics evidence was collected and entered, the bullets or casings from the crime scene will find no match in the NIBIN system. No ballistics data are available for most of the estimated 200 million guns in this country, and no ballistics fingerprint information is being collected on the three to five million new guns coming into commerce in the United States each year. As a result, law enforcement usually has no way to trace the evidence back to a specific firearm and, ultimately, a suspect.

The bill we are introducing today would give law enforcement the tools it needs to fight violent crime by requiring gun manufacturers and importers to test fire all new firearms, prepare ballistics images of the fired bullet and cartridge casings, and make these records available to the Bureau of Alcohol, Tobacco and Firearms for entry in a computerized database which would be shared with state and local law enforcement agencies across the country. The bill also provides $20 million per year for ATF to help gun manufacturers and importers comply with these requirements by installing or upgrading ballistics equipment at or near the places of business of manufacturers and importers.

I have no doubt that the National Rifle Association and some in the gun industry are going to say that what we are proposing is tantamount to establishing a national registry of gun owners. I want to point out that this bill does not require the submission to law enforcement of any information beyond the ballistic images produced by test firing the gun. The names of any people or businesses that buy guns from federally licensed manufacturers or importers will continue to be kept in the files of those manufacturers and importers just as the law requires today. Law enforcement would only have access to this information in the context of a criminal investigation, for example when the evidence from a crime scene matches a ballistics fingerprint record for a gun produced and sold by a certain manufacturer or importer.

We should have taken these steps years ago. If we had, maybe the ballistic evidence from this week's sniper shootings would match an image in the law enforcement database, and we could save lives by identifying and arresting this cold-blooded killer before he strikes again. But the gun lobby has prevented the creation of an effective ballistics database by portraying this as a national gun registry. In fact, they have been so successful that even though two States, Maryland and New York, have created a ballistics fingerprint system for all guns sold in those States, the ATF's NIBIN system is not even allowed to access those records, nor can law enforcement agencies in other States look at the records through the NIBIN network. We will never know how many violent crimes may go unsolved because of this insane restriction on law enforcement's ability to do its job.

We have a responsibility to give law enforcement authorities the tools they need to quickly track down and bring to justice those who would use firearms to prey on our communities. The bill we are introducing today will do that by taking full advantage of the crime-fighting benefits that ballistic imaging and analysis can provide. I urge all of my colleagues to support this important legislation.

By Mr. BAUCUS (for himself and Mr. CRAPO):

S. 3097. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for holders of qualified highway bonds; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the MEGA INNOVATE ACT. Maximum Economic Growth for America through Innovative Financing.

MEGA Innovate is part of a series of bi-partisan bills that Senator CRAPO

and I have introduced that serve as our proposals for TEA 21 Reauthorization.

I was privileged to have been an author of TEA 21, and I look forward to working with my fellow Finance Committee members, EPW Committee members, as well as members on other Committees, as we craft the next highway bill under the leadership of Senator JEFFORDS.

The Finance Committee has held hearings that examined how to provide funding for our highway system. We heard about projections for Trust Fund income over the next 10 years.

As successful as standard financing has been, our transportation needs far outweigh our resources.

The MEAGA INNOVATE ACT is about increasing financing to the Highway Trust Fund without raising taxes. I am looking at additional means of financing to supplement the Highway Trust Fund in order to meet our Nation's transportation needs.

In recent years there has been increased recognition, throughout the country, of the important contribution that a strong highway program makes to our nation's economic prosperity and quality of life.

In Montana it is our economy's ''golden egg'' so to speak.

As we prepare to reauthorize the highway program next year, a fundamental question for the Congress is how to increase the level of investment, for the benefit of all citizens and all States.

Earlier this year Senator CRAPO and I introduced bi-partisan legislation with 12 co-sponsors, S. 2678—the MEGA TRUST Act, Maximum Economic Growth for America through the Highway Trust Fund. This bill laid out some ways to increase investment in the highway program without raising taxes.

That legislation would allow the Highway Trust Fund to be properly credited with taxes either paid or foregone with respect to gasohol consumption.

It would also reinstate the principle that the highway and mass transit accounts of the Highway Trust Fund should be credited with interest on their respective balances.

Those are important reforms that I believe we must enact as soon as possible. But we must continue to work to find additional ways to enable a stronger level of highway investment, because that investment is so important and beneficial to the country.

Today I am introducing the MEGA INNOVATE Act—Maximum Economic Growth for America Through Innovative Financing.

Under this legislation the Secretary of the Treasury would sell Tax Credit Bonds with the proceeds being placed in the Highway Account of the Highway Trust Fund. The Treasury would be responsible for the principal and interest.

The bond proceeds will enable the basic highway program to grow and would help the citizens of every state.

Administration of this initiative will be simple. No new structures are required. This is a new idea that does not raise taxes, but would advance our national interest in a strong highway program.

As this is a new idea for highways, the bill introduces this concept at a very modest level, in the range of $3 billion annually in bond sales.

However, when combined with the provisions of the MEGA TRUST Act, and the continuation of current sources of revenue, this legislation should enable the highway program to achieve an obligation level of approximately $41 to 42 billion by fiscal year 2009.

Many other officials and organizations have shown interest in both MEGA TRUST and MEGA INNOVATE, such as the State DOTs of Montana, Idaho, North and South Dakota and Wyoming. Highway Advocate groups, such as the Highway Users Alliance have also shown support for both bills.

I very much appreciate the support of these groups, as well as the support of others for these two important initiatives.

A well-funded highway program is certainly essential to the economic future of my State of Montana and to other States.

So, I look forward to working with my colleagues on the MEGA INNOVATE ACT, on the MEGA TRUST ACT, and all my other MEGA bills. I also look forward to looking at other ways to help our citizens benefit from increased levels of highway investment.

By Mr. GRAHAM (for himself and Mr. GRAMM):

S. 3098. A bill to amend title XVIII of the Social Security Act to establish a program for the competitive acquisition of items and services under the medicare program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today with my friend and colleague from Texas, Mr. Gramm, to introduce the Medicare Competition Acquisition Act of 2002.

Today, we are faced with the reality that the Medicare program must be reformed for the 21st Century. In the 37 years since Medicare was created, several medical advances have been achieved. It is time to reap the full benefits of those advances and shift the focus of the Medicare program to one that promotes wellness. For that, a prescription drug benefit is mandatory. It is the single most important reform we can make to Medicare.

However, the absence of a prescription drug benefit for America's seniors is not the only archaic aspect of the Medicare program. Congress has required Medicare to use an arbitrary method of payment for certain items and services, which costs the program and its beneficiaries much more than it should.

We think America's seniors deserve better. They deserve to pay fair market price for high-quality medical products instead of being subject to an outdated fee schedule that often reflects unreasonably high markups above actual cost.

The Medicare Competitive Acquisition Act applies high-quality standards and fiscal discipline to the Medicare program. Under this bill, Medicare will be able to use the same competitive tools the private sector has in place to control costs, while maintaining beneficiary access to quality medical supplies and services. This proposal was included in President Bush's fiscal year 2003 budget, and the Clinton Administration long advocated this fiscally responsible, high quality approach to improve Medicare.

Several studies by the United States General Accounting Office (GAO) and the Department of Health and Human Services, HHS, Inspector General indicate that the Medicare program and Medicare beneficiaries have been paying far too much for some medical equipment and supplies. Take pre-fabricated orthotics, for example. The most recent GAO data available indicates that the Medicare allowance for a pre-fabricated, self-adjusting hand/wrist brace is more than 140% higher than its average retail price. For an intermittent urinary catheter, the difference between the Medicare allowance and the average retail price is 93 percent.

The Congressional Budget Office estimates that our bill will save Medicare $1.8 billion over 5 years and $6.9 billion over 10 years. This means savings for beneficiaries of $450 million over 5 years and $1.72 billion over 10 years.

I was pleased that the Balanced Budget Act of 1997 included a modified version of my competitive bidding proposal. It gave HHS the authority to conduct competitive bidding demonstrations for Medicare Part B items and services other than physician services. The Medicare Competitive Acquisition Act builds upon successful demonstration projects in Polk County, Florida and San Antonio, Texas by allowing the HHS Secretary to establish a competitive bidding system for durable medical equipment and supplies in appropriate parts of the country.

I want to thank my colleague from the great State of Georgia, Mr. Cleland, for his leadership on this issue. The Senator not only helped us develop significant beneficiary protections, he worked to ensure flexibility for rural areas. Senator Cleland was also instrumental in our request for a GAO study on the introduction of new and innovative medical equipment and supplies to the Medicare market.

The Medicare Competitive Acquisition Act allows the Centers for Medicare and Medicaid Services, CMS, to award contracts to multiple suppliers in each region in order to enhance beneficiary freedom of choice and promote quality among competitors. The number of suppliers selected will be based on product demand, the number of suppliers selected will be based on product

demand, the number of suppliers who bid and the service capacity of bidding suppliers. This ensures that the number of suppliers selected will be more than sufficient to supply a given area and that beneficiaries will have access to the products and services they need. CMS will have the authority to replace any winning supplier whose product or service quality deteriorates after the contract is awarded.

Small businesses are vital to the success of competitive bidding. In both rounds of the Polk County demonstration, small businesses received 12 of the 16 willing contracts. In the San Antonio demonstration, they received 40 of the 51 winning contracts.

To ensure a level playing field in the future, we continue small business protections implemented under the demonstration by CMS. For example, we give suppliers the option to bid for a portion of an expansion area as opposed to having to bid for an entire expansion area. We also allow suppliers to bid for only one or a few product categories in a competitive acquisition area as opposed to having to bid for all of the product categories in a particular area.

The introduction of competitive bidding into the Medicare program will not only ensure beneficiary access to high-quality medical equipment and supplies, it will also reduce fraud and abuse. Suppliers who are under sanctions for fraud and abuse will be ineligible to participate in the bidding process. On-site reviews will be conducted prior to awarding contracts, ensuring that the suppliers are valid and operating businesses.

Contrary to what the nay-sayers will tell you, competitive bidding for durable medical equipment and suppliers has nothing to do with cutting services to beneficiaries or lowering quality standards. It has everything to do with improving access to high-quality medical equipment for America's seniors in a cost-effective manner.

As we search for ways to secure Medicare for the long term, we must take prudent steps to improve the efficiency of the program. Implementation of competitive bidding for certain Part B items and services is one way in which Congress can show that we are serious about preserving the integrity of Medicare.

I urge the Senate to support this measure.

By Mrs. FEINSTEIN:

S. 3100. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

Mr. BAUCUS. Mr. President, I rise to strongly speak in favor of the legislation introduced today by Senators FEINSTEIN and GREGG titled ''The Social Security Number Misuse Prevention Act of 2002,'' indeed, I am an original cosponsor of this legislation. If enacted, this bill will reduce the misuse of individuals' Social Security numbers, SSNs, by others.

As you well know, the Social Security number is increasingly being used for purposes not related to the administration of the Social Security program, because it is, in many cases, our national identification number. As a result, many people can gain access to the number, and this facilitates its use as a tool for illegal activity, most significantly for the crime of identity theft. In a report issued by the Social Security Administration's Office of the Inspector General, OIG, in May 1999, investigators concluded that most identity-related crimes involved the fraudulent use of a Social Security number. Additionally, the introduction of the SSN into the arena of electronic commerce has been accompanied by a dramatic increase in SSN misuse.

Given the upward trend in SSN misuse, I feel that the Congress must take a fresh look at options for safeguarding Social Security numbers. I believe that the bill introduced by Senators FEINSTEIN, GREGG and myself today is an important development in that effort. However, I want to make it clear that this bill will not eliminate all misuse of Social Security numbers. There are many legitimate and necessary uses of Social Security numbers and this bill does not prohibit such uses. Unfortunately, the absence of such prohibitions makes it easier for those who seek to misuse Social Security numbers.

The legislation being introduced today is very similar to a bill, S. 848, that was introduced by Senators FEINSTEIN and GREGG during the first session of the 107th Congress. Although S. 848 was referred to the Judiciary Committee, the bill deals extensively with sections of the US Code concerning Social Security numbers, legislative changes to these sections are in the jurisdiction of the Finance Committee. Therefore, Senator GRASSLEY and I expressed our concern that S. 848 should have been referred to the Finance Committee and we initiated a successful unanimous consent request, with the support of Senators LEAHY, HATCH, FEINSTEIN, and GREGG, to sequentially refer the bill to the Finance Committee. The Judiciary Committee favorably reported the bill on May 16th of this year and it was immediately referred to the Finance Committee.

We at the Finance Committee examined the problems which this legislation tries to address and found potential solutions to these problems to be very complex. In addition, as the legislation could potentially affect all of the uses and availabilities of SSNs many interested parties contacted the Finance Committee to express their views.

Given the complexity of the issues and the large number of stakeholders involved, the Finance Committee decided to schedule a subcommittee hearing in advance of a mark-up in order to better inform Committee members and their staffs about these issues. Special attention was focused on the core set of solutions embodied in the bill reported by the Judiciary Committee. After a long series of discussions, we reached agreement with Senator FEINSTEIN on legislation which makes a number of changes to the reported version of S. 848. We then scheduled a mark-up of this substitute for S. 848, but were unable to proceed with the mark-up because some members of the Committee planned to offer amendments that were extraneous and controversial. As a result, in order to move this legislation forward expeditiously, I asked Senators FEINSTEIN and GREGG to introduce the substitute for S. 848 as new legislation with me as an original cosponsor. Moreover, I intend to use procedures in Rule XIV of the Senate to have it placed on the calendar, rather than have it referred to Committee. Once on the calendar, the bill is eligible to be brought up for debate on the Senate floor.

As reported by the Judiciary Committee, S. 848 would: Prohibit the sale, purchase, or display of a Social Security number to the general public without the individual's consent, with exceptions for legitimate business and government activity; prohibit the release of certain key public records to the general public unless Social Security numbers are first redacted, this provision applies only to records created after the bill is enacted; require Social Security numbers to be removed from government checks, drivers' licenses, and motor vehicle registrations; prohibit the employment of prisoners in any capacity that would give them access to Social Security numbers; make it a crime to obtain an SSN for the purpose of locating or identifying a person with the intent to physically harm that person; give consumers the right to refuse to give out their Social Security numbers when purchasing a good or service from a commercial entity, unless the entity has a legitimate need as specified in the law; and create new civil monetary penalties, criminal penalties, and civil actions to help prevent misuse of Social Security numbers; requires all new credit card payment processing machines to truncate the credit card account numbers to the last five digits on the printed receipt.

The substitute for S. 848 that is being introduced today retains the basic structure and objectives of the Judiciary Committee-reported bill, but makes several substantive changes that improve the bill. The substitute bill: makes clear that it is permissible to sell, purchase or display Social Security numbers for any legitimate use required, authorized or excepted by any Federal law. Stops new public records containing Social Security numbers from being posted on the Internet and calls for a study by the General Accounting Office of issues pertaining to the display of Social Security numbers on any public records. Permits State Attorneys General to enforce the new ''right to refuse'' to provide a Social Security number, but prohibits class action lawsuits to enforce this new ''right.'' Sunsets the ''right to refuse'' after six years, and calls for a report by the Attorney General, six months after the sunset regarding the effectiveness of this ''right to refuse'' and whether it should be reauthorized.

To conclude, I think that the introduction of this revised version of S. 848 and the placement of it on the calendar are two very important steps in our fight to reduce the misuse of Social Security numbers and reduce the theft of

identities. I look forward to working with my colleagues to enact this important piece of legislation.

By Mr. LEAHY (for himself, Mr. HATCH and Mr. BIDEN):

S. 3101. A bill to amend title IV of the Missing Children's Assistance Act to provide for increased funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the Missing Children's Assistance Act of 2002, which doubles the funding for the National Center for Missing and Exploited Children and reauthorizes the Center through fiscal year 2006. I am pleased to have Senators HATCH and BIDEN as cosponsors.

Due to tragic circumstances, the importance of the National Center for Missing and Exploited Children, ''NCMEC'', has become even more pronounced over the past year. We have seen repeated media coverage of missing children from every corner of our nation, and parents and children alike have slept less easily. As a father and grandfather, I know that an abducted child is every parent's or grandparent's worst nightmare.

The Justice Department estimates that between 3,000 and 4,000 children are taken by strangers every year. This legislation will strengthen our efforts to return those children to their homes, and relieve their parents of unimaginable grief.

The Center for Missing and Exploited Children assists parents, children, law enforcement, schools, and the community in their efforts to recover missing children. The professionals at NCMEC have disturbingly busy jobs, they have worked on more than 73,000 cases of missing and exploited children since NCMEC's founding in 1984, helping to recover more than 48,000 of them. They also raise awareness about preventing child abduction, molestation, and sexual exploitation.

As part of its mission, NCMEC runs: 1. a 24-hour telephone hotline to take reports about missing children and clues that might lead to their recovery, 2. a national child pornography tipline, and 3. a program that assists families in the reunification process. NCMEC also helps runaway children, including through attempts to reduce child prostitution.

NCMEC manages to do all of this good work with only a $10 million authorization, which expires after fiscal year 2003. We should act now both to extend its authorization and provide additional funds so that it can continue to help keep children safe and families intact around the nation.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3102. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of broadcast transmission facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3103. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of wireless services facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LEAHY. Mr. President, I rise today to offer two pieces of legislation that would close a loophole that allows Federal regulators to overrule local officials on the building of cellular and broadcast towers. I am proud to be joined by Senator JEFFORDS, and Senator MURRAY in introducing legislation that will return decision-making power on the siting of towers to local communities.

The 1996 Telecommunications Act, which I opposed, contained a provision that allowed the Federal Communications Commission to preempt the decisions of local authorities. Over the last five years, a small loophole in the 1996 Act has spurred David versus Goliath battles across the country. Small communities that pride themselves in deciding what their towns will look like, now have few options when they try to stop or even negotiate a different site for broadcast or cellular towers. In Vermont, we have had several communities, Shelburne, Bethel, and Charlotte, run directly into this problem. What used to be their right to decide these decisions under zoning laws was up-ended.

These communities understand that there will be new towers. Demand for wireless services has skyrocketed over the last few years. The mountains and hills of Vermont make many Vermonters joke that cell phones are more useful as paper weights than as a way to talk with friends and family. However, Vermonters and people across the country do not believe that we have to sacrifice our scenic views and residential areas to ensure wireless coverage.

As a Vermonter, I do not want to wake up ten years from now and see my State turned into a pincushion of antennas and towers. That is why I am introducing these bills today. In a way, these bills are the culmination of a long battle with the Federal Communications Commission and in the courts to protect local authority.

In 1997, the Federal Communications Commission seized on the legislative loophole and proposed an expansive new rule to prevent State and local zoning laws from regulating the placement of cell and broadcast towers on the basis of environmental considerations, aviation safety, or other locally-determined matters. I fought this proposed rule and was joined by many Vermonters, Governor Dean, the Vermont Environmental Board, mayors, zoning officials and others. I also joined with many Vermonters and the rest of the Vermont Congressional Delegation to file an amicus brief in the Supreme Court, arguing that the preemption of local power to issue building permits was a clear violation of the 10th Amendment.

Unfortunately, that petition failed and now I am introducing legislation to fix a problem Congress created. The preemption of local authority should never have happened. Health, safety, and local land use issues should be left in the hands of those who know these issues best and can find a way to balance the needs of their community—the local zoning authorities.

In Vermont, we actually have a very well-tested and successful way of finding a balance between protecting the environment, the health and safety of Vermonters, and meeting economic demands. It's called Act 250. It was adopted over three decades ago when Vermonters realized that our cherished hillsides and New England towns could be overrun with homes. Now, the same realization has occurred with cell and broadcast towers.

My bill will not prohibit new towers. It will simply let local officials use their state and local protections, like Act 250, find the best solution for their community.

I think that many of my colleagues would agree that it is not too much to ask that telecommunication companies follow the zoning laws that apply to everyone else.

In fact, we already have ways to meet the needs of telecommunication companies and communities. There are other viable alterative communication technologies to massive towers. I have in the past discussed how PCS-Over-Cable and PCS-Over-Fiber technologies can provide digital cellular service using small antennas, eliminating the need for large towers. These small antennas can be attached to an existing telephone pole or lamp post. Not only is this technology more aesthetically pleasing, but because the companies do not need to buy land for these antennas, these delivery mechanisms are cheaper as well. We should allow local government to require the usage of these less intrusive technologies,

This is ultimately a very simple issue. It's an issue of local control. I believe that it is local authorities, not Federal regulators, who should determine when and where these structures are built. I urge my fellow Senators to join me in supporting this legislation. I ask unanimous consent that the text of these bills and two section-by-section analyses be printed in the RECORD.

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

S. 3102

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 ''Local Control of Broadcast Towers Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement, construction, and modification of broadcast transmission facilities near residential communities and facilities such as schools can greatly reduce the value of residential properties, destroy the views from properties, produce radio frequency interference, raise concerns about potential long-term health effects of such facilities, and reduce substantially the desire to live in the areas of such facilities.

(2) States and local governments have traditionally regulated development and should be able to exercise control over the placement, construction, and modification of broadcast transmission facilities through the use of zoning and other land use regulations relating to the protection of the environment, public health and safety, and the general welfare of the community and the public.

(3) The Federal Communications Commission establishes policies to govern interstate and international communications by television, radio, wire, satellite and cable. The Commission ensures compliance of such activities with applicable Federal laws, including the National Environmental Policy Act of 1969 and the National Historic Preservation Act, in its decision-making on such activities.

(4) The Commission defers to State and local authorities which regulate the placement, construction, and modification of broadcast transmission facilities through the use of zoning, construction and building, and environmental and safety regulations in order to protect the environment and the health, safety, and general welfare of communities and the public.

(5) On August 19, 1997, the Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of most State and local zoning, environmental, construction and building, and other regulations affecting the placement, construction, and modification of broadcast transmission facilities.

(6) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(b) PURPOSE.—The purpose of this Act is to confirm that State and local governments are the appropriate entities—

(1) to regulate the placement, construction, and modification of broadcast transmission facilities consistent with State and local zoning, construction and building, environmental, and land use regulations;

(2) to regulate the placement, construction, and modification of broadcast transmission facilities so that their placement, construction, or modification will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger the health, safety, and general welfare of the public; and

(3) to hold accountable applicants for permits for the placement, construction, or modification of broadcast transmission facilities, and providers of services using such facilities, for the truthfulness and accuracy of representations and statements placed in the record of hearings for such permits, licenses, or approvals.

SEC. 3. PROHIBITION ON ADOPTION OF RULE REGARDING PREEMPTION OF STATE AND LOCAL AUTHORITY OVER BROADCAST TRANSMISSION FACILITIES.

Notwithstanding any other provision of law, the Federal Communications Commission shall not adopt as a final rule or otherwise directly or indirectly implement any portion of the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

SEC. 4. AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF BROADCAST TRANSMISSION FACILITIES.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

''SEC. 340. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF BROADCAST TRANSMISSION FACILITIES.

''(a) AUTHORITY TO REQUIRE LEAST INTRUSIVE FACILITIES.—

''(1) IN GENERAL.—A State or local government may deny an application to place, construct, or modify broadcast transmission facilities on the basis that alternative technologies, delivery systems, or structures are capable of delivering broadcast signals comparable to that proposed to be delivered by such facilities in a manner that is less intrusive to the community concerned than such facilities.

''(2) CONSIDERATIONS.—In determining under paragraph (1) the intrusiveness of technologies, delivery systems, or structures for the transmission of broadcast signals, a State or local government may consider the aesthetics of such technologies, systems, or structures, the environmental impact of such technologies, systems, or structures, and the radio frequency interference or radiation emitted by such technologies, systems, or structures.

''(3) BURDEN OF PROOF.—In any hearing for purposes of the exercise of the authority in paragraph (1), the burden shall be on the applicant.

''(b) RADIO INTERFERENCE.—A State or local government may regulate the location, height, or modification of broadcast transmission facilities in order to address the effects of radio frequency interference caused by such facilities on local communities and the public.

''(c) AUTHORITY TO REQUIRE STUDIES AND DOCUMENTATION.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(1) requiring a person seeking authority to place, construct, or modify broadcast transmission facilities to produce—

''(A) environmental, biological, and health studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits, radio frequency interference impacts, and compliance with applicable laws, rules, and regulations governing the effects of such facilities on the environment, public health and safety, and the general welfare of the community and the public; and

''(B) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(2) refusing to grant authority to such person to place, construct, or modify such facilities within the jurisdiction of such government if such person fails to produce studies, reports, or documentation required under paragraph (1).

''(d) CONSTRUCTION.—Nothing in this section may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct, or modify broadcast transmission facilities within the jurisdiction of the State or local government.

''(e) BROADCAST TRANSMISSION FACILITY DEFINED.—In this section, the term 'broadcast transmission facility' means the equipment, or any portion thereof, with which a broadcaster transmits and receives the radiofrequency waves that carry the services of the broadcaster, regardless of whether the equipment is sited on one or more towers or other structures owned by a person or entity other than the broadcaster, and includes the location of such equipment.''.

SECTION-BY-SECTION SUMMARY OF LOCAL CONTROL OF BROADCAST TOWERS ACT

Sec. 1. Short Title.

The subtitle may be cited as the ''Local Control of Broadcast Towers Act.''

Sec. 2. Findings and Purposes.

The bill finds that as the placement of broadcast towers or other broadcast structures (heretofore referred to as ''broadcast transmission facilities'') can reduce property values, create radio frequency interference, and raise potential long-term health concerns. It also finds that state and local authorities should have the same control to regulate the placement of broadcast transmission facilities as they would with any other type of construction. The purpose of the bill is to reinstate the right of state and local governments to regulate the placement, construction, and modification of these facilities.

Sec. 3. Prohibition on Adoption of Rule Regarding Preemption of State and Local Authority Over Broadcast Transmission Facilities.

Section 3 prohibits the Federal Communications Commission (FCC) from implementing ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities.'' This rule prevents state and local governments from regulating the construction or modification of broadcast transmission facilities.

Sec. 4. Authority Over Placement, Construction, and Modification of Broadcast Transmission Facilities.

Section 4 adds a new section to Part I of title III. It gives state and local governments the power to deny applications to place, construct, or modify broadcast transmission facilities on the basis that less intrusive technologies are available to provide comparable service. Denials can be issued for reasons of aesthetics, environmental impact, radio frequency interference, or radiation emissions. Burden of proof lies with the applicant.

Section 4(b) also stipulates that state and local governments are empowered to regulate the location, height, or modification of broadcast transmission facilities to reduce the effects of radio interference. State and local governments may also require environmental, biological, and health studies, engineering studies, or other comparable documentation from any person seeking to build or modify a broadcast transmission facility. In addition, state and local governments may require documentation of compliance with any applicable Federal, State, or local regulation regarding aviation safety standards. Failure to provide such documentation or studies is grounds for a denial to construct or modify a facility.

Section 4(e) defines broadcast transmission facilities.

S. 3103

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 ''Local Control of Cellular Towers Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement, construction, and modification of personal wireless services facilities (also known as wireless facilities) near residential communities and facilities such as schools can greatly reduce the value of residential properties, destroy the views from properties, produce radio frequency interference, raise concerns about potential long-term health effects of such facilities, and reduce substantially the desire to live in the areas of such facilities.

(2) States and local governments have traditionally regulated development and should be able to exercise control over the placement, construction, and modification of wireless facilities through the use of zoning and other land use regulations relating to the protection of the environment, public health and safety, and the general welfare of the community and the public.

(3) The Federal Communications Commission establishes policies to govern interstate and international communications by television, radio, wire, satellite and cable. The Commission ensures the compliance of such activities with a variety of Federal laws, including the National Environmental Policy Act of 1969 and the National Historic Preservation Act, in its decision-making on such activities.

(4) Under section 332(c)(7)(A) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(A)), the Commission defers to State and local authorities that regulate the placement, construction, and modification of wireless facilities through the use of zoning and other land use regulations.

(5) Alternative technologies for the placement, construction, and modification of wireless facilities may meet the needs of a wireless services provider in a less intrusive manner than the technologies proposed by the wireless services provider, including the use of small towers that do not require blinking aircraft safety lights, break skylines, or protrude above tree canopies.

(6) It is in the interest of the Nation that the requirements of the Commission with respect to the application of State and local ordinances to the placement, construction and modification of wireless facilities (for example WT Docket No. 97–192, ET Docket No. 93–62, RM–8577, and FCC 97–303, 62 F.R. 47960) be modified so as—

(A) to permit State and local governments to exercise their zoning and other land use authorities to regulate the placement, construction, and modification of such facilities; and

(B) to place the burden of proof in civil actions, and in actions before the Commission and State and local authorities relating to the placement, construction, and modification of such facilities, on the person that seeks to place, construct, or modify such facilities.

(7) PCS-Over-Cable, PCS-Over-Fiber Optic, and satellite telecommunications systems, including Low-Earth Orbit satellites, offer a significant opportunity to provide so-called ''911'' emergency telephone service throughout much of the United States without unduly intruding into or effecting the environment, public health and safety, and the general welfare of the community and the public.

(8) The Federal Aviation Administration must rely upon State and local governments to regulate the placement, construction, and modification of telecommunications facilities near airports or high-volume air traffic areas such as corridors of airspace or commonly used flyways. The proposed rules of the Commission to preempt State and local zoning and other land-use regulations for the siting of such facilities will have a serious negative impact on aviation safety, airport capacity and investment, the efficient use of navigable airspace, public health and safety, and the general welfare of the community and the public.

(9) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal certain limitations on State and local authority regarding the placement, construction, and modification of personal wireless services facilities under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments—

(A) to regulate the placement, construction, or modification of personal wireless services facilities with respect to their impacts on land use, including radio frequency interference and radio frequency radiation, in order to protect the environment, public health and safety, and the general welfare of the community and the public;

(B) to regulate the placement, construction, and modification of personal wireless services facilities so that they will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger the public health and safety and the general welfare of the community and the public; and

(C) to hold accountable applicants for permits for the placement, construction, or modification of personal wireless services facilities, and providers of services using such facilities, for the truthfulness and accuracy of representations and statements placed in the record of hearings for permits, licenses, or approvals for such facilities.

SEC. 3. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF PERSONAL WIRELESS SERVICES FACILITIES

(a) LIMITATIONS ON STATE AND LOCAL REGULATION OF FACILITIES.—Subparagraph (B) of section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)) is amended—

(1) by striking clause (iv);

(2) by redesignating clause (v) as clause (iv); and

(3) in clause (iv), as so redesignated—

(A) in the first sentence, by striking ''may, within 30 days'' and all that follows through the end of the sentence and inserting ''may commence an action in any court of competent jurisdiction. Such action shall be commenced within 30 days after such action or failure to act unless the State concerned has established a different period for the commencement of such action.''; and

(B) by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a personal wireless services facility is a party, such person shall bear the burden of proof, regardless of who commences such action.''.

(b) PROHIBITION ON ADOPTION OF RULE REGARDING RELIEF FROM STATE AND LOCAL REGULATION OF FACILITIES.—Notwithstanding any other provision of law, the Federal Communications Commission shall not adopt as a final rule or otherwise directly or indirectly implement any portion of the proposed rule set forth in ''Procedures for Reviewing Requests for Relief From State and Local Regulation Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934'', WT Docket No. 97-192, released August 25, 1997.

(c) AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF FACILITIES.—Such section 332(c)(7) is further amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) ADDITIONAL LIMITATIONS.—

''(i) AUTHORITY TO REQUIRE LEAST INTRUSIVE FACILITIES.—

''(I) IN GENERAL.—A State or local government may deny an application to place, construct, or modify personal wireless services facilities on the basis that alternative technologies, delivery systems, or structures are capable of delivering a personal wireless services signal comparable to that proposed to be delivered by such facilities in a manner that is less intrusive to the community concerned than such facilities.

''(II) CONSIDERATIONS.—In determining under subclause (I) the intrusiveness of technologies, delivery systems, or structures for personal wireless services facilities, a State or local government may consider the aesthetics of such technologies, systems, or structures, the environmental impact of such technologies, systems, or structures, and the radio frequency interference or radiation emitted by such technologies, systems, or structures.

''(III) BURDEN OF PROOF.—In any hearing for purposes of the exercise of the authority in subclause (I), the burden shall be on the applicant.

''(ii) RADIO INTERFERENCE.—A State or local government may regulate the location, height, or modification of personal wireless services facilities in order to address the effects of radio frequency interference caused by such facilities on local communities and the public.

''(iii) AUTHORITY TO REQUIRE STUDIES AND DOCUMENTATION.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(I) requiring a person seeking authority to place, construct, or modify personal wireless services facilities to produce—

''(aa) environmental, biological, and health studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits, radio frequency interference impacts, and compliance with applicable laws, rules, and regulations governing the effects of such facilities on the environment, public health and safety, and the general welfare of the community and the public; and

''(bb) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(II) refusing to grant authority to such person to place, construct, or modify such facilities within the jurisdiction of such government if such person fails to produce studies, reports, or documentation required under subclause (I).

''(iv) CONSTRUCTION.—Nothing in this subparagraph may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct, or modify personal wireless

services facilities within the jurisdiction of the State or local government.''.

SECTION-BY-SECTION SUMMARY OF LOCAL CONTROL OF CELLULAR TOWERS ACT

SECTION 1. SHORT TITLE.

The subtitle may be cited as the ''Local Control of Cellular Towers Act.''

SEC. 2. FINDINGS AND PURPOSES.

The bill finds that as the placement of cellular towers can reduce property values, create radio frequency interference, and raise potential long-term health concerns. It also finds that state and local authorities should have the same control to regulate the placement of cellular facilities as they would with any other type of construction. The purpose of the bill is to reinstate the right of state and local governments to regulate the placement, construction, and modification of these facilities.

SEC. 3. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF PERSONAL WIRELESS SERVICES FACILITIES.

This section of the bill amends title 47 of the U.S. Code.

Section 3(a) strikes 47 U.S.C. 332(c)(7), clause iv, which prevented state and local governments from regulating the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions. Clause v of the same section of the Code is amended to allow States to determine the timeline for any appeal of a State or local decision that adversely affects a personal wireless service provider. A personal wireless service provider is no longer allowed to make a further appeal to the Federal Communications Commission (FCC). Furthermore, the bill clarifies that the party that wishes to build a personal wireless service facility bears the burden of proof in any appeal of state or local law.

Section 3(b) prohibits the FCC from implementing ''Procedures for Reviewing Requests for Relief from State and Local Regulation Pursuant to Section 332(c)(7)(B)(v).'' This rule stipulated the procedures for appealing state and local regulations to the FCC.

Section 3(c) adds a new subparagraph (C) to Section 332(c)(7) to give State and local governments the power to deny applications to place, construct, or modify personal wireless service facilities on the basis that less intrusive technologies are available that provide comparable service. Denials can be issued for reasons of aesthetics, environmental impact, radio frequency interference, or radiation emissions.

Section 3(c) also stipulates that state and local governments are empowered to regulate the location, height, or modification of personal wireless service facilities to reduce the effects of radio interference. State and local governments may also require environmental, biological, and health studies, engineering studies, or other comparable documentation from any person seeking to build or modify a personal wireless service facility. In addition, state and local governments may require documentation of compliance with any applicable Federal, State, or local regulation regarding aviation safety standards. Failure to provide such documentation or studies is grounds for a denial to construct or modify a facility.

Mr. JEFFORDS. Mr. President, I would like to rise today to express my support for the Local Control of Cellular Towers Bill, as well as the Local Control of Broadcast Towers Bill. I am pleased to be a cosponsor of these two pieces of legislation and commend my colleague from Vermont, Senator LEAHY, for his continued work on this issue.

The 1996 Telecommunications Act preempts State and local zoning laws, transferring jurisdiction away from State and local authorities to the Federal government. The legislation that we are introducing today would return that jurisdiction to the State and local authorities that are best equipped to make decisions regarding the placement and construction of cellular and broadcast towers.

In Vermont, new development and construction is governed by Act 250, an environmental land use law specifically written to control and manage development, while maintaining a balance between environmental protection and economic growth. Act 250 maintains this equilibrium by placing the permitting rights in the hands of local environmental review boards with appeal rights to the Vermont Environmental Board. Act 250 is therefore administered by men and women who are directly involved in their communities and thoroughly familiar with local concerns.

The state of Vermont established Act 250 in response to a period of unchecked development that began in the 1960's. As the Attorney General for the state at the time, I was one of the primary drafters of the environmental land use law. Since 1969, Act 250 has protected our environment, managed development, and provided a forum for neighbors, municipalities and other interest groups to voice their concerns about new development. I see no reason why the construction of cellular and broadcast towers should not be governed by Act 250 as well, and I remain hopeful that these two bills will reverse what the 1996 Act set forth.

Although I recognize the importance of building a sound and functional wireless network, I urge Congress to allow states and local communities to build that network so the negative impacts of tower construction are kept to a minimum. Among Vermont's greatest assets are its mountain ranges and beautiful views. Giving local communities authority over tower construction and placement is a step towards preserving and protecting those assets.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3104. A bill to amend the Marine Mammal Protection Act of 1972 to repeal the long-term goal for reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations, and to modify the goal of take reduction plans for reducing such takings; to the Committee on Commerce, Science, and Transportation.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF GOALS FOR REDUCING INCIDENTAL TAKE OF MARINE MAMMALS IN COMMERCIAL FISHING.

(a) REPEAL OF ZERO MORTALITY GOAL.—Section 118 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1387) is amended by striking subsection (b), and by redesignating subsections (c) through (l) in order as subsections (b) through (k).

(b) CONFORMING AMENDMENTS.—Such Act is further amended as follows:

(1) In section 101(a)(2) (16 U.S.C. 1371(a)(2)) by striking the third sentence.

(2) In section 101(a)(5)(E)(i)(III) (16 U.S.C. 1371(a)(5)(E)(i)(III) by striking ''subsection (d)'' and inserting ''subsection (c)''.

(3) In section 115(b)(4) (16 U.S.C. 1384(b)(4)) by striking ''section 118(f)(1)'' and inserting ''section 118(e)(1)''.

(4) In section 117(a)(4) (16 U.S.C. 1386(a)(4)) in subparagraph (D) by striking '', and an analysis'' and all that follows through the end of the subparagraph and inserting a semicolon.

(5) In section 118 (16 U.S.C. 1387) by striking ''subsection (c)(1)(A) (i)'' each place it appears and inserting ''subsection (b)(1)(A) (i)''.

(6) In section 118 (16 U.S.C. 1387) by striking ''subsection (c)(1)(A)(i)'' each place it appears and inserting ''subsection (b)(1)(A)(i)''.

(7) In section 118(a)(1) (16 U.S.C. 1387(a)(1)) by striking the last sentence.

(8) In section 118(b), as redesignated by this subsection (16 U.S.C. 1387(c)(1)(B)), by striking ''subsection (e)'' each place it appears and inserting ''subsection (d)''.

(9) In section 118(c)(1)(B), as redesignated by this subsection (16 U.S.C. 1387(d)(1)(B)), by striking ''subsection (e)'' and inserting ''subsection (d)''.

(10) In section 118(e)(9)(D), as redesignated by this subsection (16 U.S.C. 1387(f)(9)(D)), by striking ''subsection (d)'' and inserting ''subsection (c)''.

(11) In section 118(f)(1), as redesignated by this subsection (16 U.S.C. 1387(g)(1)), by striking ''subsection (c)(1)(A)(iii)'' each place it appears and inserting ''subsection (b)(1)(A)(iii)''.

(12) In section 118(g), as redesignated by this subsection (16 U.S.C. 1387(h)), by striking ''subsection (c)'' and inserting ''subsection (b)''.

(13) In section 120(j)(2) (16 U.S.C. 1389(j)(2)) by striking ''118(f)(5)(A)'' and inserting ''118(e)(5)(A)''.

(c) MODIFICATION OF GOAL OF TAKE REDUCTION PLANS.—Section 118(e)(2) of such Act, as redesignated by subsection (a) of this section (16 U.S.C. 1387(f)(2)), is amended by striking the last sentence and inserting the following: ''The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of fishing operations taking into account the economics of the fishery, the availability of existing technology, and existing State and regional fishery management plans.''.

By Mr. FRIST (for himself, Mr. DODD, Mr. SANTORUM, Mr. BAYH, Mr. COCHRAN, and Mr. DEWINE):

S. 3105. A bill to amend the Public Health Service Act to provide grants for the operation of enhanced mosquito control programs to prevent and control mosquito-borne diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to introduce the ''West Nile Virus and Arboviral Disease Act''—a bill to help strengthen our public health system and improved research so that we can better respond to West Nile virus and other arboviruses. I want to thank Senators DODD, SANTORUM, BAYH, COCHRAN, AND DEWINE for their work in helping craft this important legislation.

This year, nearly 3000 Americans have been diagnosed with West Nile Virus, WNV. At least 146 have died. While this virus is transmitted to humans primarily through migratory birds and mosquitoes, recent evidence strongly suggests that WNV can be transmitted through blood transfusions, organ donations, and possibly even breast milk. Further, the latest studies indicate that some patients may experience polio-like symptoms as a result of WNV infection.

WNV first appeared in North America in 1999 with reports of encephalitis in birds, humans and horses. Prior to this summer, there had been only 149 cases and 18 deaths from this virus. Now, WNV has spread as far south as Florida and as far west as California, encompassing areas with warmer climates that will allow a year-round transmission cycle. In three years, we have lost the opportunity to contain the disease to the northeastern region of the United States, where mosquitos do not breed year-round. As a result, many more people will die and become ill.

Clearly, the increasing spread of the disease and these new findings require an enhanced response at the Federal level. We must do more to support State and local public health efforts to combat the spread of West Nile. And we must also intensify research at the federal level to better understand the etiology of the virus, develop improved abatement tools, and prevent the spread of the illness.

The Centers for Disease Control and Prevention, CDC, has published national guidelines for surveillance, prevention and control of WNV. CDC also developed a national electronic surveillance system, ArboNET, to track West Nile in humans, birds, mosquitoes, horses, and other animals. However, the data available to the ArboNET system likely underestimates actual geographic distribution of WNV transmission in the United States because the data are provided by up to 54 ArboNet by local health unit surveillance efforts which vary according to capacity and ability. We need to do more to strengthen the capacity of those surveillance efforts. One only needs to examine the map of the spread of WNV to determine that there may be gaps in our surveillance when some States, like Kansas and West Virginia, are surrounded by other states with similar arbovirus patterns but still not indicating the presence of human disease. One of the peculiarities of great surveillance systems is the increased incidence of disease, simply because better information is being collected.

Although strengthening our surveillance and response capabilities will help, we must also do more to increase the number of appropriately trained entomologists. There is clearly a need for more individuals who can understand the disease vectors, identify their breeding areas, and take action to eliminate the mosquito population before WNV season.

In response to these obvious deficiencies, this legislation establishes a temporary program for the containment of WNV and related arboviral diseases. Through this grant program, which is authorized for two years, but can be extended by the Secretary of Health and Human Services for an additional year, the CDC is authorized to make grants to states. States can use the funds to develop, implement, and evaluate comprehensive, community-based mosquito control plans. Additionally, states can work with local communities to develop and implement programs to support longer term prevention and control efforts, including training to develop a competent public health workforce. Finally, States are encouraged to work with local health entities to develop prevention and control programs.

As part of the requirement under the grant program, the CDC is charged with developing, in consultation with public and private health and mosquito control organizations, guidelines for State and local communities for a sustainable, locally managed, integrated mosquito control programs, as well as otherwise increasing CDC's capacity to provide technical assistance.

We also need to learn more about this virus and how it is spread. To combat WNV, we must develop: 1. improved insecticides; 2. rapid tests for the presence of WNV in human blood products; 3. pathogen inactivation technologies; and 4. additional methodologies to contain the spread of WNV or other related arboviruses, including the development of an appropriate WNV vaccine for humans and other mammals and better antiviral treatments.

In 1972, the FDA banned the general use of the pesticide DDT, ending nearly three decades of application. During which time, the once-popular chemical was used to control insect pests on crop and forest lands, around homes and gardens, and for industrial and commercial purposes. DDT was developed as the first of the modern insecticides early in World War II. It was initially used with great effect to combat malaria, typhus, and the other insect-borne human diseases among both military and civilian populations. A persistent, broad-spectrum compound often termed the ''miracle'' pesticide, DDT came into wide agricultural and commercial usage in this country in the late 1940s, but was banned by the FDA when the Director at that time determined that the continued massive use of DDT posed unacceptable risks of the environment and potential harm to human health. Since that time, we have not developed a replacement for DDT. We have become complacent, assuming that there would be no need to continue to reducing the insect population. We can no longer be complacent.

We have not yet developed a rapid diagnostic WNV test for blood products. There are two types of tests available, a serologic test or a polymerase chain reaction, PCR, test, but only the PCR test would be feasible for screening purposes. Experts have suggested that a new PCR test could be available within 18 months if the appropriate market incentives were in place. We need to determine the best way to expedite the development of this test.

Pathogen inactivation techniques could be used to purify blood samples by removing all DNA and RNA particles from the blood. However, we have not yet performed a larger assessment to determine the overall health benefit of this technique. Because the process relies on adding additional chemicals to the blood product, those chemicals, or derivatives thereof, may have a particular health effect. Therefore, given that there will be other emerging infectious diseases in our future, we need to develop a proactive, not reactive, mode to dealing with those infections.

Currently, scientists have developed an equine vaccine for WNV, but there is no human vaccine. Given the limited vaccine options, many veterinarians are even using the equine vaccine for avians and other mammals. Therefore, we need to focus efforts on developing vaccines for a host of susceptible mammals.

In conducting that research, given the nature of all arboviruses and the fact that WNV also infects a host of mammals, we need to build more bridges between veterinary health and public health. Already, avian experts are asked to assist our public health experts to help identify how bird migration would affect the spread of WNV. Additionally, any new vaccine or diagnostic test for WNV may have broader applicability to the host of other mammals affected by the virus.

Given the multitude of federal agencies that should be involved with relevant research, the legislation charges the President with expanding, intensifying, and enhancing research related to the identification or the development of insecticides, the development of a screening tools for WNV in both blood and organs, the development of pathogen inactivation technologies, technologies that safety and cost-effectively remove RNA and DNA from blood, and the development of additional methodologies for containing the spread of West Nile Virus and other related arboviruses. This research program is authorized for five years.

More should be done to continuously support the development of a capable public health infrastructure and increased response coordination at all levels. At the Federal level, we have

significantly increased our resources for these purpose by providing nearly $1 billion for bioterrorism-related activities, activities which should focus on ''dual use'' capabilities to strengthen our ability to respond to all infectious diseases. However, we need to ensure a continued investment if we are to stabilize our public health infrastructure and continue to focus on means by which to increase coordination.

Again, I want to commend Senators DODD, SANTORUM, BAYH, COCHRAN, and DEWINE for their contributions to the development of this legislation. It has been an honor and a pleasure to work with my distinguished colleagues on this bill, and I look forward to continuing to working with them and others to find better solutions to combating WNV.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3106. A bill to amend the Denali Commission Act of 1998 to establish the Denali transportation system in the State of Alaska; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise to introduce a bill to establish the Denali Transportation System for my State of Alaska. I am pleased to be joined by the senior Senator from Alaska, Senator STEVENS, on this important legislation. I understand that a companion measure is to be introduced in the House.

This bill authorizes the Secrtary of Transportation to establish a program to fund the costs of construction of the Denali Transportation System, at a level of $440 million per year for the next 5 years. It is patterned after similar statutory language establishing the Appalachian Commission, which provides for transportation construction in that area of the nation.

As my colleagues are aware, Alaska lags far behind the rest of the country in its transportation infrastructure. Our road system is still in its infancy and our highway system reaches only the major cities of the State.

As we all know, the key to a thriving and self-sufficient economy for any State or Nation is commerce. But commerce itself cannot thrive without transportation. We must be able to travel from one place to another, to move goods from one place to another, to harvest our resources and craft our merchandise and get them both to market.

The Denali transportation system will provide benefits far outweighing its costs, not only to Alaska but to the Nation. It will make it possible to provide Alaska's valuable resources to those who need them. It will allow significant savings for residents of Alaska's remote areas, who today must pay the nation's highest prices for even basic things that you and I take for granted, for food, for energy to heat our houses, for access to a doctor's care when we need it, and access to reasonable educational opportunities for our children.

None of these things are universally available in Alaska as they are in other States. We have children who must board an aircraft every day, at least when the weather permits, just to be flown across a river that separates them from their only area school. We have villages where fuel arrives barrel by barrel, because there is no other way to get it there. We have communities where butter, and eggs, and milk, and fresh vegetables are still luxury items. We have towns where injured workers and pregnant women in need of care have access to a doctor only when the weather permits them to undertake an arduous journey by boat and small aircraft.

Alaska has much to offer the rest of the Nation. We have incomparable resources and energetic, innovative citizens. It is time we have a transportation system that will allow us to fully enter the world of the 21st Century, and this bill will help us accomplish that goal.

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. 3106

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 ''Denali Transportation System Act''.

SEC. 2. DENALI TRANSPORTATION SYSTEM.

The Denali Commission Act of 1998 (Public Law 105–277; 42 U.S.C. 3121 note) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

''SEC. 309. DENALI TRANSPORTATION SYSTEM.

''(a) CONSTRUCTION.—

''(1) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary may pay the costs of construction (including the costs of design) in the State of Alaska of the Denali transportation system.

''(2) DESIGN STANDARDS.—Any design carried out under this section shall use technology and design standards determined by the Commission.

''(b) DESIGNATION OF SYSTEM BY COMMISSION.—The Commission shall submit to the Secretary of Transportation—

''(1) designations by the Commission of the general location and termini of highways, port and dock facilities, and trails on the Denali transportation system;

''(2) priorities for construction of segments of the system; and

''(3) other criteria applicable to the program established under this section.

''(c) CONNECTING INFRASTRUCTURE.—In carrying out this section, the Commission may construct marine connections (such as connecting small docks, boat ramps, and port facilities) and other transportation access infrastructure for communities that would otherwise lack access to the National Highway System.

''(d) ADDITION TO NATIONAL HIGHWAY SYSTEM.—On completion, each highway on the Denali transportation system that is not already on the National Highway System shall be added to the National Highway System.

''(e) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—In the construction of the Denali transportation system under this section, the Commission may give preference—

''(1) to the use of materials and products indigenous to the State; and

''(2) with respect to construction projects in a region, to local residents and firms headquartered in that region.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Denali Commission Act of 1998 (Public Law 105–277; 42 U.S.C. 3121 note) (as redesignated by section 2(1)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Commission—

''(1) to carry out the duties of the Commission under this title (other than section 309), and in accordance with the work plan approved under section 304, such sums as are necessary for fiscal year 2003; and

''(2) to carry out section 309 $440,000,000 for each of fiscal years 2003 through 2008.''.

By Mr. DURBIN (for himself and Mr. MCCAIN):

S. 3107. A bill to improve the security of State-issued driver's licenses, enhance highway safety, verify personal identity, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise to introduce the Driver's License Fraud Prevention Act. This is a timely bill that would provide much needed Federal assistance to the States to help make their driver's licenses more reliable and secure than they are today. I am pleased that my colleagues, Senator MCCAIN, has joined me in this effort.

Since September 11, 2001, we have learned much about our society. We learned in the most painful way that those aspects of our open society that we, as Americans, value the most, are the very same characteristics exploited by people who hate freedom.

Our open borders welcome millions of visitors and immigrants each year. Our civil society is based on the integrity of our citizens to self regulate their behaviors and to abide by the rule of law. And our very informal system of personal identification relies on the honesty of people to represent themselves as who they are, and to not hide their true identities.

Yet, after September 11, we learned that it was the very openness of our society that the nineteen terrorists took advantage of by slipping into our country and mingling among us for months before embarking on their evil tasks.

Since that tragic day, as a price for enhancing national security, we have imposed numerous measures across the country, including erecting barricades in front of buildings and requiring tougher screenings at airports. But there is one area that we need further improvements on, which is what our bill would address.

It seems that everywhere we turn today, we are asked to present photo identification. And what is the most common identification that we show? It's the State-issued driver's license.

The purpose of the driver's license has changed dramatically over the years. The driver's license was originally created by States for a public safety purpose, to permit a qualified person to operate a motor vehicle. Today, however, the license has become the most widely-used form of identification that is accepted by a wide variety of private and public entities. In an April 2002 poll conducted by Public Opinion Strategies, 83 percent of the American public noted that they used their driver's license for purposes other than driving.

A driver's license has undoubtedly become a key that can open many doors, yet the current framework that States rely on in issued licenses was not designed for the cards to be used for identification purposes. Today, the 50 States follow 50 different methods for verifying a person's identification when they process driver's license applications. They apply different standards for defining what the acceptable documentation are that they require from applicants.

Additionally, the level of security in the driver's licenses and identification cards varies widely, from those states that incorporate high tech biometric identifiers to ones that are simply laminated. In fact, law enforcement officials estimate that there are more than 240 different formats of valid driver's licenses in circulation today.

Because of the disparity in the State issuance processes and the varying degrees of security of the cards themselves, it is extremely easy for individuals today to abuse the system by shopping around for licenses in those States with the weakest practices.

Earlier this year, I chaired a hearing in the Governmental Affairs Subcommittee on Oversight of Government Management, where we learned that eighteen of the nineteen hijackers involved in the September 11th attacks probably used State-issued driver's licenses or identification cards to board those doomed airplanes.

We also learned that these terrorists specifically went to motor vehicle agencies in States that, at that time, employed some of the most lenient processes and requirements in issuing licenses and identification cards.

For example, on August 1, 2001, two of the terrorists, Hani Hanjour and Khalid Al-Mihdhar, drove a van from New Jersey to the Virginia Department of Motor Vehicles, DMV, office in Arlington. In the parking lot, they asked around until they found someone willing to lie and vouch for their Virginia residency. They met Luis Martinez-Flores and Herbert Villalobos who, for a price, were willing to help.

Hanjour and Al-Mihdhar paid these strangers $50 each and received notarized forms which claimed that the two transients were in fact Virginia residents. Using these fake documents, Hanjour and Al-Mihdhar walked into the DMV, stood in line, had their photos taken, and walked out with authentic State-issued Virginia photo identification cards.

The next day, on August 2, 2001, Hanjour and Al-Mihdhar returned to the same Arlington DMV with two other September 11 terrorists, Salem Al-Hazmi and Majed Moqed. Hanjour and Al-Mihdhar helped Al-Hazmi and Moqed obtain Virginia identification cards of their own by vouching that they lived together in Virginia.

On the same day, two more terrorists, Abdul Al-Omari and Ahmed Al-Ghamdi, who were renting a room at a Maryland motel, contacted Kenys Galicia, a Virginia legal secretary and notary public, through a referral from Luis Martinez-Flores, the same person who was loitering near the Arlington DMV the day before.

Al-Omari and Al-Ghamdi paid Galicia to have her prepare false notarized affidavits stating that the two men lived in Virginia. Using these fake documents, these two also went to a Virginia motor vehicles office and received State-issued identification cards.

In addition to exploiting the lax Virginia system, at least thirteen of the nineteen terrorists held driver licenses or identification cards from Florida, a State that, at that time, did not require proof of residency from applicants.

A few of the September 11 terrorists held licenses or identification cards from more than one State, including from California, Arizona, and Maryland, while only one did not appear to hold any form of American-issued identification. Some received duplicate cards from the same State within months of September.

Some of them used these licenses to rent automobiles and check into motels, which provided them with constant mobility. Others used licenses as identification to receive wire transferred funds and to register for flight schools.

Yet had they not held these valuable commodities, would they have been successful in carrying out their evil final acts?

At the Governmental Affairs Subcommittee hearing, we heard testimony from a Maryland police chief that, just two days before September 11th, Ziad Jarrah, one of the terrorists, was stopped for speeding on Interstate 95, north of Baltimore. During this traffic stop, Jarrah produced an apparently valid driver's license from the State of Virginia, and as a result, the stop proceeded in a typical fashion.

However, while Jarrah's license indicated a resident address in Virginia, Jarrah was in fact resting overnights at motels along the way to Newark, New Jersey, from where he boarded Flight 93, which ultimately crashed in Pennsylvania. Had he been unable to produce a license when he was pulled over, or if he had produced a license that the trooper could have identified as having been issued fraudulently, who knows how that stop may have concluded.

What we do know is that these terrorists bought their way into our shaky, unreliable, and dangerous system of government-issued identification. With the identification cards that they obtained under phony pretenses, doors opened across America, including the doors of the four doomed aircrafts on the morning of September 11, 2001.

More troubling is that it appears what the terrorists did in obtaining the multiple identification cards was a part of an official strategic plan that terrorists employ as they seek to infiltrate our society.

Last year, Attorney General Ashcroft presented to the Senate Judiciary Committee, on which I serve, a copy of an Al Qaeda Terrorists Manual that was found by Manchester, England, police officials during the search of an Al Qaeda member's home.

Contained in it is a page that reads as follows:

FORGED DOCUMENTS (IDENTITY CARDS, RECORD BOOKS, PASSPORTS)

The following security precautions should be taken:

* * * * *

2. All documents of the undercover brother, such as identity cards and passport, should be falsified.

3. When the undercover brother is traveling with a certain identity card or passport, he should know all pertinent [information] such as the name, profession, and place of residence.

* * * * *

5. The photograph of the brother in these documents should be without a beard. It is preferable that the brother's public photograph [on these documents] be also without a beard. If he already has one [document] showing a photograph with a beard, he should replace it.

6. When using an identity document in different names, no more than one such document should be carried at one time.

* * * * *

It is obvious to me that the September 11 terrorists were trained very well by Al Qaeda. They followed these instructions flawlessly as they sought, and successfully obtained, multiple State-issued driver's licenses and identification cards in America.

The use of fake IDs is one of the oldest tricks in the book for criminals, and now we know that this is a page in the book for terrorists as well.

It is also one of the oldest traditions of adolescence, and a rite of passage for many teenagers who casually use a borrowed or tampered ID to buy alcohol or tobacco products, or to get into a nightclub. But underage drinking not only endangers the lives of those consuming the alcohol, it threatens the lives of others as well.

According to a 2001 survey by the Substance Abuse and Mental Health Services Administration, SAMHSA, more than 10 million individuals aged between 12 to 20 years old reported consuming alcohol in the year prior to the survey. The National Highway Traffic Safety Administration, NHTSA, reports that in the United States, drivers between the ages of 16 and 21 account

for just seven percent of all drivers in the Nation, yet are involved in fifteen percent of all alcohol-related fatalities.

Drunk drivers are perhaps the most dangerous drivers on the road. But there are others who should not be allowed on the road.

We learned that thousands of drivers each year operate motor vehicles using multiple licenses issued under different identities from multiple states, which enable them to evade enforcement of driving restrictions imposed on them.

They know that under the current license issuance process, no State checks the background of license applicants with its sister States to see if that person may have already been issued a license by another State. So it is quite easy for individuals who have had their license suspended or revoked in one State to travel to a neighboring State and acquire a new license.

A reprentative of the American Association of Motor Vehicle Administrators, AAMVA, who testified at our hearing stated it this way: ''Although the current system allows for reciprocity among the States, it lacks uniformity. Individuals looking to undermine the system, whether it is a terrorist, a drunk driver or an identity thief, shop around for licenses in those States that have become the weakest link.''

AAMVA is a nonprofit voluntary association representing all motor vehicle agency administrators and chief law enforcement officials throughout the United States and Canada.

At the hearing, we also heard from a representative of the National Governors Association, NGA, who testified that the NGA has not yet developed an official position on the subject of identity security or enhancing the driver's license systems.

However, he acknowledged that the current system employed by States is broken, and is more likely to actually enable identity theft and fraud rather than prevent it.

He and others on the panel referenced several initiatives that some states were currently undertaking to improve their driver's license systems. For example, Virginia and Florida adopted revised procedures since last year to prevent the types of abuses we all recognized since September 11. And many other State legislatures have adopted, and are still in the process of debating, various reform measures, which, I believe, are all steps in the right direction.

I was especially encouraged to hear that the states were willing and ready to work with the Federal Government to address their problem together.

At our hearing, the AAMVA representative also testified that:

> Seventy-seven percent of the American public support Congress passing legislation to modify the driver's licensing process and identification security. And, we need Congress to help in five areas: (1) support minimum compliance standards and requirements that each state must adopt when issuing a license; (2) help us identify fraudulent documents; (3) support an interstate network for confirming a person's driving history; (4) impose stiffer penalties on those committing fraudulent acts; (5) and, provide funding to make this happen. Funding so states can help ensure a safer America.

Thus, following this hearing, I reached out to, and worked with a number of groups and individuals representing States, motor vehicle agencies, privacy advocates, immigrant communities, and the technology industry, to consider an appropriate federal legislation on this issue.

We also reached out to various agencies in the Bush Administration, including the Office of Homeland Security, to seek their input on legislation.

Then, in July of this year, President Bush unveiled his ''National Strategy for Homeland Security.'' In that report the President wrote:

> MAJOR INITIATIVES (STATE)
>
> Given the states' major role in homeland security, and consistent with the principles of federalism inherent to American government, the following initiatives constitute suggestions, not mandates, for state initiatives.
>
> Coordinate suggested minimum standards for state driver's licenses. The licensing of drivers by the 50 states, the District of Columbia, and the United States terrorities varies widely. There is no national or agreed upon state standards for content, format, or license acquisition procedures. Terrorist organizations, including Al-Qaeda operatives involved in the September 11 attacks, have exploited these differences. While the issuance of drivers' licenses fall squarely within the powers of the states, the federal government can assist the states in crafting solutions to curtail the future abuse of drivers' licenses by terrorist organizations. Therefore, the federal government, in consultation with state government agencies and non-governmental organizations, should support state-led efforts to develop suggested minimum standards for driver's licenses, recognizing that many states should and will exceed these standards.

I fully agree with the President that the issuance of driver's licenses is within the province of the States. In fact, our bill explicitly recognizes and preserves the right of states to determine the qualification or eligibility for obtaining driver's licenses, the terms of its validity, and how the license should look.

But I also agree with the President that there is an important role for the Federal Government to play in assisting the states to address the national problem of fraud and abuse. I therefore believe this bill that we are introducing today strikes an appropriate balance between the states' authority and federal interests.

Our bill is narrowly drafted to improve the process by which licenses are issued. First, I note that there are two already existing federal programs that address driver's licenses.

The National Driver Register, NDR, which was first created by Congress in 1960 and revised in 1982, serves as a central file of state reports on drivers whose licenses have been suspended, revoked, canceled, or denied, or who have been convicted of serious traffic-related offenses. The NDR's primary purpose is to enable State motor vehicle agencies to share driver record information with each other so that they can make informed decisions about issuing driver's licenses to individuals, particularly those who move into their states from other jurisdictions.

The Commercial Driver License Information System is the second Federal program, which was established by Congress in 1986, to keep problem commercial drivers off the roads, and to prevent traffic violations from being hidden behind multiple licenses.

Every State today participates in both federal programs, and all States currently share certain information with each other in order to make informed decisions before issuing driver's licenses. However, the current limited scope of these programs leave a gaping loophole: One deals only with records of problem drivers, while the other deals only with records of commercial drivers. What about the records of non-problem drivers who are not commercial drivers?

Our bill closes this loophole by consolidating the appropriate functionalities of these two programs and by adding new security measures that would allow every State to check all other States' records of all drivers before issuing commercial or regular driver's licenses. This new process will help prevent States from issuing more than one license to any one individual, which will end forum shopping, abuse, and fraud.

In recognizing the federal responsibilities of this program, our bill would provide Federal funding for the upgrades as well as direct Federal funding to states to assist their continued participating in the new integrated system.

While the goals of the bill are specific and firm, we are also mindful of the jurisdiction of the states to regulate who is eligible to receive driver's licenses, and what the licenses should look like. We thus provide authority to the Secretary of Transportation to engage in a negotiated rulemaking which would include all the appropriate affected entities and individuals, in order to collectively develop the required minimum standards on the issuance process.

This program can be successful only if every state participates enthusiastically. Therefore, to provide maximum input from the states, the bill specifically requires that the Secretary consult with the states and entities representing the interest of the states, and, as necessary, with interested groups and individuals in developing consensus implementing regulations.

I should note, as the White House has, that many States should and will exceed these minimum standards set forth in this bill. So for states that are already above the curve, our bill provides federal grants to highlight innovative pilot programs designed to verify driver's identity, prevent fraud,

or demonstrate the use of technology to create tamper resistant licenses.

Our bill also requires States to make their driver's licenses and identification cards more resistant to tampering, altering, or counterfeiting then they are today. But, again, the bill does not specify what those security features ought to be. Instead, it requires the Secretary of Transportation to engage in rulemaking with the States and with experts to collectively develop the required minimum standards for all states to adopt.

The bill also cracks down on internal fraud and bribery that, unfortunately, occur behind the DMV counters. We impose tough penalties for unauthorized access to or use of DMV equipment used to manufacture licenses, and also creates penalties for persons who fraudulently issue, obtain, renew, or transfer a driver's license. The bill also requires States to conduct internal audits of license issuance processes to identify and address these fraudulent activities.

Finally, our bill enhances privacy protection for license holders by significantly strengthening the Driver's Privacy Protection Act, which Congress last amended in 1994. The bill protects the privacy of driver's information by expanding the definitions of sensitive ''personal information'' and by tightening up the current set of permissible disclosures.

Additionally, under this bill, State motor vehicle agencies would be prohibited from disclosing or displaying social security numbers on any driver's license, motor vehicle registration, or any other document issued for the purpose of identification.

With Federal financial and technical assistance and a narrowly tailored common-sense approach, I believe this bill can close the loopholes that continue to leave all of us vulnerable. By working together, we can assist states to adopt a new system that will ensure integrity in the issuance process, integrity in the cards themselves, and protection of privacy of drivers across the country. I urge my colleagues to support this important bill.

By Ms. COLLINS:

S. 3110. A bill to require further study before amendment 13 to the Northeast Multispecies (Groundfish) Management Plan is implemented; to the Committee on Commerce, Science, and Transportation.

Ms. COLLINS. Mr. President, I rise today to introduce the Fisheries Management Fairness Act in order to provide New England fishermen with a guarantee that the fisheries management decisions that affect their lives will not be made without the benefit of sound, reliable data.

Fishing is more than just a profession in New England. Fishing is a way of life. This way of life is being threatened, however, by excessive regulations and unnecessary litigation. Despite scientific evidence of a rebound in fish stocks, fishermen are suffering under ever more burdensome restrictions. As a result of recent litigation, fishermen have seen their days at sea slashed, struggle to implement new gear changes, and are squeezed into ever smaller fishing areas.

Everyday, I hear from fishermen who struggle to support their families because they have been deprived of their right to make an honest living on the seas. The ''working waterfronts'' of our communities are in danger of disappearing, likely to be replaced by tourism and development. Once the culture of fishing is lost, it will be all but impossible ti replace.

On September 11, 2002, the National Marine Fisheries Service announced that the trawler gear used on the NOAA research vessel Albatross IV had been calibrated incorrectly, casting suspicion over the data it had collected since February of 2000. The miscalibrated gear had been used to conduct the last eight stock abundance surveys, which measure long-term increases and decreases in stock populations.

Data gathered by these surveys are the basis for regulations in fisheries management plans governing the rebuilding of overfished stocks. These regulations take the form of ''amendments'' to the New England's overall groundfish management plan, covering a complex of thirteen groundfish species. Amendment 13, the next set of regulations, is supposed to be ready for implementation by August 22, 2003.

Although the National Marine Fisheries Service has conducted an observation cruise and a performance review workshop with industry to examine the extent of the damage in the survey, the agency has concluded that additional research is required to determine the full extent of the damage caused by the flawed gear. The Service has pledged to conduct a ''short-term experiment'' to determine the extent of the damage to the survey. This short-term experiment will rely on video and sensor equipment to gather data, and a subsequent workshop to examine the data and produce a report that can be used in updating groundfish assessments.

It is unlikely that this experiment will provide the quality of data necessary to develop Amendment 13 by its court-ordered deadline. The type of data necessary to develop fisheries management plans can be produced only after years of research that demonstrate long-term stock trends. Theoretical modeling of past data of questionable quality is simply not good enough to develop the regulations of a plan that will affect the survival of our fishermen.

When fishermen's livelihoods depend on the quality of survey data, we owe it to them to get the data collection right. There is no room for second-rate science and faulty data.

My bill addresses these problems by preventing Amendment 13 from being implemented for two years, enough time to allow the Northeast Fishery Science Center and the National Marine Fishery Center to determine the reliability of the data collected by the Albatross IV and to collect accurate data on which to base future amendments.

I will not stand idly by and let New England's fishing community die without a fight. I pledge to work with my colleagues in the Senate to work to pass this legislation. If we cannot pass it as a rider to another bill during this session, then I plan to reintroduce it and fight for its passage when we reconvene next year.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 338—DESIGNATING THE MONTH OF OCTOBER, 2002, AS ''CHILDREN'S INTERNET SAFETY MONTH''

Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, Mrs. HUTCHISON, Mr. ALLEN, Mr. CLELAND, Mr. BROWNBACK, Mr. CRAIG, Mrs. CLINTON, Ms. CANTWELL, Mr. DURBIN, Mr. EDWARDS, Mr. DODD, Mr. KERRY, Mr. BUNNING, Mr. HATCH, Mr. BENNETT, Mr. HUTCHINSON, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 338

Whereas the Internet is one of the most effective tools available for purposes of education and research and gives children the means to make friends and freely communicate with peers and family anywhere in the world;

Whereas the new era of instant communication holds great promise for achieving better understanding of the world and providing the opportunity for creative inquiry;

Whereas it is vital to the well-being of children that the Internet offer an open and responsible environment to explore;

Whereas access to objectionable material, such as violent, obscene, or sexually explicit adult material may be received by a minor in unsolicited form;

Whereas there is a growing concern in all levels of society to protect children from objectionable material; and

Whereas the Internet is a positive educational tool and should be seen in such a manner rather than as a vehicle for entities to make objectionable materials available to children: Now, therefore, be it

Resolved, That the Senate

(1) designates October, 2002, as ''Children's Internet Safety Month'' and supports its official status on the Nation's promotional calendar; and

(2) supports parents and guardians in promoting the creative development of children by encouraging the use of the Internet in a safe, positive manner.

SENATE RESOLUTION 339—DESIGNATING NOVEMBER 2002, AS ''NATIONAL RUNAWAY PREVENTION MONTH''

Mrs. MURRAY (for herself and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

Whereas the prevalence of runaway and homeless youth in our Nation is staggering, with studies suggesting that between 1,300,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets are often those who have been ''thrown out'' of their homes by their families, who have been physically, sexually, and emotionally abused at home, who have been discharged by State custodial systems without adequate transition plans, who have lost their parents through death or divorce, and who are too poor to secure their own basic needs;

Whereas effective programs supporting runaway youth and assisting young people in remaining at home with their families succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national responsibility;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based support services that address the critical needs of such youth;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the National Network for Youth and National Runaway Switchboard are cosponsoring National Runaway Prevention Month to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

Resolved, That the Senate designates November 2002, as ''National Runaway Prevention Month''.

Mrs. MURRAY. Mr. President, I am pleased to be joined by my colleague from Maine, Senator COLLINS, in submitting this Senate resolution designating November as ''National Runaway Prevention Month.''

A recent study by the Federal Office of Juvenile Justice and Delinquency Prevention estimates that nearly 1.7 million American youth run away or are turned out of their homes in a single year. Many of these children end up living on the streets where they become victims of illness, hunger, drug use, and crime. Any parent knows how important their support is to helping children get a good start in life.

Unfortunately, too many young people find themselves in desperate straits. Imagine a young girl, perhaps 15 or 16 years old, finding herself with no place to sleep. Or realizing that she is hungry but has no money left for food or for bus fare to get to a soup kitchen. Imagine her fear when the nights turn very cold and the clothes on her back are not enough to keep her warm. As a country, we would not, could not and must not ignore this young girl. I bring this resolution to the floor today to raise awareness of the tragedy of runaway youth, to express my appreciation for those who work to prevent runaways and help street children, and to remind my colleagues of the difference our funding decisions make in people's lives.

Many street youth are running from families beleaguered by physical abuse, neglect, parental substance abuse, poverty or serious family conflict. Unlike many homeless adults, who often suffer from mental illness or substance abuse problems, most of these young people are leaving their homes as a reaction to intolerable circumstances. But while the conditions that drive these young people out of their homes may be intolerable, they are almost always preventable or treatable.

As with many problems our society faces, the best way for us to prevent runaway and ''thrownaway'' children from taking to the streets is for our communities to work together. Communities can and must intervene to strengthen families and help youth in high-risk situations. The needs of these families are as diverse as our nation, but the solutions are often as simple as high-quality intervention services from a government, community or faith-based organization. Local organizations offering services to victims of domestic violence, counseling and anger management courses, substance abuse treatment and other social services could make the difference in whether or not a child runs away.

I would like to take a moment to recognize and thank the social workers, counselors, caseworkers, teachers, and volunteers who devote their lives to preventing runaways. The services they offer vary widely, but their intervention may keep a family together and a young person in a healthy home. I would also like to thank the thousands of workers and volunteers who work with runaway youth. It is not always easy to work with young people who may be angry, alienated or addicted to drugs, but the people who go into the streets to find and help these children are capable, committed and caring. They are often the only thing standing between a young person and self-destruction. They help street children find shelter and food, get an education and recover from substance abuse where necessary. They also help them reunite with their families when appropriate, or find a safe alternative. They are truly guardian angels.

Finally, I want to remind my colleagues that many of the local services that can help a struggling family become a healthy home are federally funded. We often see these services as abstract line-items in an appropriations bill: Temporary Assistance to Needy Families, Child Abuse Prevention and Treatment State Grants, and Social Services Block Grants. We must remember that these are not just line-items, they are lifelines to youth who need our help. Given the enormous deficits most States are facing, many of these services are losing critical state resources. As we ensure resources are available for the war against terrorism, we must not abandon our vulnerable young people in their own fight for survival.

The recent White House Conference on Missing, Exploited, and Runaway Children helped to remind us of the fate of thousands of these children. Declaring November to be ''National Runaway Prevention Month'' would build on that reminder. Across our country, communities will undertake activities during November to increase public awareness of the circumstances facing many youth and the need for safe, healthy, and productive alternatives and resources for these children and their families. This resolution puts the United States Senate on record in support of National Runaway Prevention Month and its effort to promote family-based and community-based interventions that prevent young people from running away from home. I urge my colleagues to support our Nation's vulnerable youth by co-sponsoring this resolution and making an effort through their actions or their words to raise awareness of the tragedy of runaway youth.

SENATE CONCURRENT RESOLUTION 152—DESIGNATING AUGUST 7, 2003, AS ''NATIONAL PURPLE HEART RECOGNITION DAY''

Mrs. CLINTON (for herself and Mr. HAGEL) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 152

Whereas the Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary war, but was revived out of respect for the memory and military achievements of George Washington in 1932, the 200th anniversary of his birth; and

Whereas the designation of August 7, 2003, as ''National Purple Heart Recognition Day'' is a fitting tribute to General Washington and to the over 1,535,000 recipients of the Purple Heart Medal, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates August 7, 2003, as ''National Purple Heart Recognition Day'';

(2) encourages all Americans to learn about the history of the Order of the Purple Heart for Military Merit and to honor its recipients; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for the Order of the Purple Heart for Military Merit.

AMENDMENTS SUBMITTED & PROPOSED

SA 4871. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table.

SA 4872. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4873. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4874. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4875. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4876. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4877. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, supra; which was ordered to lie on the table.

SA 4878. Mr. REID (for Mr. KERRY) proposed an amendment to the bill H.R. 3389, to reauthorize the National Sea Grant College Program Act, and for other purposes.

TEXT OF AMENDMENTS

SA 4871. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SEC. 2.

The Senate finds that under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereinafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in t8he 1980s and against Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SEC. 3. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(c) on planning to establish a secure environment in the immediate aftermatch of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The reported required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4872. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for Use of Force Against Iraq Resolution of 2002.''

SEC. 2.

The Senate finds that—Under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring

states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SEC. 2. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a),the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat of the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS.

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4873. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SEC. 2.

The Senate finds that under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SEC. 3. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4874. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SEC. 2.

The Senate finds that under United Nations Security Council Resolution 687 (1991),

which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism.

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SEC. 2. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) That the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS.

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4875. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SEC. 2.

The Senate finds that under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism, require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SEC. 3. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS.

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but not later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4876. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table; as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SEC. 2

The Senate finds that under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

On numerous occasions since 1991, the United Nations Security Council has reaffirmed Resolution 687, most recently in Resolution 1284, which established a new weapons inspection regime to ensure Iraqi compliance with its obligations under Resolution 687;

On numerous occasions since 1991, the United States and the United Nations Security Council have condemned Iraq's failure to fulfill its obligations under Resolution 687 to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program;

Iraq under Saddam Hussein used chemical weapons in its war with Iran in the 1980s and against the Kurdish population in northern Iraq in 1988;

Since 1990, the United States has considered Iraq to be a state sponsor of terrorism;

Iraq's failure to comply with its international obligations to destroy or dismantle its weapons of mass destruction program and its prohibited ballistic missile program, its record of using weapons of mass destruction, its record of using force against neighboring states, and its support for international terrorism require a strong diplomatic, and if necessary, military response by the international community, led by the United States.

SECTION 3. AUTHORIZATION FOR THE USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION FOR THE USE OF FORCE.—The President, subject to subsection (b), is authorized to use United States Armed Forces—

(1) to enforce United Nations Security Council Resolution 687, and other resolutions approved by the Council which govern Iraqi compliance with Resolution 687, in order to secure the dismantlement or destruction of Iraq's weapons of mass destruction program and its prohibited ballistic missile program; or

(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

SEC. 3. CONSULTATION AND REPORTS.

(a) CONSULTATION.—The President shall keep Congress fully and currently informed on matters relevant to this joint resolution.

(b) INITIAL REPORT.—

(1) As soon as practicable, but no later than 30 days after exercising the authority under subsection 2(a), the President shall submit to Congress a report setting forth information—

(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

(2) CLASSIFICATION OF REPORT.—The report required by paragraph (1) may be submitted in classified form.

(c) SUBSEQUENT REPORTS.—Following transmittal of the report required by subsection (b), the President shall submit a report to Congress every 60 days thereafter on the status of United States diplomatic, military and reconstruction operations with respect to Iraq.

SEC. 4. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SA 4877. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 45, to authorize the use of United States Armed Forces against Iraq; which was ordered to lie on the table, as follows:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Authorization for the Use of Force Against Iraq Resolution of 2002.''

SEC. 2.

The Senate Finds that under United Nations Security Council Resolution 687 (1991), which effected a formal cease-fire following the Persian Gulf War, Iraq agreed to destroy or dismantle, under international supervision, its nuclear, chemical, and biological weapons programs (hereafter in this joint resolution referred to as Iraq's ''weapons of mass destruction program''), as well as its program to develop or acquire ballistic missiles with a range greater than 150 kilometers (hereafter in this joint resolution referred to as Iraq's ''prohibited ballistic missile program''), and undertook unconditionally not to develop any such weapons thereafter.

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(2) in the exercise of individual or collective self-defense, to defend the United States or allied nations against a grave threat posed by Iraq's weapons of mass destruction program and its prohibited ballistic missile program.

(b) REQUIREMENT FOR DETERMINATION THAT USE OF FORCE IS NECESSARY.—Before exercising the authority granted by subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has attempted to seek, through the United Nations Security Council, adoption of a resolution after September 12, 2002 under Chapter VII of the

United Nations Charter authorizing the action described in subsection (a)(1), and such resolution has been adopted; or

(2) that the threat to the United States or allied nations posed by Iraq's weapons of mass destruction program and prohibited ballistic missile program is so grave that the use of force is necessary pursuant to subsection (a)(2), notwithstanding the failure of the Security Council to approve a resolution described in paragraph (1).

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(A) about the degree to which other nations will assist the United States in the use of force in Iraq;

(B) regarding measures the United States is taking, or preparing to take, to protect key allies in the region from armed attack by Iraq; and

(C) on planning to establish a secure environment in the immediate aftermath of the use of force (including estimated expenditures by the United States and allied nations), and, if necessary, prepare for the political and economic reconstruction of Iraq following the use of force.

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(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that section 2 is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution superseded any requirement of the War Powers Resolution.

SA 4878. Mr. REID (for Mr. KERRY) proposed an amendment to the bill H.R. 3389, to reauthorize the National Sea Grant College Program Act, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Sea Grant College Program Act Amendments of 2002''.

SEC. 2. AMENDMENTS TO FINDINGS.

Section 202(a)(6) of the National Sea Grant College Program Act (33 U.S.C. 1121(a)(6)) is amended by striking the period at the end and inserting '', including strong collaborations between Administration scientists and scientists at academic institutions.''.

SEC. 3. REQUIREMENTS APPLICABLE TO NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) QUADRENNIAL STRATEGIC PLAN.—Section 204 (c)(1) of the National Sea Grant College Program Act (33 U.S.C. 1123(c)(1) is amended to read as follows:

''(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop at least every 4 years a strategic plan that establishes priorities for the national sea grant college program, provides an appropriately balanced response to local, regional, and national needs, and is reflective of integration with the relevant portions of the strategic plans of the Department of Commerce and of the Administration.''.

(b) PROGRAM EVALUATION AND RATING.—

(1) EVALUATION AND RATING REQUIREMENT.—Section 204(d)(3)(A) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(A)) is amended to read as follows:

''(A)(i) evaluate the performance of the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary under subsection (c), and determine which of the programs are the best managed and carry out the highest quality research, education, extension, and training activities; and

''(ii) rate the programs according to their relative performance (as determined under clause (i) into no less than 5 categories, with each of the 2 best-performing categories containing no more than 25 percent of the programs;''.

(2) REVIEW OF EVALUATION AND RATING PROCESS.—(A) After 3 years after the date of the enactment of this Act, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall contract with the National Academy of Sciences—

(i) to review the effectiveness of the evaluation and rating system under the amendment made by paragraph (1) in determining the relative performance of programs of sea grant colleges and sea grant institutes;

(ii) to evaluate whether the sea grant programs have improved as a result of the evaluation process; and

(iii) to make appropriate recommendations to improve the overall effectiveness of the evaluation process.

(B) The National Academy of Sciences shall submit a report to the Congress on the findings and recommendations of the panel under subparagraph (A) by not later than 4 years after the date of the date of the enactment of this Act.

(c) ALLOCATION OF FUNDING.—Section 204(d)(3)(B) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(B)) is amended by striking ''and'' after the semicolon at the end of clause (ii) and by adding at the end the following:

''(iv) encourage and promote coordination and cooperation between the research, education, and outreach programs of the Administration and those of academic institutions; and''.

SEC. 4. COST SHARE.

Section 205(a) of the National Sea Grant College Program Act (33 U.S.C. 1124(a)) is amended by striking ''section 204(d)(6)'' and inserting ''section 204(c)(4)(F)''.

SEC. 5. FELLOWSHIPS.

(a) ENSURING EQUAL ACCESS.—Section 208(a) of the National Sea Grant College Program Act (33 U.S.C. 1127(a)) is amended by adding at the end the following: ''The Secretary shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection. Not later than 1 years after the date of the enactment of the National Sea Grant College Program Amendments of 2002, and every 2 years thereafter, the Secretary shall submit a report to the Congress describing the efforts by the Secretary to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection, and the results of such efforts.''.

(b) POSTDOCTORAL FELLOWS.—Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)) is repealed.

SEC. 6. TERMS OF MEMBERSHIP FOR SEA GRANT REVIEW PANEL.

Section 209(c)(2) of the National Sea Grant College Program Act (33 U.S.C. 1128(c)(2)) is amended by striking the first sentence and inserting the following: ''The term of office of a voting member of the panel shall be 3 years for a member appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002, and 4 years for a member appointed or reappointed after the date of enactment of the National Sea Grant College Program Act Amendments of 2002. The Director may extend the term of office of a voting member of the panel appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002 by up to 1 year.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subsections (a), (b), and (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) are amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $60,000,000 for fiscal year 2003;

''(B) $75,000,000 for fiscal year 2004;

''(C) $77,500,000 for fiscal year 2005;

''(D) $80,000,000 for fiscal year 2006;

''(E) $82,500,000 for fiscal year 2007; and

''(F) $85,000,000 for fiscal year 2008.

''(2) PRIORITY ACTIVITIES.—In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated for each of fiscal years 2003 through 2008—

''(A) $5,000,000 for competitive grants for university research on the biology and control of zebra mussels and other important aquatic nonnative species;

''(B) $5,000,000 for competitive grants for university research on oyster diseases, oyster restoration, and oyster-related human health risks;

''(C) $5,000,000 for competitive grants for university research on the biology, prevention, and forecasting of harmful algal blooms, including Pfiesteria piscicida; and

''(D) $3,000,000 for competitive grants for fishery extension activities conducted by sea grant colleges or sea grant institutes to enhance, and not supplant, existing core program funding.

''(b) LIMITATIONS.—

''(1) ADMINISTRATION.—There may not be used for administration of programs under this title in a fiscal year more than 5 percent of the lesser of—

''(A) the amount authorized to be appropriated under this title for the fiscal year; or

''(B) the amount appropriated under this title for the fiscal year.

''(2) USE FOR OTHER OFFICES OR PROGRAMS.—Sums appropriated under the authority of subsection (a)(2) shall not be available for administration of this title by the National Sea Grant Office, for any other Administration or department program, or for any other administrative expenses.

''(c) DISTRIBUTION OF FUNDS.—In any fiscal year in which the appropriations made under subsection (a)(1) exceed the amounts appropriated for fiscal year 2003 for the purposes described in such subsection, the Secretary shall distribute any excess amounts (except amounts used for the administration of the sea grant program) to any combination of the following:

''(1) sea grant programs, according to their rating under section 204(d)(3)(A);

''(2) national strategic investments authorized under section 204(b)(4);

''(3) a college, university, institution, association, or alliance for activities that are necessary for it to be designated as a sea grant college or sea grant institute;

''(4) a sea grant college or sea grant institute designated after the date of enactment

of the National Sea Grant College Program Act Amendments of 2002 but not yet evaluated under section 204(d)(3)(A).''.

SEC. 8. ANNUAL REPORT ON PROGRESS IN BECOMING DESIGNATED AS SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207 of the National Sea Grant college Program Act (16 U.S.C. 1126) is amended by adding at the end the following:

''(e) ANNUAL REPORT ON PROGRESS.—

''(1) REPORT REQUIREMENT.—The Secretary shall report annually to the Committee on Resources and the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, on efforts and progress made by colleges, universities, institutions, associations, and alliances to become designated under this section as sea grant colleges or sea grant institutes, including efforts and progress made by sea grant institutes in being designated as sea grant colleges.

''(2) TERRITORIES AND FREELY ASSOCIATED STATES.—The report shall include description of—

''(A) efforts made by colleges, universities, associations, institutions, and alliances in United States territories and freely associated States to develop the expertise necessary to be designated as a sea grant institute or sea grant college;

''(B) the administrative, technical, and financial assistance provided by the Secretary to those entities seeking to be designated; and

''(C) the additional actions or activities necessary for those entities to meet the qualifications for such designation under subsection (a)(1).''.

SEC. 9. COORDINATION.

Not later than February 15 of each year, the Under Secretary of Commerce for Oceans and Atmosphere and the Director of the National Science Foundation shall jointly submit to the Committees on Resources and Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on how the oceans and coastal research activities of the National Oceanic and Atmospheric Administration, including the Coastal Ocean Program and the National Sea Grant College Program, and of the National Science Foundation will be coordinated during the fiscal year following the fiscal year in which the report is submitted. The report shall describe in detail any overlapping ocean and coastal research interests between the agencies and specify how such research interests will be pursued by the programs in a complementary manner.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 10, 2002, at 11 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2986, a bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, Michigan.

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

COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 10, 2002 at 10 a.m. to hold an open hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 10, 2002 at 5 p.m. to hold a closed Conference on the FY 03 Intelligence Authorization bill with the House Permanent Select Committee on Intelligence.

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

SUBCOMMITTEE ON PERSONNEL

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 10, 2002, at 9:30 a.m., in open session to receive testimony regarding the Department of Defense's inquiry into Project 112/Shipboard Hazard and Defense (SHAD) tests.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Andrew Morrison, a State Department fellow on the staff of the Committee on Foreign Relations, be granted the privilege of the floor during consideration of S.J. Res. 45.

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

Mr. CARPER. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jessica Hafer, a member of my staff, during debate on this resolution.

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

MAKING FURTHER CONTINUING APPROPRIATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 122 received from the House, which is now at the desk.

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

The legislative clerk read as follows:

A joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 2003, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The joint resolution (H.J. Res. 122) was read the third time and passed.

PATSY TAKEMOTO MINK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.J. Res. 113, which has been received from the House and is now at the desk.

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

The legislative clerk read as follows:

A joint resolution (H.J. Res. 113) recognizing the contributions of Patsy Takemoto Mink.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider be laid upon the table, the preamble be agreed to, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The joint resolution (H.J. Res. 113) was read the third time and passed.

The preamble was agreed to.

MEASURE PLACED ON THE CALENDAR—H.R. 5427

Mr. REID. Mr. President, H.R. 5427 is at the desk and due for its second reading; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask that H.R. 5427 be read a second time, but I also object to any further proceedings.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 5427) to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the ''Joe Skeen Federal Building''.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

MEASURE READ THE FIRST TIME—H.R. 4968

Mr. REID. Mr. President, it is my understanding that H.R. 4968, which has been received from the House, is now at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

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

The legislative clerk read as follows:

A bill (H.R. 4968) to provide for the exchange of certain lands in Utah.

Mr. REID. I ask for its second reading but object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—S. 3099

Mr. REID. Mr. President, I understand S. 3099, introduced earlier today by Senator DASCHLE and others, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 3099) providing emergency disaster assistance to agricultural producers.

Mr. REID. I ask for its second reading, and I object to my own request on behalf of the minority.

The PRESIDING OFFICER. The objection is heard.

The bill will be read for the second time on the next legislative day.

MEASURE READ THE FIRST TIME—S. 3100

Mr. REID. Mr. President, I understand S. 3100, introduced earlier today by Senator FEINSTEIN and others, is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 3100) to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

Mr. REID. I now ask for its second reading, and I object to my own request on behalf of the minority.

The PRESIDING OFFICER. The objection is heard.

This bill will be read for the second time on the next legislative day.

REFERRAL OF S. 2018

Mr. REID. I ask unanimous consent that Calendar No. 637, S. 2018, a bill to establish the T'uf Shur Bien Preservation Trust Area, be referred to the Indian Affairs Committee for the sole purpose of the committee reporting the bill with amendments that were agreed upon by the committee, and the bill be returned to the calendar forthwith.

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

MILITARY CONSTRUCTION APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2003—CONFERENCE REPORT

Mr. REID. Mr. President, I submit a report of the committee on the conference on the bill (H.R. 5011), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5011), making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of October 9, 2002.)

Mrs. FEINSTEIN. Mr. President, I am pleased to bring before the Senate the conference agreement on the fiscal year 2003 military construction appropriations bill.

While the United States is engaged in a war on terrorism, and Congress is debating whether to give the President the authority to attack Iraq, it is timely that we are also acting to provide the military with the resources it needs to carry out its missions. The military construction appropriations bill funds scores of mission critical and quality of life infrastructure projects that are essential to support the efforts of the military.

I am pleased that the Senate has moved quickly to take up this conference agreement. This bill provides nearly $10.5 billion in new budget authority, an amount only slightly below last year's funding. Given the many additional requirements being imposed on the military, particularly to meet new antiterrorism and force protections standards, additional funding would have been helpful. Still, within the funding constraints imposed on the bill, this measure does an excellent job of meeting the most critical infrastructure needs of the services.

Mr. President, the projects in this bill address military readiness, quality of life, and anti-terrorism/force protection requirements. The conference attempted to address as many of the services' priorities as possible, and I believe we have done a good job in that respect, particularly in light of the fact that the House and Senate bills had very significant differences between them.

The conference agreement provides nearly $4.9 billion for the active components of the military. It provides $688 million for the guard and reserve, more than double the President's budget request. Within these amounts is included $799 million for anti-terrorism/force protection enhancements for military facilities worldwide. This commitment to protect American military bases will help to ensure the security of military personnel and the families, as well as to protect the taxpayers' substantial investment in defense infrastructure.

The Conference Agreement also provides $1.2 billion for barracks, and $4.2 billion for military family housing, both of which are top quality of life priorities for military personnel and their families.

There are two other very important items that merit mention. The first is a $25 million initiative to accelerate the construction associated with the Army's Stryker Brigade combat teams.

The Stryker Brigades will offer the military fast, light-weight, air-mobile combat power—a far advanced system when compared to the restrictions with heavy armor.

An additional $25 million initiative will accelerate the Air Force's C–17 Air Mobility Program.

The C–17 initiative will provide the infrastructure needed to support and enhance the ability of one of the air force's most dependable aircraft, capable of transporting both troops and equipment. The C–17 program will help address the significant shortfall in Military airlift requirements.

The conference report also includes $20 million dollars for a BRAC Environmental cleanup initiative.

This initiative assists Military installations that have been closed as part of the base realignment and closure effort. This additional funding, in addition to the budget requested amount, is necessary to enable the military to honor its commitments to the people and the communities that have been affected by these last four rounds of base closure.

This is a start, but much more will be needed to complete the environmental clean up of BRAC sites across the nation in a reasonable period of time. This is certainly something that should be considered before the nation embarks on any future rounds of base closings.

Mr. President, I thank chairman BYRD, Senator STEVENS, and my ranking member on the subcommittee, Senator HUTCHISON, for their support and assistance in bringing this conference agreement to the Senate. I also thank the subcommittee staff, including Christina Evans and BG Wright of the majority staff; Sid Ashworth and Alycia Farrell of the minority staff; and Matt Miller of my staff, for their hard work on this measure.

Given the difficulties that have faced the appropriations process this year, I am pleased and grateful that the military construction bill will be sent to the President prior to the Senate's adjournment. I urge the President to sign this bill without delay.

Mrs. HUTCHISON. Mr. President, I am pleased to bring before the Senate the conference agreement on the fiscal year 2003 military construction appropriations bill and endorse those comments made by the Chairman, Senator FEINSTEIN.

I am gratified that the Congress was able to move forward on a military construction bill for fiscal year 2003. This is especially critical when the nation is considering military action to prevent the spread of terrorism and the potential use of weapons of mass destruction. Given the circumstances, this is a particularly timely, and time sensitive, Conference Report, and it is

important that the Senate is moving quickly to pass it so that we can provide our military personnel the housing and facilities they need to perform their duties.

This is a good package that meets the most pressing needs of the military, both in terms of readiness and quality of life issues. It is not, of course, a perfect package. The Conference Report does not include everything that the Senate wanted; nor does it includes everything that the House wanted. It does, however, address the priorities of the Department of Defense as well as both Houses of Congress. It is a carefully crafted compromise that is both balanced and bipartisan.

The Chairman highlighted several of the critical items contained in this bill, such as $1.2 billion for new barracks, $151 million for military hospitals and medical facilities, $688 million for new Guard and Reserve facilities, and $1.34 billion for new family housing for military personnel and their families.

These are important increases that signal a renewed commitment to upgrading and rebuilding the infrastructure that is truly the backbone of our Nation's military. I am proud to support funding for these important programs.

In recent years, we have made real progress in improving family housing for single service members and for families, as well as improving the workplaces for the men and women who serve America both at home and abroad. However, much remains to be done.

It is my hope that in future budgets, we will see sufficient resources to continue the Department of Defense's efforts to modernize, renovate and improve aging defense facilities and infrastructure. the effects of sustained and structural inattention by the Pentagon and the military services to basic infrastructure are apparent on nearly every military installation. This will continue to have long-term implications as facilities continue to age disproportionately without a sustained level of investment in maintenance and repair.

Mr. President, I want to thank Chairman BYRD, Senator STEVENS, and the Chairman of this subcommittee, Senator FEINSTEIN, for their unflagging support and assistance in bringing this conference agreement to the Senate. I also thank the subcommittee staff for their hard work on this measure.

Mr. REID. I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD with no intervening action or debate.

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

The conference report was agreed to.

RECOGNIZING THE EXPLOITS OF THE OFFICERS AND CREW OF THE S.S. HENRY BACON

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H. Con. Res. 411.

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

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 411) recognizing the exploits of the officers and crew of the S.S. *Henry Bacon*, a United States Liberty ship that was sunk on February 23, 1945, in the waning days of World War II.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to, the motion to reconsider be laid on the table, and any statements regarding this resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 411) was agreed to.

The preamble was agreed to.

NATIONAL SEA GRANT COLLEGE PROGRAM ACT AMENDMENTS OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to H.R. 3389, Calendar No. 463.

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

The legislative clerk read as follows:

A bill (H.R. 3389) to reauthorize the National Sea Grant College Program Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Senator KERRY has an amendment at the desk. I ask unanimous consent the amendment be considered and agreed to, the motion to reconsider be laid on the table, the bill as amended be read a third time, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The amendment (No. 4878) was agreed to, as follows:

(Purpose: To reauthorize the National Sea Grant Program, and for other purposes)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Sea Grant College Program Act Amendments of 2002''.

SEC. 2. AMENDMENTS TO FINDINGS.

Section 202(a)(6) of the National Sea Grant College Program Act (33 U.S.C. 1121(a)(6)) is amended by striking the period at the end and inserting '', including strong collaborations between Administration scientists and scientists at academic institutions.''.

SEC. 3. REQUIREMENTS APPLICABLE TO NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) QUADRENNIAL STRATEGIC PLAN.—Section 204 (c)(1) of the National Sea Grant College Program Act (33 U.S.C. 1123(c)(1)) is amended to read as follows:

''(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop at least every 4 years a strategic plan that establishes priorities for the national sea grant college program, provides an appropriately balanced response to local, regional, and national needs, and is reflective of integration with the relevant portions of the strategic plans of the Department of Commerce and of the Administration.''.

(b) PROGRAM EVALUATION AND RATING.—

(1) EVALUATION AND RATING REQUIREMENT.—Section 204(d)(3)(A) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(A)) is amended to read as follows:

''(A)(i) evaluate the performance of the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary under subsection (c), and determine which of the programs are the best managed and carry out the highest quality research, education, extension, and training activities; and

''(ii) rate the programs according to their relative performance (as determined under clause (i)) into no less than 5 categories, with each of the 2 best-performing categories containing no more than 25 percent of the programs;''.

(2) REVIEW OF EVALUATION AND RATING PROCESS.—(A) After 3 years after the date of the enactment of this Act, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall contract with the National Academy of Sciences—

(i) to review the effectiveness of the evaluation and rating system under the amendment made by paragraph (1) in determining the relative performance of programs of sea grant colleges and sea grant institutes;

(ii) to evaluate whether the sea grant programs have improved as a result of the evaluation process; and

(iii) to make appropriate recommendations to improve the overall effectiveness of the evaluation process.

(B) The National Academy of Sciences shall submit a report to the Congress on the findings and recommendations of the panel under subparagraph (A) by not later than 4 years after the date of the enactment of this Act.

(c) ALLOCATION OF FUNDING.—Section 204(d)(3)(B) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(B)) is amended by striking ''and'' after the semicolon at the end of clause (ii) and by adding at the end the following:

''(iv) encourage and promote coordination and cooperation between the research, education, and outreach programs of the Administration and those of academic institutions; and''.

SEC. 4. COST SHARE.

Section 205(a) of the National Sea Grant College Program Act (33 U.S.C. 1124(a)) is amended by striking ''section 204(d)(6)'' and inserting ''section 204(c)(4)(F)''.

SEC. 5. FELLOWSHIPS.

(a) ENSURING EQUAL ACCESS.—Section 208(a) of the National Sea Grant College Program Act (33 U.S.C. 1127(a)) is amended by adding at the end the following: ''The Secretary shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection. Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter, the Secretary shall submit a report to the Congress describing the efforts by the Secretary to ensure equal access for minority and economically disadvantaged students to the program

carried out under this subsection, and the results of such efforts.''.

(b) POSTDOCTORAL FELLOWS.—Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)) is repealed.

SEC. 6. TERMS OF MEMBERSHIP FOR SEA GRANT REVIEW PANEL.

Section 209(c)(2) of the National Sea Grant College Program Act (33 U.S.C. 1128(c)(2)) is amended by striking the first sentence and inserting the following: ''The term of office of a voting member of the panel shall be 3 years for a member appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002, and 4 years for a member appointed or reappointed after the date of enactment of the National Sea Grant College Program Act Amendments of 2002. The Director may extend the term of office of a voting member of the panel appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002 by up to 1 year.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subsections (a), (b), and (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) are amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $60,000,000 for fiscal year 2003;

''(B) $75,000,000 for fiscal year 2004;

''(C) $77,500,000 for fiscal year 2005;

''(D) $80,000,000 for fiscal year 2006;

''(E) $82,500,000 for fiscal year 2007; and

''(F) $85,000,000 for fiscal year 2008.

''(2) PRIORITY ACTIVITIES.—In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated for each of fiscal years 2003 through 2008—

''(A) $5,000,000 for competitive grants for university research on the biology and control of zebra mussels and other important aquatic nonnative species;

''(B) $5,000,000 for competitive grants for university research on oyster diseases, oyster restoration, and oyster-related human health risks;

''(C) $5,000,000 for competitive grants for university research on the biology, prevention, and forecasting of harmful algal blooms, including Pfiesteria piscicida; and

''(D) $3,000,000 for competitive grants for fishery extension activities conducted by sea grant colleges or sea grant institutes to enhance, and not supplant, existing core program funding.

''(b) LIMITATIONS.—

''(1) ADMINISTRATION.—There may not be used for administration of programs under this title in a fiscal year more than 5 percent of the lesser of—

''(A) the amount authorized to be appropriated under this title for the fiscal year; or

''(B) the amount appropriated under this title for the fiscal year.

''(2) USE FOR OTHER OFFICES OR PROGRAMS.—Sums appropriated under the authority of subsection (a)(2) shall not be available for administration of this title by the National Sea Grant Office, for any other Administration or department program, or for any other administrative expenses.

''(c) DISTRIBUTION OF FUNDS.—In any fiscal year in which the appropriations made under subsection (a)(1) exceed the amounts appropriated for fiscal year 2003 for the purposes described in such subsection, the Secretary shall distribute any excess amounts (except amounts used for the administration of the sea grant program) to any combination of the following:

''(1) sea grant programs, according to their rating under section 204(d)(3)(A);

''(2) national strategic investments authorized under section 204(b)(4);

''(3) a college, university, institution, association, or alliance for activities that are necessary for it to be designated as a sea grant college or sea grant institute;

''(4) a sea grant college or sea grant institute designated after the date of enactment of the National Sea Grant College Program Act Amendments of 2002 but not yet evaluated under section 204(d)(3)(A).''.

SEC. 8. ANNUAL REPORT ON PROGRESS IN BECOMING DESIGNATED AS SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207 of the National Sea Grant College Program Act (16 U.S.C. 1126) is amended by adding at the end the following:

''(e) ANNUAL REPORT ON PROGRESS.—

''(1) REPORT REQUIREMENT.—The Secretary shall report annually to the Committee on Resources and the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, on efforts and progress made by colleges, universities, institutions, associations, and alliances to become designated under this section as sea grant colleges or sea grant institutes, including efforts and progress made by sea grant institutes in being designated as sea grant colleges.

''(2) TERRITORIES AND FREELY ASSOCIATED STATES.—The report shall include description of—

''(A) efforts made by colleges, universities, associations, institutions, and alliances in United States territories and freely associated States to develop the expertise necessary to be designated as a sea grant institute or sea grant college;

''(B) the administrative, technical, and financial assistance provided by the Secretary to those entities seeking to be designated; and

''(C) the additional actions or activities necessary for those entities to meet the qualifications for such designation under subsection (a)(1).''.

SEC. 9. COORDINATION.

Not later than February 15 of each year, the Under Secretary of Commerce for Oceans and Atmosphere and the Director of the National Science Foundation shall jointly submit to the Committees on Resources and Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on how the oceans and coastal research activities of the National Oceanic and Atmospheric Administration, including the Coastal Ocean Program and the National Sea Grant College Program, and of the National Science Foundation will be coordinated during the fiscal year following the fiscal year in which the report is submitted. The report shall describe in detail any overlapping ocean and coastal research interests between the agencies and specify how much research interests will be pursued by the programs in a complementary manner:

The bill (H.R. 3389), as amended, was read the third time and passed.

EXECUTIVE SESSION

NOMINATION PLACED ON EXECUTIVE CALENDAR—NANCY PELLETT

Mr. REID. On behalf of Senator HARKIN, I ask unanimous consent the Senate proceed to executive session and that the nomination of Nancy Pellett, to be a member of the Farm Credit Administration Board, be discharged from the Agriculture Committee and be placed on the Executive Calendar, and that the Senate return to legislative session without any intervening action.

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

LEGISLATIVE SESSION

UNANIMOUS CONSENT AGREEMENT—H.R. 3295

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, October 15, at 11 a.m., the Senate proceed to the conference report to accompany H.R. 3295, the election reform legislation; this would be under the provisions of the previous order; and that, upon conclusion of the debate on Tuesday, the conference report be set aside to recur on Wednesday at 2:15 p.m., at which time there will be an additional 20 minutes equally divided and controlled between the chairman and ranking member of the Rules Committee; and that upon the use of that time, without further intervening action or debate, the Senate proceed to vote on adoption of the conference report.

Further, that immediately following the vote on the adoption of the conference report accompanying H.R. 3295, the Senate then proceed to the conference report to accompany H.R. 5010, the Department of Defense appropriations bill; that there be 15 minutes for debate divided as follows: 5 minutes for Senator INOUYE, 5 minutes for Senator STEVENS, 5 minutes for Senator WELLSTONE; and that upon the use or yielding back of that time, with no intervening action or debate, the Senate proceed to vote on adoption of that conference report.

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

COMMITTEE ON APPROPRIATIONS REPORTING THIRTEEN APPROPRIATIONS BILLS BY JULY 31, 2002

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 506, S. Res. 304, and I send a cloture motion to the desk.

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, hereby move to bring to a close the debate on the motion to a close the debate on the motion to proceed to Calendar No. 506, S. Res. 304, a resolution encouraging the Senate Appropriations Committee to report 13 fiscally responsible, bipartisan appropriations bills:

Harry Reid, Byron L. Dorgan, Joseph Lieberman, Barbara Boxer, Jean Carnahan, Jeff Bingaman, Daniel K. Akaka, Jim Jeffords, Kent Conrad, Blanche L. Lincoln, Ron

Wyden, Ernest F. Hollings, Mary Landrieu, Jon Corzine, Jack Reed, Richard J. Durbin, John Edwards.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call required under rule XXII be waived.

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

Mr. REID. I now withdraw that motion.

The PRESIDING OFFICER. The Senator has that right.

ORDERS FOR TUESDAY, OCTOBER 15, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Tuesday, October 15, 2002; 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; that there be a period of morning business until 11 a.m. with Senators permitted to speak therein for up to 10 minutes each, with the first half under the control of the majority leader or his designee, and the second half under the control of the Republican leader or his designee; that at 11 a.m. the Senate begin consideration of the conference report to accompany H.R. 3295, the Election Reform Act, under the previous order; and, further, that the cloture vote on the motion to proceed to S. Res. 304 occur on Wednesday, October 16, at 12 noon.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes on Tuesday. The next rollcall vote will occur on Wednesday, October 16, at 12 noon. That will be on the cloture motion to proceed to S. Res. 304.

ADJOURNMENT UNTIL TUESDAY, OCTOBER 15, 2002 AT 10 A.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate—which I hope there isn't—I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:44 a.m., adjourned until Tuesday, October, 15, 2002, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 10, 2002:

DEPARTMENT OF STATE

J. COFER BLACK, OF VIRGINIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE, VICE FRANCIS XAVIER TAYLOR.

THE JUDICIARY

CORMAC J. CARNEY, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE CARLOS R. MORENO, RESIGNED.

JOHN R. ADAMS, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE GEORGE WASHINGTON WHITE, RETIRED.

J. DANIEL BREEN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE, VICE JULIA SMITH GIBBONS, ELEVATED.

THOMAS A. VARLAN, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE ROBERT LEON JORDAN, RETIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAVID HERTZ, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE HENRY GLASSIE.

STEPHAN THERNSTROM, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE ARTHUR I. BLAUSTEIN, TERM EXPIRED.

MARGUERITE SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE SUSAN FORD WILTSHIRE, TERM EXPIRED.

LAWRENCE OKAMURA, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE DORIS B. HOLLEB, TERM EXPIRED.

SIDNEY MCPHEE, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE MARGARET P. DUCKETT, TERM EXPIRED.

STEPHEN MCNIGHT, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006, VICE ISABEL CARTER STEWART.

ELIZABETH FOX-GENOVESE, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE LORRAINE WEISS FRANK, TERM EXPIRED.

DARIO FERNANDEZ-MORERA, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE SUSAN E. TREES, TERM EXPIRED.

JEWEL SPEARS BROOKER, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2008, VICE PEGGY WHITMAN PRENSHAW, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE 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. GLEN W. MOOREHEAD III, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JUDY A ABBOTT, 0000
JOEL N ABRAMOVITZ, 0000
ALEXANDRA L ACCARDI, 0000
ROBERT D AKERSON, 0000
ANTONIO R BALUGA JR., 0000
DAVID J BARILLO, 0000
JAMES B BORDEN, 0000
DANIEL BOUCHETTE, 0000
HOWARD R BROMLEY, 0000
PATRICK F BROPHY, 0000
PATRICK J CAHILL, 0000
PETER A CARDINAL, 0000
WILLIAM G CAREY, 0000
ANTONIO CORTESSANCHEZ, 0000
MICHAEL W CRUZ, 0000
JANE L CURTIS, 0000
REGINA M CURTIS, 0000
MARK A DENNER, 0000
JUAN J DEROJAS, 0000
LUIS M DIAZBARRIOS, 0000
MATTHEW E DUBAN, 0000
ALBERT B DUNCAN, 0000
JARED E FLORANCE, 0000
JEFFREY F FULLENKAMP, 0000
RICHARD GONZALEZ, 0000
WAVELL C HODGE, 0000
EDMUND H HORNSTEIN, 0000
MARK C HUDSON, 0000
BETH KURTZMAZYCK, 0000
DONALD H LOEBL, 0000
JOHN S LOOPER, 0000
RONDA F LUCE, 0000
LILIAN I LUSTMAN, 0000
CLYDE E MARKON, 0000
AIZENHAWAR J MARROGI, 0000
ANTHONY E MARTIN, 0000
HAROLD L MARTIN, 0000
DOUGLAS S MCFARLANE, 0000
LISA A MCPEAK, 0000
CLARK A MORRES, 0000
MICHAEL P MOURI, 0000
KEVIN P MURPHY, 0000
FREDDIE A NAZARIOALMODOVAR, 0000
ATTILIO G NEGRO, 0000
MARGARET R H NUSBAUM, 0000
CRAIG M ONO, 0000
DONNA M PERISEE, 0000
DAVID D PERKINS, 0000
JOHN D PITCHER JR., 0000
JAMES C POST, 0000
AWILDA I RAMOS, 0000
MATTHEW J REARDON, 0000
JUDE T ROUSSERE, 0000
AURORA M SARINAS, 0000
MARK F SHERIDAN, 0000
FRANK S SHERMAN, 0000
PRAVINA B SHETH, 0000
THOMAS M STEIN, 0000
JAY F SULLIVAN, 0000
JOHN R TICEHURST, 0000
LISA M TOEPP, 0000
EDWARD TRUDO JR., 0000
WILLIAM E TYNDALL, 0000
ANNE B WARWICK, 0000
JAMES S WEISENSEE, 0000
DUANE V WILKINS, 0000
JOHN M WING, 0000
BENNIE B WRIGHT JR., 0000
TERRY D YEAGER, 0000
SIMON M YU, 0000
DENNIS C ZACHARY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOSE ALAMOCARRASQUILLO, 0000
JOSEPH H BOWERS, 0000
TERRY G BOX, 0000
JODIE A BUEHLER, 0000
RONALD J BURKHOLDER, 0000
STEVEN F BURMASTER, 0000
JEFFREY T BURTON, 0000
THOMAS P CASEY, 0000
JOSE J CASTILLO, 0000
WILLIAM J CONNOR JR., 0000
ROBIN K DARLING, 0000
EDWARD F FREDERICK JR., 0000
MICHAEL E GILBERT, 0000
MONTE F GRANDGEORGE, 0000
GEORGE P GREEN, 0000
MARC C HENDLER, 0000
MARK A HENDRIX, 0000
WILLIAM L HOON, 0000
TAKESHI G ICHIKAWA, 0000
WILLIAM IRVING, 0000
ARIEL JUSINOCORDOVA, 0000
ABEN A KASLOW, 0000
DWIGHT H KELLER, 0000
JAMES R KIMMELMAN, 0000
JOHNNIE L KNIGHT, 0000
MARY A LICKING, 0000
RICHARD M LOFTHOUSE, 0000
FRANK D MARCANTONIO, 0000
ROBERT C METTE, 0000
JAMES W MINEKIME, 0000
MARK S MORELOCK, 0000
TIMOTHY P NARY, 0000
GAYLE A OWENS, 0000
THOMAS J PFAU, 0000
JAMES D RITCHIE, 0000
FRANK M SAWYER, 0000
JON A SHNEIDMAN, 0000
JASON E SHOWMAN, 0000
ROGER E SIENKIEWICZ, 0000
EDWARD J SITTLER JR., 0000
TOBIN J STRUPP, 0000
JOHN W SUMMERS, 0000
PETER M TAN, 0000
ELLIS B THIGPEN, 0000
JOSEPH L THOMAN, 0000
RUSSELL B TIMMS, 0000
GABRIELLE V VALENTI, 0000
MATTHEW L ZIZMOR, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ARTHUR L ARNOLD JR., 0000
MICHAEL BABICH, 0000
ARTHUR W BEAN, 0000
MICHAEL J BRIDGEWATER, 0000
SANDRA H BURCH, 0000
WILLIAM W BURGIN III, 0000
RICHARD M CARNEVALE, 0000
BRYAN E CLEMENTS, 0000
ROBERT M CODY, 0000
BRUCE V CORSINO, 0000
DANIEL J CRAWFORD, 0000
FLOYD C DEVENBECK III, 0000
JOHN J DONNELLY III, 0000
DAVID L FENELL, 0000
ANTHONY M FLOOD, 0000
FAITH A S FRANK, 0000
ROBERT R FREEMAN, 0000
RONALD W GADSDEN, 0000
CLINTON B GIVEN, 0000
WILLIAM R GOWER, JR., 0000
JOHN W HALL III, 0000
DON R HARRIS, 0000
GARY L HOWE, 0000
SUSAN M JONES, 0000
WALTER L JONES, 0000
EILEEN P KELLY, 0000
DEBORAH A KELLYHOEHN, 0000
RICHARD B LAKES, 0000
JAY D LANE, 0000
DENNIS B LATIMER, 0000
SAMUEL H MAKRIS, 0000
LESTER K MCGILVRAY, 0000
LINWOOD MOORE, 0000
IGWEKALA E NJOKU, 0000
DANIEL T OBRIEN, 0000
DENNIS T SEKINE, 0000
RUSSELL F SHEARER, 0000

DAVID L SMALLEY, 0000
LAWRENCE R SUDDENDORF, 0000
JOSEPH TORRES JR., 0000
WILLIAM B UROSEVICH, 0000
MARK S VAJCOVEC, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ADRINE S ADAMS, 0000
REBECCA D BAKER, 0000
ANNA J BREWSTER, 0000
AVIS C BUCHANAN, 0000
EILEEN V CAULFIELD, 0000
LEANNE L CHABIOR, 0000
NANCY L CLARK, 0000
MARGARET L CLIFTON, 0000
THOMAS COOK, 0000
ALBERT B COONEY, 0000
EDNA B DAVIS, 0000
LYNN C DENOOYER, 0000
KAREN L DORN, 0000
MARY FRANKEN, 0000
JANET L FREUDENRICH, 0000
ELIZABETH A GAUDET, 0000
PEGGY J HENGEVELD, 0000
CHRISTINE L INGLE, 0000
LUCILLE T IRBY, 0000
CHERYL L W JACKSON, 0000
JUDITH A KEMPER, 0000
SHIRLEY C KYLES, 0000
COLLEEN K MALL, 0000
VERDELL MARSH, 0000
ADDIE M MORRIS, 0000
JEFFREY D MORRIS, 0000
TERESA G PARKER, 0000
SUSAN M PONTIUS, 0000
CHERYL A PRESTIANNI, 0000
SANDRA L PUFAL, 0000
FLORESITA C QUARTO, 0000
SHARON A SINGLETON, 0000
FRANCES I SNELL, 0000
ALLEN R STURDEVANT, 0000
ELSA M TORRES, 0000
JUDITH L TRACY, 0000
WAYNE M VANHAMME, 0000
SARAH L WALLACE, 0000
ANDREA J WALLEN, 0000
NORMA J WILSON, 0000
MARYELLEN YACKA, 0000