

have access to public transportation built to accommodate people in wheelchairs. They have the ability to stay in hotels, travel, and enter schools and places of entertainment equipped for their needs. Indeed, almost every office building in America is fully accessible to them. Thus, the enactment of the ADA transformed our country and we are a better Nation because of it.

Despite these significant advances, recent decisions from the Supreme Court and lower courts attempt to erode the ADA's protections and threaten to turn back the clock on our progress. I am particularly disturbed by rulings that have narrowed the ADA in ways we never intended. Rather than broadly interpreting the ADA's mandate, as we intended, courts have repeatedly interpreted that law to embody a "strict and demanding" standard for determining who qualifies as an individual with a disability. These narrow rulings ensure that the persons we intended to shield, including those with severe illnesses, like epilepsy and multiple sclerosis, are no longer protected. As a consequence, millions of Americans who suffer discrimination are now excluded from ADA protection.

A few years ago, a Federal judge in Vermont's neighboring State of New Hampshire ruled that a woman with breast cancer was not sufficiently disabled to be protected by the ADA. Court rulings contrary to Congress's intent for the ADA are not limited to the New England States. Last year, a panel of judges on the U.S. Court of Appeals for the Eleventh Circuit unanimously ruled that even mental retardation did not constitute a sufficient disability under the ADA.

The message sent by these rulings is as unfortunate as it is undeniable: the courts no longer consider certain persons "disabled enough" to be protected. That means an employer could fire or refuse to hire a qualified worker on the basis of his or her disability, and defend that action in court on the grounds that the worker was not "disabled enough" to be protected under law.

In addition, the legislative history is crystal clear. Congress intended the ADA to protect all persons without regard to mitigating circumstances. Indeed, the Senate committee report on the ADA expressly stated "[w]hether a person has a disability should be assessed without regard to the availability of mitigating measures, such as reasonable accommodations or auxiliary aids." Despite this clear intent, courts have ruled that people with disabilities who take medication or use assistive devices should not be considered disabled.

I am particularly concerned that these rulings will undermine the rights of thousands of veterans with disabilities who, upon returning from the war, will enter the civilian workforce to support their families. Many of these veterans have disabilities, including post-traumatic stress syndrome, that

may be controlled with medication. If any of them suffer job discrimination, we must make sure they will have a remedy.

Equally disturbing is that many of these cases can lead all Americans into what Senator HARKIN has aptly described as a legal catch-22:

People with serious health conditions [] who are fortunate to find treatments that make them more capable and independent and, thus, more able to work may find that they are no longer protected by the ADA On the other hand, if they stop their medication or stop using an assistive device, they will be considered a person with a disability under the ADA but they won't be qualified for the job.

We must act to remedy these erroneous court decisions. Last month, the House overwhelmingly passed the Americans with Disabilities Act Restoration Act. Now it is the Senate's turn to respond. This legislation would reverse these flawed decisions and restore the original congressional intent of the ADA. First, the bill would clarify Congress's purpose to reinstate a broad scope of protection for a range of persons with disabilities under the ADA. Second, the legislation would modify findings in the ADA that have been used by courts to narrowly interpret what constitutes a "disability." Third, the bill would lower the burden of proving that one is "disabled enough" to qualify for coverage.

This long overdue legislation has ample support from both disability groups and business interests. I hope this bipartisan bill does not fall victim to the petty partisan obstruction that has prevented passage of other civil rights measures in this Congress that had broad bipartisan support, like the Lilly Ledbetter Fair Pay Act. While unprecedented obstruction tactics have led Senate Republicans to stall one bill after another on the Senate floor, it is well past time for us to turn the page on partisan tactics designed to thwart critical civil rights bills.

Indeed, our heritage of freedom and our continued march towards perfecting our Union, should remind us all that civil rights legislation holds a unique place in this institution. These bills bring us closer to fulfilling the promises engrained in our founding charters of establishing freedom and equality for all Americans. Thus, they should be held to a higher standard than other bills.

Time has shown the ADA to have been one of our Nation's most effective tools in combating discrimination. Its continued effectiveness is important to ensure that the great progress we have made in widening the doors of opportunity for all Americans continues in the future.

We have before us a historic opportunity to restore the ADA's original intent and reclaim the basic rights it extended to persons with disabilities. I was proud to support the ADA in the 101st Congress, and I am pleased to support this year's bill as it moves forward. I hope this bill will be promptly

passed by the Senate and signed into law by the President.

THE WAR POWERS CONSULTATION ACT OF 2009

Mr. WARNER. Mr. President, today I recognize the members of the National War Powers Commission, particularly the cochairs and my dear friends—former Secretaries of State James A. Baker and Warren Christopher—for their distinguished and valuable work in bringing forward this critical legislation to address this important issue to our Nation.

Few would dispute that the most important, and perhaps the most fateful, decisions our leaders make involve the decision of whether to go to war. Yet after more than 200 years of constitutional history, the extent of the powers the respective branches of government possess in making such decisions is still heavily debated.

Let me first outline some points regarding the legislative history of the War Powers Resolution. On November 7, 1973, Congress passed the War Powers Resolution over President Nixon's veto, by a vote of 284 to 135 in the House, and a vote of 75 to 18 in the Senate. The legislation was passed purportedly to restore a congressional role in authorizing the use of force that was thought by many to have been lost in the Cold War and Vietnam war. The War Powers Resolution was intended to provide a mechanism for Congress and the President to participate in decisions to send members of the U.S. Armed Forces into hostilities.

Less than 2 years after its passage by Congress in 1973, legislative proposals were introduced to amend the War Powers Resolution. The War Powers Resolution continued to raise concerns among the executive and legislative branches of government throughout the next decade as the Nation faced such situations as in El Salvador, Lebanon, and Libya.

Several legislative proposals were introduced in Congress to modify or repeal the War Powers Resolution. These legislative proposals were referred to the appropriate committee on the House or Senate side, but none were ever passed by Congress.

The War Powers Resolution again became an issue regarding activities in the Persian Gulf after an Iraqi aircraft fired a missile on the USS Stark on May 17, 1987, killing 37 sailors. Shortly afterwards, the United States began to reflag Kuwaiti oil tankers and provide a U.S. naval escort for Kuwaiti oil tankers through the Persian Gulf. As military escalation also continued to increase in the Persian Gulf region as a result of the Iran-Iraq War, the Congress became concerned that U.S. forces could be committed to the region without consultation between the executive and legislative branch.

Consequently, 20 years ago, on May 19, 1988, I, along with two of our former colleagues—Senators Mitchell and

Nunn—joined Senator BYRD and introduced the War Powers Resolution Amendments of 1988, known as S.J. Res. 323. Senator Boren later joined as well as a cosponsor of this legislation in June 1988. I humbly state today that I was the only Republican cosponsor of the legislation. This piece of legislation, however, was referred to the Senate Foreign Relations Committee, where it remained.

Subsequently, on January 25, 1989, I again joined Senator BYRD, but this time along with five of our former colleagues—Senators Boren, Cohen, Danforth, Mitchell, and Nunn—and introduced the War Powers Resolution Amendments of 1989, known as S. 2. Our former colleagues and I proposed legislation to modify the War Powers Resolution of 1973.

These amendments were intended to: require the President to consult with six designated Members of Congress “in every instance in which consultation is” required under the War Powers Resolution of 1973; require the President and the six designated Members of Congress to “establish a schedule of regular meetings” to “ensure adequate consultation on vital national security issues;” establish a “permanent consultative group” within Congress, which would be comprised of 18 Members of Congress; and require the President to consult with the permanent consultative group at the request of a majority of the 6 designated Members of Congress, unless the President determines that consultation needs to be limited for national security purposes.

Unfortunately, neither of these proposed pieces of legislation were voted on by the Senate. However, I subsequently cosponsored another similar piece of legislation, the Peace Powers Act of 1995, sponsored by our former distinguished majority leader, Senator Bob Dole. Hearings were held on this piece of legislation by the Senate Foreign Relations Committee, where it remained.

For over 35 years, despite these and similar legislative efforts, no modifications were made to the War Powers Resolution Act of 1973. Today, there still remains no clear mechanism or requirement for the President and Congress to consult before committing the Nation to war.

It is this Senator’s opinion that the Nation benefits when the President and Congress consult frequently, deliberately, and meaningfully regarding matters of national security—and that is exactly why I felt compelled to bring to my colleagues attention the important work recently completed by the National War Powers Commission.

The National War Powers Commission was formed in February 2007—by the University of Virginia’s Miller Center of Public Affairs, which is directed by Virginia’s former Governor Gerald L. Baliles—to examine the respective war powers of the President and Congress. The University of Virginia, the College of William and Mary, Rice Uni-

versity, and Stanford University served as partnering institutions.

On July 8, 2008, after more than 13 months of study, the Commission released their report and recommendations. I wanted to bring to the attention of my colleagues the important work done by this distinguished Commission to the War Powers Consultation Act of 2009. I strongly recommend that those interested in this important subject contact the University of Virginia’s Miller Center of Public Affairs and also review a copy of the Commission’s comprehensive report, titled “National War Powers Commission Report,” which can be accessed at the Miller Center’s Web site, www.millercenter.org.

The exemplary work by the National War Powers Commission, concluded with the following recommendations: the law purporting to govern the Nation’s decision to engage in war—the War Powers Resolution—has failed to promote cooperation between the two branches of government; the War Powers Resolution of 1973 is ineffective at best and unconstitutional at worst; and the War Powers Resolution of 1973 should be replaced by a new law that would, except for emergencies, require the President and Congress to consult before going to war.

I would specifically like to draw my colleagues attention to the Commission’s legislative proposal, the War Powers Consultation Act of 2009. This proposed legislation contains four key components. These key components are: First, this legislation would replace the War Powers Resolution of 1973. It would ensure that Congress has an opportunity to consult meaningfully and deliberately with the President regarding significant armed conflicts, and would ensure that Congress has the opportunity to express its views as part of a consultative process.

Second, this statute would create a process that will encourage the two equal branches of government to cooperate and consult in a way that is deliberate, practical, and true to the spirit of the Constitution.

Third, the act would establish a “Joint Congressional Consultation Committee” with a “permanent, bipartisan joint professional staff” with access to all relevant intelligence and national security information.

Fourth, and finally, the act would require the President to consult with the Joint Congressional Consultation Committee “[b]efore ordering the deployment of United States armed forces into significant armed conflict”—lasting longer than one week—and would mandate regular consultation thereafter.

I have always believed that Congress has an important and central role in the decision of the deployment of our men and women of the armed forces into harm’s way. Undoubtedly, the War Powers Consultation Act of 2009 would provide Congress and the President a well-defined mechanism for consulta-

tion on matters of the use of force in armed conflict.

The decision to commit our country to war is by far one of the most critical decisions that faces our Nation’s leaders. This proposal seeks a concrete and pragmatic solution to a longstanding problem that is only getting more difficult in a time where our Nation will continue to face unconventional threats and warfare.

I urge my colleagues to review this important material and work together, with the next administration, to find a solution to this ever-present debate between a President and the Congress over their respective constitutional powers.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today’s letters printed in the RECORD.

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

It is a most interesting subject [to] bring up, the escalating prices of oil and the reason they are so high. I am tickled to hear that you believe in exercising our own resources here in our own country.

I have done a lot of research on this very subject and just happen to know a lot of people that are directly associated with or are involved in the Alaska oil situation and the reason for the billions that we spent on the pipeline to begin with. I also know that there is enough oil in Alaska to last us for two hundred years . . . but Washington does not seem to want to take that option. They are more interested in foreign oil and the foreign oil policy, even at the expense of our own country and fellow Americans.

Are you aware of how much natural gas they pump right back down into the ground using 747 Jet engines to do it with? If you are not aware, you need to be aware of it and if it does not madden you, then I can only question your way of thinking. Don’t take my word for it, do the research.

If you are truly aware of what is really going on and you are truly in favor of exercising our own resources, then I am behind you one hundred percent. I am just not real sure how we are going to get the ugly politics out of Washington D.C., and I am an optimist, but on this one, it forces me to be a pessimist. I believe it has gone too far and is way out of control at this point.

I also know that we could be buying gasoline for our vehicles for less than a \$1.50 a