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Senate

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

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Majestic and merciful God, You and You alone have brought us to this moment. Thank you for the beauty of the Earth and the glory of the skies. Help us to know that You often speak to us in whispers. May we hear Your still small voice in the despair of those who lack the means to help themselves.

Speak to us also in the difficult issues that confront our leaders and may they choose right over political expediency. Give us the ability to shut out yesterday's disappointments and tomorrow's fears. Teach us, Lord, to count our blessings that we might cultivate an attitude of gratitude. Help us to cherish the freedom of this land but emancipate us from the slavery of sin. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, under the order from last week, the Senate will resume consideration of the gun manufacturers liability bill for the final amendments and debate. This morning until 11:35 the remaining amendments enumerated in the list will be offered in the debate time and the time will be equally divided.

At 11:35 this morning, the Senate will begin a series of stacked rollcall votes. I would expect approximately seven votes to occur, including final passage in this series of votes. Both parties do have their weekly policy luncheons and therefore I expect we will pause after the third vote or so and recess to allow those meetings to occur.

When the Senate reconvenes at 2:15, we will resume the voting sequence until we vote on final passage of the pending gun manufacturers liability legislation. It will, thus, be a busy morning and afternoon.

I encourage Members to remain on the floor or in close proximity to avoid missing any votes.

ORDER OF PROCEDURE

Mr. FRIST. I ask unanimous consent that following the first vote the remaining votes in the sequence prior to the luncheon be limited to 10 minutes each. I further ask that when the Senate reconvenes at 2:15, the first vote be 15 minutes under the standing order, with all remaining votes in the sequence limited to 10 minutes each.

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

Mr. FRIST. As I indicated last week, following the conclusion of this bill, the Senate will next take up consideration of the jumpstart jobs bill, also known as FSC/ETI. I will have more to say on that and the schedule later today, following the completion of the gun manufacturers bill. I thank everyone for their attention.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. It is my understanding that following the first votes we will have our usual weekly conferences, is that true?

Mr. FRIST. That is correct. We will do three votes under the time agreement we just agreed to. We may adjust that as the day goes on, but that would be the plan.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

YIELDING OF TIME

Mr. DASCHLE. Mr. President, as the majority leader has indicated, the time is allocated now for the debate on the amendments that are pending. At 11:15, I will yield 5 minutes of my time to Senator KERRY and yield 10 minutes each to Senators JACK REED, MCCAIN, and FEINSTEIN, with the remainder of the time outside of that allocation to Senator HARRY REID for his own managerial decisions with regard to the allocation of the balance of the time.

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

RESERVATION OF LEADER TIME

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

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1805, which the clerk will report.

The assistant journal clerk read as follows:

A bill (S. 1805) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Pending:

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

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Hatch (for Campbell) amendment No. 2623, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Kennedy amendment No. 2619, to expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor.

Craig (for Frist/Craig) amendment No. 2625, to regulate the sale and possession of armor piercing ammunition.

Levin amendment No. 2631, to exempt any civil action against a person from the provisions of the bill if the gross negligence or reckless conduct of the person proximately caused death or injury.

Warner amendment No. 2624, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Lautenberg amendment No. 2632, to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm.

Lautenberg amendment No. 2633, to exempt lawsuits involving injuries to children from the definition of qualified civil liability action.

The PRESIDENT pro tempore. Under the previous order, the time between 9:30 a.m. and 11:15 a.m. will be equally divided between the two leaders or their designees.

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, Senator MCCAIN is not in the Chamber. We are ready to proceed on our side. I think we should do the time proportionately, so that it will be equal, proponents and opponents of the legislation, when going into a quorum call.

The PRESIDENT pro tempore. Is there objection? Without objection, the time will be equally charged.

Mr. REID. I suggest the absence of a quorum.

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

The assistant journal clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2636

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The assistant journal clerk read as follows:

The Senator from Arizona, [Mr. MCCAIN], for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN, proposes an amendment numbered 2636.

Mr. MCCAIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, as a strong defender of law-abiding Americans' second amendments rights, today I join my colleagues, Senators REED, DEWINE, LIEBERMAN, CHAFEE, and DODD to offer a bipartisan compromise amendment to address what has become known as the gun show loophole.

Currently an individual can walk into a gun show and purchase a firearm from either a federally licensed dealer or an unlicensed dealer. A background check is only performed on that individual if he or she buys a gun from a licensed dealer. There is no requirement—I repeat, no requirement—for a background check of any kind when purchasing a firearm from an unlicensed dealer. This is a very dangerous loophole in the law and we are doing a disservice to the American people if we allow it to remain open.

This amendment would close this dangerous loophole in our gun safety laws in a way that is respectful of the rights of gunshop operators, gun show vendors, and gun show enthusiasts. It defines gun shows in a reasonable manner to cover only public events where at least 75 firearms are offered for sale. It specifically exempts from regulation any private sale from the home, such as yard sales or estate sales. Additionally, it exempts sales between members of hunt clubs, an exception that I know is important to a number of our colleagues who represent hunting and sporting clubs that occasionally sell, trade, or raffle firearms between club members.

The amendment would also create a new category of licensees who can become deputized to perform background checks for unlicensed sellers at gun shows. This licensee, who could even be a gun show employee, would enable any unlicensed vendor to conveniently have an instant background check performed when selling a firearm. In addition, this amendment would allow States to graduate to an even faster instant check once they have sufficiently automated the records necessary to ensure that a faster check does not sacrifice accuracy.

Why do we need this amendment? Some might point to tragedies such as Columbine, but as horrific as the massacre at Columbine was, where 11 young people needlessly lost their lives, that is not what drives the need to close the gun show loophole. We need this amendment because criminals and terrorists have exploited and are exploiting this very obvious loophole in our gun safety laws. We need this amendment because our second amendment rights do not extend to criminals who violate our laws and terrorists who hate this country.

We need this amendment because, according to the NRA, ''hundreds of thousands'' of unlicensed firearms sales occur at gun shows each year. We need this amendment because ATF has identified gun shows as the second leading source of firearms recovered from illegal gun trafficking investigations.

We also need this amendment because my law-abiding constituents who attend gun shows in Arizona should not have to rub shoulders with the scum of the Earth who use this loophole to evade background checks to buy firearms to peddle to God knows who. We need this because every one of the 15 leading gun trafficking States in America has not taken action to close the gun show loophole. Conversely, 11 of the 15 States with the lowest level of interstate gun trafficking have taken action to close the gun show loophole.

When discussing the topic of gun safety, I often hear my colleagues say things such as, let's enforce existing law before we make new ones. I completely agree and that is exactly what we are seeking to do today. We are seeking to strengthen existing laws by closing an enormous, dangerous loophole.

I offer this amendment as one who counts himself as a strong supporter of the underlying legislation to protect the gun industry from frivolous lawsuits. I plan to vote for the underlying bill because it is fundamentally unfair to blame a firearms manufacturer when a criminal misuses a gun. But it is also unfair to the American people to knowingly leave open a gaping hole in our gun safety laws that criminals and terrorists can and do easily exploit.

The last time the Senate considered similar legislation was in 1999, following the school shootings at Columbine High School. Two amendments were proposed to close the gun show loophole. One amendment received 51 votes with then-Vice President Gore casting his deciding vote. I opposed that amendment because, frankly, I thought it defined gun shows too broadly, covering certain private sales from the home, at yard sales, estate sales, and between members of private hunt clubs, places that obviously are not gun shows.

The second amendment which I supported also passed the Senate. Unfortunately, opponents of that amendment said it weakened the Brady law for licensed dealers and created new loopholes.

Today we offer a compromise proposal that is a reasonable, responsible consensus. I urge this body not to let this opportunity slip by.

Opponents of today's amendment will make several arguments. I would like to take a few moments to address them head on. It is important to point out that this amendment is a modification of the legislation we introduced last fall. This amendment contains none of the vendor notification requirements contained in that bill. The vender notification requirements in this amendment are the same as those that passed the Senate in 1999. Let me state that again for clarity. This amendment does not contain the vendor notification provisions contained in S. 1807. They are gone.

We still hear that criminals don't obtain guns from gun shows and we will

hear about a survey of State and Federal inmates conducted by the Justice Department showing that about 3 percent of prisoners obtained their guns from gun shows. Let me make a couple of points.

First, the survey was conducted in 1997. The gun show loophole didn't exist until December of 1993, so any criminal in prison for more than 3 years or any criminal who had a firearm for at least 3 years would not have had a reason to exploit this loophole.

Second, let's be clear to quote ATF field agent Jeff Fulton: ''Crime guns do originate at gun shows. That's been documented.'' In fact, the ATF says gun shows are the second leading source of guns recovered in illegal trafficking investigations.

Some opponents of this amendment will say that background checks take too long for weekend gun shows. That may have been the case in 1999, but today, thanks to the diligence of the Department of Justice, 91 percent of criminal background checks are completed within several minutes and over 95 percent of background checks are completed within 2 hours.

For 19 out of 20 background checks, instant check has lived up to its name. For the 1 out of 20 checks that take more than 2 hours, these applicants are 20 times more likely to be unlawful than the rest of the applicants. Additionally, this amendment encourages States to improve their records, making them eligible for even faster background checks.

I point out again that 91 percent of criminal background checks are completed within several minutes; 95 percent, within 2 hours.

Opponents say the background check requirements would put gun shows out of business. That is not true. According to the Krause Gun/Knife Show Calendar, the definitive source of gun show information in the Nation, in 2003, the 17 States that have closed the gun show loophole have hosted, on average, more gun shows than the 33 States that have not closed the loophole.

I repeat, the 17 States that have taken action to close the gun show loophole hosted, on average, 45 gun shows in 2003. The other 33 States, on average, 41 gun shows.

I am a gun show supporter. Arizona is a big gun show State. This amendment will have zero effect on legitimate gun show businesses.

This amendment has been endorsed by the International Association of Chiefs of Police, Major Cities Chiefs of Police, the Conference Of Mayors—the list goes on and on with those who have to deal with the results of guns obtained illegally.

Let me say that the administration has said they want a ''clean bill.'' The administration has supported closing the gun show loophole but now they want a ''clean bill.'' Wink-wink, nod-nod. It is remarkable. It is remarkable. This loophole needs to be closed. The administration has had the position that it needs to be closed. We all know it needs to be closed.

There were two State referendums in the 2002 election, in Colorado, not notoriously a liberal State, and Oregon, not notoriously a conservative State. Both of those ballot initiatives carried overwhelmingly when taken to the people instead of the incredible influence of the NRA over this process.

I hope my friends will stand with the police chiefs and mayors and those who are required to enforce the law and vote for this amendment.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. REID. Mr. President, the Senator from Rhode Island has agreed to give 2 minutes to Senator LAUTENBERG, and on the time I control I will give him 2 minutes for a total of 4 minutes.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 4 minutes.

Mr. LAUTENBERG. Mr. President, I thank my colleagues on both sides who support this gun show loophole amendment.

We have just heard Senator MCCAIN make a case to close this loophole. There doesn't seem to be any reason on Earth that this loophole should exist. We are talking about allowing felons, criminals generally, and terrorists to buy guns without any identification. It is hard to understand why something such as this can occur.

Back in 1999, I authored the original gun show loophole closure to require that sales at gun shows require the same background checks that licensed gun dealers are required to perform under the Brady law. The bill passed in 1999 after Vice President Gore cast the deciding vote to break a 50–50 vote on the measure. Unfortunately, those who want to buy guns—who might be criminals, and again terrorists—decided to kill this bill in conference. This loophole has continued to exist.

I am sure the American people will not be able to understand in general what this loophole is about. Why do we want to protect the rights of those who would evade the law to get guns? As long as this loophole is around, our other gun laws mean virtually nothing. Does it matter if there are background checks by licensed gun dealers if the convicted felon can walk into a gun show and get a weapon with no questions asked? Right now, gun shows are cash and carry for firearms. Terrorists, criminals, and the mentally unstable can get anything they want at a gun show from one of these unlicensed dealers. It has to stop. For the life of me, I cannot understand why those who want to see guns generally available under their interpretation of what the second amendment means would resist this. It is not understandable by any measure.

We know the people who got the guns for the Columbine massacre got a weapon which was a measure of an assault weapon illegally from a nonlicensed dealer.

When firearms are available to terrorists with instructions from their headquarters in Afghanistan to go to the United States; you can buy guns at a gun show; never tell who you are and never identify yourself, doesn't make any sense at all.

I hope my colleagues will take a second look at this and say: OK, this one we have got to patch up. But we do not hear that from those who would defend this arcane and ridiculous process.

I yield the floor.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan amendment to close the gun show loophole.

Americans overwhelmingly favor responsible gun safety measures. They want effective background checks for firearm purchases, whether the purchases take place at a gun store, a gun show, or any other large gathering.

The gun show loophole allows firearms to be purchased illegally at gun shows—no questions asked. The result has been the sale of massive numbers of firearms to terrorists, criminals, juveniles, and other prohibited purchasers without background checks.

In 2001, Attorney General Ashcroft appeared at an oversight hearing of the Senate Judiciary Committee. He held up an al-Qaida terrorist manual, to make the point that terrorists were being trained on ''how to use America's freedom as a weapon against us.''

When I questioned the Attorney General at the hearing, I held up a different terrorist training manual entitled, ''How Can I Train Myself for Jihad,'' which had been found in a house in Afghanistan that November. As the manual stated:

> In other countries, e.g. some states of USA . . . it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally . . . learn how to use it properly and go and practice in the areas allowed for such training.

There is a long list of examples of terrorists exploiting weaknesses and loopholes in the Nation's gun laws. In 2000, a member of the terrorist group Hezbollah in the Middle East was convicted in Detroit on weapons charges and conspiracy to ship weapons and ammunition to Lebanon. He had bought many of those weapons at gun shows in Michigan.

In 1999, only a lack of cash prevented two persons from purchasing a grenade launcher at a gun show, in a plot to blow up two large propane tanks in suburban Sacramento.

Enough is enough. Since the atrocities of September 11, Congress has acted with strong bipartisan support to win the war on terrorism and protect the country from future attacks. We have improved the security of our airports and borders. We have strengthened our defenses against bioterrorism. We have given law enforcement new powers to investigate and prevent terrorism.

Clearly, we need to strengthen our defenses against gun violence. The best way to start is by closing the gaping loopholes in our gun laws that allow rogue gun dealers to sell guns to criminals, terrorists, and other prohibited purchasers. According to the ATF, gun shows are now the second leading source of firearms confiscated in illegal gun trafficking investigations. Gun shows accounted for nearly 31 percent of the 84,000 guns illegally diverted during one 30-month period. Even the strongest opponents of gun control understand the need to confront this rampant law-breaking. Closing the gun show loophole will strengthen the safety and security of all Americans.

This amendment will not shut down gun shows. It will not prevent gun enthusiasts and other lawful purchasers from buying and selling guns.

Instead, it requires background checks to take place at any event where more than 75 guns are offered for sale. These checks can be conducted by licensed sellers or by gun show operators or their employees who have been certified by the Justice Department. This this certification option, background checks can be completed quickly and accurately.

Since its enactment in 1994, the Brady law's background check system has truly become an ''instant'' check system. According to the Attorney General, 91 percent of background checks are completed in 3 minutes or less. A 3-minute wait is not a significant inconvenience for a gun purchase. And 95 percent of all background checks are completed within 2 hours. The maximum amount a buyer can be forced to wait is 3 business days. Under this amendment, the period will be reduced to 24 hours for States with sufficiently automated background check records.

I commend my colleagues, Senator MCCAIN, Senator REED, Senator DEWINE, and Senator LIEBERMAN, for their leadership on this important issue, and I urge all my colleagues to do now what we should have done years ago. It is time to put the interest of law enforcement and public safety above the interests of the gun lobby. Let's close the gun show loophole, once and for all.

Mr. LIEBERMAN. Mr. President, I am very proud to join Senators MCCAIN, REED, DEWINE and our other cosponsors in proposing and supporting this critical amendment. Too often gun legislation has divided Members of Congress. This is a proposal that should not do that. This is a proposal that builds on common values we all share as Americans. As citizens of this great Republic, we all recognize that we have rights and we have responsibilities. Among our rights is the right to own guns. Among our responsibilities are the responsibilities to use those guns safely and to make sure that those who are neither law-abiding nor peaceful are permitted access to deadly force.

For several decades, our Nation has had a clear policy against allowing convicted felons to buy guns, because we know that mixing criminals and firearms far too often yields violent results. That same insight has caused us to agree that it causes too great a risk to society for a number of other groups of people to buy guns—those under felony indictments, who are fugitives from justice, who are subject to restraining orders and who are convicted spouse abusers.

Through the Brady law, we established what seems like an obvious corollary to that policy a requirement that those selling guns first determine whether someone trying to buy a firearm isn't supposed to get one. The Brady law has been an enormous success. Since its enactment, background checks have stopped almost one million gun sales to those who by law aren't allowed to own guns. The majority of stopped sales involve convicted criminals or those under felony indictment. Stopping these nearly one million transactions has saved an untold number of our citizens from the violence, injury or death the sale of many of these guns would have brought.

Importantly, this life-saving legislation has brought its benefits with the most minimal of impact on the law-abiding citizens who have the right to buy guns. Over 90 percent of background checks are completed immediately; 95 percent within 2 hours. In other words, the vast, vast majority of those seeking to buy guns suffer no inconvenience whatsoever from these virtually instant background checks. But, again, the benefits to the rest of us, to those who have been saved from the violence that could have resulted from just a fraction of those nearly one million sales stopped by the Brady law—those benefits are incalculable.

Unfortunately, the Brady law contained a loophole that has since been exploited to allow criminals and others who aren't legally allowed to buy guns to evade the background check requirement by buying their guns at gun shows. The problem is that Brady applies only to Federal Firearms Licensees, so-called FFLs—people who are in the business of selling guns. Brady explicitly exempts from the background check requirement anyone ''who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.'' As a result, any person selling guns as a hobby or only occasionally, whether at a gun show, flea market or elsewhere, need not obtain a Federal license and therefore has no obligation to conduct a background check. This means that any person wanting to avoid a background check can go to a gun show, find out which vendors are not FFLs, and buy a gun. This situation is dangerous not only because it allows convicted felons and other prohibited persons to buy guns, but also because—in contrast to FFLs—non-FFLs have no obligation to keep records of the transaction, thereby depriving law enforcement of the ability to trace the gun if it later turns up at a crime scene.

Now I know that some argue that there is no gun show loophole, or that if there is one, it has little or no consequence. That's just wrong. But don't just believe me on this—listen to a report by the government agency charged with investigating gun trafficking. In June 2000, the Bureau of Alcohol, Tobacco and Firearms issued a report in which they stated: ''The access to anonymous sales and large numbers of secondhand firearms makes gun shows attractive to criminals. . . . [G]unshows were associated with the diversion of approximately 26,000 firearms.'' The report went on to describe an ATF review of gun show investigations, which it said:

> shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons. The gun show review found that firearms were diverted at and through gun shows by straw purchasers, unregulated private sellers, and licensed dealers. Felons were associated with selling or purchasing firearms in 46 percent of the gun show investigations. Firearms that were illegally diverted at or through gun shows were recovered in subsequent crimes, including homicide and robbery, in more than a third of the gun show investigations.

Our amendment will change that. We will make sure that no one will be able to buy a gun at a gun show without it first being determined whether that person is a convicted felon, a spouse abuser or a member of one of the other categories of people we all agree should not be allowed to buy guns.

Our bill does this, though, by respecting the rights of law-abiding gun owners and taking into account some of the concerns that were expressed about previous efforts to close this loophole. At the outset, let me emphasize that background checks at gun shows will be no more burdensome than those that so successfully and efficiently have been conducted over the past decade, with minimal intrusion on the rights of law abiding citizens. Again, over 90 percent of checks produce immediate answers and 95 percent yield results in under two hours. Just as importantly, there's nothing in the experience of those states that have already closed the gun show loophole to suggest that gun shows will suffer as a result of closing this dangerous loophole. According to the Americans for Gun Safety, gun shows are thriving in the States where background checks are required. Pennsylvania, which closed the loophole in 1995, hosts the second most gun shows of any State in the country. And of the top 5 gun show States, three Pennsylvania, Illinois and California—require background checks or a firearms ID card for gun purchases.

But we understand the concerns some have expressed—that a bill closing the

gun show loophole will somehow extend beyond gun shows into small private sales from someone's home or will create a barrier so high that gun shows won't be able to operate. We've made sure that won't happen. First, our bill has a simple definition of a gun show—an event where 75 or more guns are offered or exhibited for sale—and we make clear that that definition doesn't include sales from a private collection by nonlicensed sellers out of their homes.

Second, to respond to the argument that previous proposals made it too difficult for nonlicensed sellers to fulfill the background check requirement, our bill makes sure that nonlicensed sellers will have easy access to someone who can initiate background checks for them, by creating a new class of licensee whose sole purpose will be to initiate background checks at gun shows.

Third, we have tried to respond to those who say that a three-day check is too long for gun shows, because those events only last a couple of days. It is worth noting yet again that the length allowed for the check doesn't affect the overwhelming majority of gun purchasers, because over 90 percent of checks are completed almost instantly. But to allay the concerns that have been expressed, we have come up with a compromise that authorizes a State to move to a 24-hour check for nonlicensed dealers at gun shows when the State can prove that a 24-hour check is feasible. A State can prove that by showing that 95 percent of the records that would disqualify people in that State from buying guns are computerized and searchable by the NICS system. And, because of the particular need to keep guns out of the hands of spouse abusers, the bill specifically provides that a State must have computerized 95 percent of its domestic violence misdemeanor and restraining order records dating back 30 years before it is eligible to go to a 24-hour check at gun shows.

Putting all of these provisions together, I frankly cannot understand why reasonable people would oppose this amendment. If we all agree that criminals, spouse abusers and the like shouldn't be able to buy guns, why in the world aren't we doing a very simple thing and saying that just like the person who sells at a gun store has to do a background check, the person who sells at a gun show does too. All this bill does is make sure that we have an effective means to implement something upon which there has been a national consensus for decades—that criminals and other people we all agree shouldn't own guns can't buy them.

Now I know that there are many who argue that what we need to solve the gun violence problem are not new laws, but the enforcement of existing ones. I agree with part of that statement, and firmly support efforts to crack down on those who violate our gun laws. But I believe we must go farther than that, because we will never be able to enforce existing laws unless we close the loopholes in them that criminals exploit. And we all know that there is a big loophole in the provision saying that felons and spouse abusers aren't supposed to buy guns, and that is that criminals know that if they go to a gun show, they will be able to avoid the background check that was set up to keep them from getting guns.

Gun crime remains a critical public safety problem. For too long, differences over finding a solution to that problem have unnecessarily divided the Congress, and the American people have been left to suffer the violent consequences. But the reality is that most of us agree on most of the critical questions. We agree that the laws on the books should be enforced, that the rights of law-abiding gun owners should be protected, and that convicted felons and spouse abusers shouldn't be able to get guns. Again, I believe law abiding citizens have every right to own guns, but we also all share in the responsibility of keeping our society safe and keeping guns out of the hands of those who shouldn't have them. This amendment would write those principles into law. I hope all of my colleagues support it.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from California is now on the floor to offer her amendment. So we can expedite matters, under the unanimous consent agreement, the McCain-Reed amendment is to be set aside for the purposes of the introduction of an amendment by the Senator from California.

The PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

AMENDMENT NO. 2637

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant journal clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, and Ms. MIKULSKI, proposes an amendment numbered 2637.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for a 10-year extension of the assault weapons ban)

On page 11, after line 19, add the following:

SEC. 5. ASSAULT WEAPONS BAN REAUTHORIZATION.

(a) SHORT TITLE.—This section may be cited as the ''Assault Weapons Ban Reauthorization Act of 2004''.

(b) 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.—Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

''SEC. 110105. SUNSET PROVISION.

''This subtitle and the amendments made by this subtitle are repealed September 13, 2014.''.

Mrs. FEINSTEIN. Mr. President, it is my understanding that I have 10 minutes to speak on the amendment. I ask the Chair to alert me when 5 minutes have passed. I will then cede time to Senator WARNER for 2 minutes and to Senator SCHUMER for 2 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

Mrs. FEINSTEIN. Mr. President, this amendment is offered on behalf of Senators WARNER, SCHUMER, DEWINE, LEVIN, CHAFEE, DODD, JEFFORDS, BOXER, CLINTON, REED, LAUTENBERG, and MIKULSKI.

This is an ad from this morning's Washington Post. It says:

Senators, if police officers sat in your seats today, do you think they'd vote to put Uzi's and AK–47's back on the streets?

That clearly is the question before the Senate this morning.

It is going to be a very close vote. However, that is the issue. That will be the result, if this legislation is not reauthorized for another 10 years.

The legislation has the support of 77 percent of the American people, and 66 percent of gun owners. It does not remove a legal gun owner from his weapon, and it has reduced traces of assault weapons to crimes by two-thirds in the last 10 years. I stand by those figures.

We believe the assault weapons legislation should be reauthorized. It was enacted in 1994 for 10 years. That 10 years is up on September 13.

There is a broad coalition of organizations including every single law enforcement organization in this country supporting it, from the International Chiefs of Police to the Fraternal Order of Police, to virtually every civic group supporting reauthorization of this legislation.

I very much hope the votes are present in the Senate this morning.

Another interesting note is that on the one hand we are accused, well, it is just cosmetic; it doesn't work. If it is just cosmetic and it doesn't work, then why this enormous effort to prevent the bill from being reauthorized?

Additionally, the legislation contains a written exemption by name for 670 weapons. So no one in the United States who legally possessed one of these assault weapons has had those assault weapons taken away. But what we believe is the legislation which stops the manufacture and the sale of semiautomatic assault weapons has been effective. It also stops the domestic manufacture of clips, drums, or strips of more than 10 bullets. No hunter needs more than 10 bullets. No person for defense needs more.

I am very hopeful this morning we will in a sense look to the law enforcement community and sustain a vote to reauthorize the assault weapons legislation for another 10 years.

I now yield 2 minutes of my time to the distinguished senior Senator from Virginia, Mr. JOHN WARNER.

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

Mr. WARNER. Mr. President, I thank our distinguished colleague from California. I salute her leadership on this measure.

I am very hopeful we can persuade the Senate this morning to continue this legislation.

Might I say that when first introduced, it was somewhat different than what the President indicated he would support. At my request, the Senator conformed her bill so it is precisely the legislative measure to which the President of the United States has indicated he would lend his support.

I could say many things about this bill. But in the time constraints we have, law enforcement was the pivotal decision which switched me from 10 years ago voting against this measure, to today not only standing here to vote for it but joining in the leadership of the Senator from California to get it passed. Law enforcement has shown it has reduced the use of these weapons in crime.

My words pale in significance to the law enforcement officers from the four corners of the Commonwealth of Virginia.

The sheriff of Amherst County, the chief of police of Blacksburg, the chief of police of the town of Vienna, the chief of police of Waynesboro, the acting chief of police of Fairfax County, the sheriff of the city of Alexandria, the chief of police of Roanoke, the chief of police of Virginia Beach, the chief of police of Chesapeake, the chief of police of Portsmouth, the sheriff of Roanoke City, the chief of police of Newport News, the chief of police of Winchester, the chief of police of the city of Alexandria, the chief of police of Arlington County, the chief of police of Staunton, the chief of police of Salem, the sheriff of Rockingham County, and the chief of police of Norfolk—the four corners of the Commonwealth of Virginia. These law enforcement officers come forward to support this legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator has used 2 minutes of the time.

Mrs. FEINSTEIN. I thank the distinguished Senator from Virginia for his leadership on this issue. We are delighted he is a major sponsor of this bill.

Mr. President, inadvertently the name of the Senator from Illinois, Mr. DURBIN, was left off the bill as a cosponsor. I ask unanimous consent it be added.

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

Mrs. FEINSTEIN. I yield 2 minutes of my time to the distinguished Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. Senator SCHUMER is recognized for 2 minutes.

Mr. SCHUMER. I, too, salute both my colleagues for their superb leadership on this issue. This bill, the assault weapons ban, is hanging by a thread. There is no good reason on God's green Earth why. It has been a success in preventing crimes. It has not hurt a single law-abiding gun owner. Yet we are here today at the eleventh hour worrying and wondering whether this legislation will be renewed. If it is not renewed, it is a giant step backwards, I say to my colleagues.

How can we take it in the light of 10 years of experience which shows how successful the legislation is? The number of guns, assault weapons, 19 banned weapons, used in crimes has dramatically declined—by 300 percent. The number of individuals who have been hurt by this—hunters, small businesspeople, homeowners who want to protect themselves by having a gun—have not been hurt at all.

These are weapons of war. They are designed to kill a whole lot of people quickly. They are not designed for hunting. They are not designed for self-defense of a homeowner or a store owner. The only reason we are here today is politics.

I plead with our President—he has said he is for the legislation after the modification the good Senator from California made, so it is exactly the same as the bill we have had in effect—I plead to not just simply state once or twice he is for this. One phone call, Mr. President, can pass this bill. Please, we need this legislation. I urge my colleagues to reach into their consciences and pass it.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan amendment to continue the Federal ban on assault weapons. The ban is now scheduled to expire on September 13, 2004.

The fact that this common-sense and necessary ban requires any debate at all shows how misplaced and misguided our priorities on domestic safety and security have become.

Even before 9/11, renewal of the assault weapons ban should have been a no-brainer. After 9/11, to even consider letting the ban expire is absurd.

Semi-automatic assault weapons are killing machines—nothing more, nothing less. They are intentionally designed to maximize their killing power by a rapid rate of fire. They are intended to be spray-fired from the hip, so that the killer can fire many rounds in rapid succession.

Civilians have no need whatever for such military-style killing machines. They are of no use for hunting, unless the goal is to obliterate the duck or deer being hunted. They are unnecessary and impractical for self-defense, and they have no recreational value.

The purpose of these weapons is to facilitate crime. By the late 1980s, assault weapons had become the weapon of choice for drug traffickers, gangs, and other criminal organizations. Their high firepower and ability to penetrate body armor exposed the police officers to increased danger, and innocent bystanders were killed in indiscriminate assault-weapon shootouts in the streets.

Assault weapons have been used in a series of massacres:

In 1989, in an attack at Cleveland Elementary School in Stockton, CA, Patrick Purdy used an assault weapon to kill five small children and wound 29 others. Purdy fired off 106 rounds in less than two minutes.

In 1993, two CIA employees were killed outside the entrance to CIA headquarters by a Pakistani national using an AK–47 assault rifle equipped with a 30-round magazine.

Also in 1993, eight persons were killed and six others were wounded at a San Francisco law firm by an assailant using two assault pistols with 50-round magazines.

That's the kind of world we'll return to if Congress allows the current ban on assault weapons to expire.

In fact, the ban contributed to a dramatic decrease in violent crime in the 1990s. Many of us remember the dire ''juvenile superpredator'' predictions that were in vogue before that reduction took place. In 1996, William Bennett and John Walters had written that America was a ''ticking crime bomb,'' faced with the ''youngest, biggest, and baddest generation'' of juvenile offenders that our country had ever known.

Fortunately, these predictions were wrong. From 1993 to 2001, arrest rates for violent juvenile crime declined by more than two-thirds. We're still enjoying the benefits of this low crime rate today.

The decrease in crime is explained in large part by the sensible measures that Congress took on gun safety in the early 1990s, including the ban on assault weapons. In 1999, the National Center for Juvenile Justice concluded that all of the increase in homicides by juveniles between the mid-1980s and mid-1990s was firearm-related. The U.S. Surgeon General concluded that guns were responsible for both the epidemic in juvenile violence in the late 1980s and the decrease in violence after 1993. ''It is now clear,'' the Surgeon General wrote, ''that the violence epidemic was caused largely by an upsurge in the use of firearms by young people. . . . Today's youth violence is less lethal, largely because of a decline in the use of firearms.''

After Congress passed the assault weapons ban in 1994, fewer criminals used assault weapons to kill and commit other crimes. According to the National Institute of Justice, requests to trace assault weapons—one of the best indicators of gun use in crimes—declined 20 percent in the first calendar year after the ban took effect. In 1995 and 1996, the number of assault weapons used in crime in Boston declined by 24 percent. In St. Louis, it declined by 29 percent.

With these proven results, why would anyone vote against reauthorization of the current assault weapons ban?

It's no surprise that the law enforcement community strongly supports the

ban. The amendment now before us is supported by: The International Association of Chiefs of Police; the National Association of Police Organizations; the National Organization of Black Police Officials; the International Brotherhood of Police Officers; the Hispanic American Police Command Officers Association; the American Probation and Parole Association; the United States Conference of Mayors; and countless other religious, public health, and domestic violence organizations.

Congress needs to do more than renew the ban on assault weapons now in effect. We should make clear that the definition of assault weapons includes ''copycat'' guns made by the gun industry with devious cosmetic changes to evade the 1994 law. We should ban parts kits that can be bought through the mail and used to build assault weapons. We should regulate the transfer of ''grandfathered'' assault weapons and facilitate their tracing. We should ban high-capacity ammunition magazines, and prohibit juveniles from buying or possessing assault rifles and shotguns. Senator LAUTENBERG has introduced a bill that would do all of these things, and I commend him for his leadership.

What we absolutely cannot do is let the current ban on assault weapons expire. Such a failure would drastically undermine the safety of our streets, neighborhoods, and schools, and strengthen the hand of terrorists and other criminals.

We know that terrorists are now exploiting the weaknesses and loopholes in our gun laws. A terrorist training manual discovered by American soldiers in Afghanistan in 2001 advised al Qaeda operatives to buy assault weapons in the United States and use them against us. Terrorists are bent on exploiting weaknesses in our gun laws. Americans will be at much greater risk if Congress fails to renew the ban on assault weapons.

We can't let that happen. I urge my colleagues to vote for this essential protection against crime and terrorism.

Mr. DODD. Mr. President, I strongly support the extension of the assault weapons ban. I want to commend Senators FEINSTEIN and SCHUMER for championing this important legislation for many years.

We need to close a number of loopholes in the current assault weapons ban that have allowed gun manufacturers to make minor design changes to evade the law. One gun maker in my State has skirted the ban by replacing the prohibited flash suppressor on one of its assault weapons with non-prohibited muzzle breaks or compensators, which ironically reduce ''muzzle climb'' during rapid firing.

The actual functional elements of this assault weapon, however, have remained the same. The gun still fires a high volume of bullets over a large area. Such loopholes need to be closed, and I am pleased to co-sponsor legislation authored by Senator LAUNTENBERG to further strengthen the existing assault weapons ban.

The current assault weapons ban will expire in September. There are many powerful reasons why extending the assault weapons ban must be a top priority for the Congress this year.

First, assault weapon bans do work. According to the Department of Justice, the proportion of assault weapons traced to crimes has dropped by nearly two-thirds since 1995, the first year that the Federal ban went into effect.

Between 1988 and 1991, assault weapons accounted for nearly 8 percent of guns used in crimes. In 1995, it plummeted to 3.6 percent. In 2002, it dropped even further to 1.2 percent. The ban on assault weapons is therefore clearly making a difference in reducing crime and saving lives.

Second, assault weapons have a devastating impact on people's lives and on the safety of their communities. These aren't hunting weapons we are talking about. Nor are they for recreational or sporting use. We have heard it said before that one does not need an AK–47 or an Uzi for duck hunting.

Quite simply, assault weapons are weapons of war. They are designed with one purpose in mind—for slaughtering human beings over a wide area. They belong on a faraway battlefield, not on our Nation's streets. However one feels about the Second Amendment, assault weapons have no place in a civilized society.

If assault weapons end up in the wrong hands, the results can be horrific. The increased firepower of these weapons has a particularly devastating impact on its victims, who often suffer multiple gunshot wounds and severe penetrating trauma. It often takes longer for victims to recover from such injuries, placing significant burdens on scarce medical resources.

Law enforcement officers are particularly vulnerable to assault weapons fire, since they are on the front lines protecting our communities from those gangs, drug traffickers, and even terrorist groups who have made such firearms their weapons of choice. In the years leading up to the enactment of the Federal ban, assault weapons accounted for 8 percent of all guns traced to crime, although they comprised only 1 percent of privately owned guns in America.

Even with the Federal ban in place over the last decade, assault weapons have been implicated in the death of one in five police officers killed in the line of duty between 1998 and 2001. It is no coincidence then that numerous law enforcement organizations, including groups devoted to protecting children's rights and stopping domestic violence, support extending the ban on these deadly weapons.

In fact, it is really a matter of homeland security that these weapons must be taken out of the hands of criminals. A May 2003 editorial in The San Antonio Express News had it right when it said that just as it is a priority for allied officials in Iraq to get AK–47s out of the hands of Iraqi civilians, Congress shouldn't let such military-type weapons back on the streets of American cities by failing to extend the assault weapons ban. If terrorists can turn a jet aircraft into instruments to kill Americans, does anyone think they would hesitate for even one second to use an assault weapon for the same purposes?

In addition to police officers being vulnerable to assault weapons, so are our children. These firearms were used to kill 5 children and wound 29 others in a Stockton, CA, schoolyard in 1989. The AK–47 used in this incident held a staggering 75 bullets. A TEC–9 assault weapon was also used in the 1999 killing of a teacher, 12 students, and the wounding of more than 20 others at Columbine High School.

Connecticut was the fourth State in the Nation to ban assault weapons, after California, New Jersey and Hawaii. The National Rifle Association challenged the ban in Connecticut State court and it was upheld as constitutional in 1994. Federal courts have upheld the constitutionality of the Federal ban on assault weapons as well. Extending the ban for another 10 years will save lives, prevent serious injuries and make our communities safer from the tragic consequences of gun violence. I urge my colleagues to support this legislation.

One more point, one of the most surprising things I have learned in this debate is that firearms, which are responsible for 29,000 deaths a year, are specifically exempt from regulation under the Consumer Product Safety Act.

Section 3(a)(1)(E) of the Act exempts firearms and ammunitions from the definition of ''consumer products.'' This provision was inserted into the Act in 1972 at the behest of the gun lobby. As a result, guns are among the only consumer products, along with tobacco, exempt from Federal health and safety regulations.

This fact is shocking. Even more shocking is the fact that firearms cause more deaths a year than the 15,000 consumer products regulated under the Act combined.

Other potentially dangerous products—from cars to lawnmowers to household products to medicines—are regulated to protect the health of the American public. The fact that guns are already specifically exempt from the oversight of the Consumer Product Safety Commission is reason enough why we cannot afford to grant the firearm industry legal immunity.

Strangely enough, toy guns are more heavily regulated than real guns, despite the fact that toy guns do not kill or maim. There are over 140 pages in the Code of Federal Regulations that apply to toys, but only one paragraph devoted to guns, and that paragraph exempts guns from the Consumer Product Safety Act.

Under the Act, toy guns fall under the standard for toys. At least four types of Federal safety standards cover toys: if they have sharp edges and points, small parts, contain hazardous materials, and are flammable. The regulations even say that toy guns should have a bright orange tip at the end of the barrel to distinguish them from real guns.

The lack of Federal health and safety regulations for guns has a number of serious consequences. It means that there is no way to recall defective firearms. Guns that are manufactured poorly and pose a serious threat to gun owners and the public would remain in circulation, with the government essentially unable to do anything about it.

The lack of Federal regulation of firearms also means that there is no way to mandate the use of safety devices. And it means that there is no detailed data collection on deaths and injuries from guns.

Gun violence has a devastating impact on people's lives and their communities. The fact that toy guns are regulated and real guns are not makes little sense, and I urge the Senate to eventually rectify it.

Mrs. FEINSTEIN. How much time remains?

The PRESIDING OFFICER. The Senator from California has 1 minute 10 seconds.

Mrs. FEINSTEIN. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator reserves her time and yields the floor.

The Senator from Idaho.

Mr. CRAIG. Mr. President, under the unanimous consent request, this amendment currently before the Senate, the Feinstein amendment, would be set aside for the purposes of the introduction by our leader, Senator FRIST, of the DC gun ban repeal. That amendment will not be offered today, so we are now on full debate for the balance of time until votes start at 11:30 on the two issues before the Senate and the balance of the whole bill.

Certainly, there are other amendments besides the assault weapons ban introduced by the Senator from California, the gun show loophole by Senators REED and MCCAIN. Also, we will have votes today, and it is critical for Senators who want to debate on armor piercing by KENNEDY and the Frist-Craig alternative, also on conceal and carry, offered in behalf of Senator BEN CAMPBELL, that some have debated.

For a few moments, let me debate one general topic. The clock has started for all of us on the 2-hour balance of time equally divided between us on this issue.

For a moment today, I will talk about attitudes of the American public as it relates to the second amendment in the Senate today. The Senator from New York talked about why we are at the eleventh hour debating the gun show loophole. We are because he and his colleagues introduced it, obviously, believing it was a timely topic to debate at a time when we have a very narrowly prescribed bill to deal with the legitimacy of law-abiding citizens in the manufacture of firearms. He has decided to add or attempt to add this to the bill. Our President has asked for a clean bill.

Let me talk about where the American people are. Once again, we find ourselves in a political season. And once again, we find ourselves debating and arguing about gun ownership in America. The second amendment is clear. Many who are strong advocates of that amendment believe it is extremely clear.

We have heard over the last several days Senators with honest differences of opinion take to the Senate floor and claim their vows to represent the folks back in their home States.

Let's take a few minutes to look at some of the relevant research from respected polling from the firm Zogby International. Zogby recently surveyed 1,200 voters nationwide on firearms issues. As a conservative, I don't view Zogby as a conservative pollster; some call him middle of the road, some call him middle left. I guess what I am saying is Zogby and his polling are largely respected by many across the country. The Zogby International group, working with the John Goodwin Tower Center for political science at Southern Methodist University, looked at and decided to poll in a unique way. They said: Let's examine the difference between the George Bush States in 2000, the red States, and the Al Gore States, the blue States. For the balance of my comment, think red and think blue and remember that map we saw after the last Presidential election when the vast majority of America was red except for a few blue strips along the west coast line and the east coast line.

Here were the questions asked of 1,200 voters—not citizens, voters; those who said they voted in the last election—as to the attitude of Americans on firearms. They asked: Do you agree or disagree that American firearm manufacturers that sell a legal product which is not defective—meaning a quality product used for the intent of its manufacture—should be allowed to be sued if a criminal used their product in a crime.

What are the answers? The answers are, there were enough laws on the books. In the Bush States, 69 percent agreed they should not be sued; in the Gore States, 63 percent agreed they should not be sued and they ought not be sued; military people in those States, 70 percent; veterans, 71 percent; nonmilitary, on the average 66 percent. A very strong majority of the American people made it very clear. The answer came back loudly, from every demographic group opposed to these kinds of lawsuits.

That is why we have S. 1805 before the Senate. American minds are made up. These are junk and frivolous lawsuits. They ought not be filed. They also said a manufacturer of a product ought to be held liable if that product is defective, if it malfunctions, and if that defectiveness or that malfunction might create an injury. That is exactly what we continue to allow to happen.

Opposition in the Bush States on that issue, 74 percent; while 72 percent of the voters in the Al Gore States voiced opposition. Interestingly, across the board those most strongly opposed to these lawsuits against the firearms industry are current members of the military and their family. Their opposition collectively measured at 83 percent. This is not from a conservative right-wing pollster. This is from Zogby himself.

When certain gun organizations heard about this, they called the Zogby polling group and asked, Are these valid? The answer from Zogby: Yes, we ran them again. We were not so sure, and we believe they are accurate and valid.

Which of the following two statements regarding gun control comes closer to your own opinion? Of course, those were the figures we showed in the first chart. There needs to be new and tougher gun law legislation to help fight against crime. That is what we are debating now in the Senate. That was question A: There are enough laws on the books. What is needed is better law enforcement of current laws regarding gun control, by a better than 2 to 1, 66 to 31.

In essence, the American people are saying no new gun laws; we have plenty of them on the books. That is not about laws but going after criminals. That is common sense in America, and we never want to doubt the common sense of the average American when they are well informed about an issue or when they just suggest that somebody is playing politics with an issue and it really does not make any sense.

Sixty-nine percent in the Bush States; 63 percent in the Gore States; and those numbers are extremely strong.

So what are we saying? We are saying that moderates solidly favor better law enforcement—62 percent to 34 percent. They are saying: Leave the gun owner alone. Gun control laws do not work.

Somehow, the American people have settled into understanding what most people understand, with common sense: If you do not use the laws to go after the criminal element in our country, if you try to blame their problem on somebody else or their malfunctioning in society, and you try to reach through and sue somebody else, the American people are saying: No, we don't go there anymore and we won't tolerate that.

Those are the issues at hand. That is the underlying purpose for why we are here today debating S. 1805. We think it is fundamental to the American people to allow them to speak and say: Enough is enough; 30-plus lawsuits by

municipalities or political jurisdictions, and 21 of them already thrown out of the courts. Our courts are now full of many of these. Hundreds of millions of dollars have been spent in defense of law-abiding manufacturers and licensed firearms dealers. It is time we say, no, if that third party is trying to be held unaccountable by going after somebody else who is a law-abiding, legitimate citizen. Let's return to old, historic, fundamental tort law. It is the individual who is responsible for their actions, not someone else.

I think we were all taught that as a child. If we were not taught that by our parents, then I guess I have to say shame on our parents because that is pretty fundamental. You are responsible for your actions. If you misact, you might be punished for it. In society, if you misuse a gun, you ought to be punished for it instead of trying to pass it on to somebody else who is a law-abiding citizen playing by the rules that society has laid down and of which our Constitution so clearly speaks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. CARPER. Mr. President, I thank the Senator for yielding.

Most Senators have already made up their minds on how they are going to vote on the proposal by Senator MCCAIN and Senator REED on closing the gun show loophole. A few have not. What I would like to do is direct my comments to them.

During my first term as Governor of Delaware, I remember a meeting I had with law enforcement officers who came to see me. They wanted to talk with me about something called the gun show loopholes.

As they went through their explanation, I said: Do I understand correctly, that if I happen to be a licensed gun dealer at a gun show in my State, and let's say Senator REED over here is an unlicensed gun dealer at the same gun show, that I have to do an instant background check on the folks who want to buy a weapon from me, and if they do not pass that instant background check, they can go over and buy the same weapon from my competitor?

They said: That's right.

For the life of me, at that time that made no sense, and for the life of me, it still does not make any sense.

I mentioned yesterday on the floor that my dad, who is now deceased, was a gun collector. He had rifles and shotguns, a musket or two, pistols of all kinds. He would buy weapons from guys he would hunt with. They had an informal hunt club. He would buy weapons from relatives, members of our family. He might go to a yard sale in the neighborhood where they lived in Florida and buy a weapon. He ought to have been able to do that, and under the law, under this amendment that is offered today, he could still do those things, were he alive.

Let me close with this: Technology is going to help us solve this problem. Technology can be a great way to solve this problem. Instant background checks make feasible what 10 years ago was not feasible and the right thing to do.

I yield back my time.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

The Senator from Rhode Island.

Mr. REED. Mr. President, I yield myself such time as I may consume from my time.

I rise to support the McCain-Reed amendment and also the Feinstein amendment. I am a cosponsor, obviously, of both amendments.

I wish to talk, for a moment, about the gun show loophole. It is clear and obvious to anyone—at least I believe it is—that we should not have two different standards at a public gun show. We should not have a situation where you can approach one seller who is a licensed firearms dealer and in that transaction have to undergo a background check, and then, 5 feet away, have an unlicensed seller and be able to purchase a weapon without any type of background check.

These are public functions. Thousands of people stream through these gun shows. This is not a private sale where the seller and the buyer know each other, have an association to each other, and essentially do not need any kind of a background check. In order to prevent these gun shows from being exploited by criminals and terrorists, there has to be a common standard. Every transaction should be governed by a background check at a public gun show.

We know these unlicensed dealers and these gun shows have been exploited by criminals. I have mentioned, over the course of the last several days of debate, numerous examples. Let me return to one.

Nigel Bostic and two accomplices were arrested for buying 239 firearms at 11 Ohio gun shows and reselling them to criminals in Buffalo, NY.

It is a very obvious scheme. You go to a place, if you are a felon or a criminal, that requires no background checks, that are publicly advertised, that are easily accessible, you buy the weapons, take them to another State that has very tough laws, and you sell them to criminals.

One of these weapons was recovered in a homicide. It has been reported that Bostic purchased 45 firearms at one of these sales; his accomplices, 85 guns.

These are the examples that will continue to take place unless we close this gun show loophole. Indeed, it is obvious to gun owners it should be closed. More than 80 percent of gun owners surveyed indicated they support closing the gun show loophole. President Bush repeatedly, in the campaign of 2000, said he was for closing the gun show loophole.

The legislation that we present imposes no great burden on any participant at a gun show. Because of the National Instant Check System, 91 percent of these background checks are accomplished in less than 5 minutes; 95 percent are accomplished in less than 2 hours. The remaining checks reveal, in many cases, prohibitive purchases. That is the purpose of the check.

I think we can do something logical that is supported by the broad majority of Americans, including gun owners, by closing this gun show loophole. I hope we can do it today.

But let me, before I conclude, make a general comment on the underlying bill. We have heard the proponents of the bill talk a lot about responsibility, that we have all been taught as children that if we misuse a gun, we should be responsible for that.

Well, the underlying legislation is a license for irresponsibility. The most salient example is Bull's Eye Shooter Supply gun store up in Washington State, the source of the weapons for the snipers who were plaguing this Washington metropolitan area.

There, the individual gun dealer apparently let weapons lay around. He could not account for over 238 weapons. He did not inventory his weapons. That is what I call a misuse of a weapon. People were harmed by that misuse, but we are insulating that individual from any serious liability because there is no Federal law—and my colleagues on the other side are not likely to propose it—for strict control of the security of weapons.

I am amazed about the statistics my colleague from Idaho cited about the military support for no new weapons, et cetera. I tell you what. I served for 12 years in the U.S. Army. If you told an Army officer there was someone with hundreds of weapons, unsecured, lying around, subject to being shoplifted by teenagers, they would be appalled. Because the first thing you learn in the military is that you better secure those weapons, you better lock them up, you better inventory them, and do all the things you have to do, not only to protect yourself but to ensure those weapons do not fall into the wrong hands. This legislation, if passed, will be a license for irresponsible behavior, unconstrained by any civil suit that could not only compensate the victims but suggest a higher level of care. So I hope that not only we support these amendments but look seriously at the underlying bill.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the gun show loophole bill now being introduced by Senator MCCAIN and Senator REED is before us for full debate at this moment. Let me talk for a few moments about this issue and what it is

and what it is not, and what has been done and what has not been done.

I believe some of the language used on the floor deserves to be clarified for the Members who might be looking in. The Senator from Rhode Island said yesterday that a good many States have already closed the loophole. I think he meant that 15 States have preexisting processes. Long before you go to a gun show, if in fact you are in the market to purchase a gun, you pick up a permit by which to purchase. States do backgrounds and have backgrounds and do that kind of thing.

He did mention, though, North Carolina and spoke greatly about how North Carolina had closed the loophole, and then gun shows flourished. Well, numbers are not any different in the number of gun shows. North Carolina requires a handgun permit to purchase a handgun. So they do a check, a normal check, the kind you would normally do. You have to have that going in or coming out of a gun show to acquire from any activity, other than a one-on-one private sale. So to examine all of those issues, none of the States have the kind of regulatory structure that is being asked to be imposed on all gun shows in all States by the McCain-Reed gun show amendment. Clearly, what we have is an effort to create a blanket Federal policy across 1,000 gun shows, attended by millions of people annually, which is legal, responsible commerce.

Well, it has also been argued that gun shows are now the venue by which terrorists acquire firearms. It is interesting that the reason they suggest that is because the terrorists who acquired a firearm through a gun show, or through a straw dealer who bought a firearm at a gun show, are arrested and in jail. Somehow the law must have worked. It did work because if you are an illegal alien in this country, you cannot acquire a firearm. If you are a felon, you cannot acquire a firearm. It catches up with you if you are a law breaker.

In this instance, those they know of are three. There were three they can talk about. Does a purchase of three make the gun show venue a wide open market for terrorist activities? Absolutely not. It never has and it never will.

What we know, what the statistics show from the Department of Justice, is that the reality would suggest there are possibly a couple of percentage points, 1.5, 2 percentage points, that we can actually understand as it relates to firearms obtained through gun shows, used in criminal activity.

The Bureau of Justice Statistics is, I believe, by far the most reputable accumulator of this kind of information. They suggest that it has been a constant, all the way through, possibly about 1 percent. So that is the reality we deal with on this issue.

Let me put forth another scenario. This is a question they cannot answer because they have set up a major, new tripwire for an individual.

Let's say an individual goes to a gun show. He or she looks around and they find a particular gun in which they are interested. It is not being offered by a licensed Federal firearms dealer; it is being offered by a collector or an individual who bought a table and has two or three firearms to sell. He likes it. The dealer or the person says, take my card.

So he takes his or her card and he goes home and talks to his spouse; the spouse says, you have enough guns, you don't need another gun. That conversation goes on for quite a while. Finally, they agree that maybe for the collection, or for whatever purpose this citizen would want to own that gun, that they will buy it. They call the fellow on the business card. The purchase goes about.

Now, has that gun been purchased illegally? I do believe under the Reed-McCain amendment you have set up a major new tripwire for innocent, law-abiding citizens who, after the fact of a gun show, purchase the gun.

It can be argued that it was outside the gun show, but the point of contact was inside the room, inside the organized gun show.

What if 2 or 3 years later you realize that particular collector, who you met at the gun show and visited with and you saw his particular collection at the gun show, has that one firearm that you want to add to your collection? Does that point of contact, therefore, require, under Reed-McCain, a background check? I believe it is a phenomenally gray area and a critical area for an awful lot of law-abiding citizens who, once again, out of a desire to put up a law that doesn't work, when you create a Federal bureaucracy, you throw them into the middle of the bureaucracy when they in every way have been law-abiding citizens. I believe that is a phenomenal risk to place on our citizens, and that is exactly what we are doing—placing a risk on a citizen when we have never before said that this was a problem.

The ATF did research a few years ago and found out that less than 2 percent—1.7 percent—of firearms involved in criminal activity came from a gun show and they said, oh, there is a loophole. If there is a loophole in a gun show, there is one outside of a gun show. The laws that pertain to every citizen outside the gun show today pertain inside the gun show as well.

Yet McCain-Reed says that is not good enough. This is a special activity—1,000 legal activities that go on across our Nation a year, and millions of people attend them not just to acquire a gun but to get information, to collect, do all kinds of things you do at normal shows.

So our Federal Government is going to decide to regulate one more activity of commerce out there in the free marketplace. Why? To set up a charade that hasn't worked and won't work any differently than it has outside the gun show.

Let's stay with the laws we have. Let's go after the criminal element. Let's keep S. 1805 a clean bill so we can get it to the President for his signature.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CRAIG. Mr. President, I yield 5 minutes to the Senator from Colorado. He has worked with us and has the concealed-carry bill we will be voting on later today.

Mr. CAMPBELL. I thank my colleague.

Mr. President, before I make some comments on the amendment, No. 2623, which we discussed Thursday, listening to the Senator's comments about the so-called gun show loopholes and the point of contact, I might ask, what if a person goes to a gun show and sees something he might like and forgets about it and months later he sees it in a classified ad of a newspaper and buys it through the classified ad in the paper from the man who originally had it at a gun show the year before? Does that make the person liable who had the booth at a gun show? I think this amendment complicates things rather than answers things.

Mr. CRAIG. I think the Senator sees it clearly, as I see it. That has established a very big gray area. Of course, if that weapon fell into the hands of a criminal who misused it, and if that trace came back, that is a field day for a lawyer inside a court saying, you bet, that contact was made, that sale was initiated at a gun show, when the scenario could have been just as the Senator explained it.

Mr. CAMPBELL. Mr. President, I rise to comment on amendment No. 2623 of S. 1805, the Protection of Lawful Commerce and Arms Act, which was offered on my behalf by my colleague and friend Senator CRAIG from Idaho last Thursday.

This amendment is based on a bill I worked on for a number of years. I am pleased to say it has the broad bipartisan support of my colleagues. In fact, it has 67 cosponsors. It enjoys the support of numerous local law enforcement agencies, including the Fraternal Order of Police. I am delighted to have Senators HATCH, LEAHY, and REED joining me as original cosponsors of this amendment.

I was particularly pleased that last Thursday, a second-degree amendment was adopted naming this bill to honor Steve Young, the recently retired president of the 300,000-member Fraternal Order of Police.

This amendment, which is identical to my bill which was introduced as S. 253 and was reported out of the Judiciary Committee in March 2003, would permit qualified former and current law enforcement officers who are employed by or retired from a local, State, or Federal law enforcement agency to carry concealed weapons across jurisdictions.

A ''qualified law enforcement officer'' is any individual who has retired

in good standing from service of a government agency as a law enforcement officer for a total of 15 years or more. The only exception is if the officer was separated from duty by a duty-related injury. Officers will be required to carry photographic identification issued by the agency for which they are or were employed. It is an extremely important measure.

With specific regard to retired officers, this amendment requires them to meet annually and at their own expense the very same standards that active officers must meet in the State where they reside. Thus, there should be no question as to the qualifications of either active or retired officers.

There are several important benefits to this amendment. First, the American public will undoubtedly be safer as off-duty and retired law enforcement officers are allowed to carry concealed weapons as they travel across jurisdictions. If enacted into law, the basic net effect will be thousands of additional police officers on the streets at zero taxpayer expense. Criminals and terrorists certainly will not be happy when this bill is passed. They would not be sure whether or not seemingly average citizens are actually off-duty or retired law enforcement officers who are armed, trained, and ready to deal with whatever situation may arise. I certainly believe that this type of knowledge should act as a major deterrent for anyone dumb enough to be contemplating crime.

Now there may be some who question whether or not this is a States rights issue. Let me address that for a moment. In this instance, it is exactly the wide and vast variety of different State gun laws that make this type of Federal legislation necessary. The result is this amazing maze of different laws in the States and other jurisdictions which results in a paradox for officers, and sometimes places them in extreme jeopardy.

Congress has the authority, under the ''full faith and credit'' clause of the Constitution, to extend full faith and credit to qualified active and retired officers who have met the criteria to carry firearms set by one State, and make those credentials applicable and recognized in the States and territories of the United States. My legislation maintains the State's power to set these requirements and determine whether or not an active or retired office is qualified to use the firearm, and it would only allow this vary narrow group of people to carry their firearms when traveling outside their immediate jurisdiction.

In the most simplistic terms, it is like a driver's license. Each State issues their own version and gives their own test, yet although the standards may differ from State to State, all drivers can still cross lines, as they have been recognized and certified to operate a motor vehicle on public roadways.

Congress has the authority to preempt state and local prohibitions on the carrying of concealed weapons and has done so in the past on the basis of employment for other professions.

To do the same for law enforcement just makes good sense.

This amendment will also help off-duty and retired law enforcement officers protect themselves and their families. All too often, after they are released from prison, violent criminals seek revenge against the law enforcement officers who helped lock them away. While at a minimum this legislation will even out the playing field for off-duty and retired law enforcement officers, I hope that it will go further and actually give them an advantage. This isn't a ''firearms issue''—it is an officer safety issue. And without a doubt, on September 11, 2001, it became a critical public safety and homeland security issue.

This important law enforcement amendment is especially meaningful to me for a number of reasons. First of all, through 6 years of service as a deputy sheriff with Sacramento County, CA, I was able to get first-hand experience with the challenges facing our Nation's law enforcement officers. While in that position, I personally patrolled the streets and encountered some dangerous characters. I also clearly learned that a law enforcement officer's job does not necessarily end when he or she is off duty since you never know when you may come face-to-face with violent criminals.

Now is the time to clearly demonstrate the Senate's strong support for our Nation's men and women serving on the front lines of law enforcement. Law enforcement officers are a dedicated and trained body of men and women who are sworn to uphold the law and keep the peace. Unlike many other professions, a police officer is rarely ''off duty.'' When there is a threat to the peace or to public safety, officers are sworn to answer the call of duty. Officers who are traveling from one jurisdiction to another don't leave their instincts or training behind them, but without being able to carry their weapon, all of that training and knowledge is basically useless.

This amendment will help officers protect themselves, their families, and their fellow Americans by harmonizing our Nation's conceal-carry laws for qualified off-duty and retired law enforcement officers.

More now than ever before, we all realize Homeland Security is vital to protecting our Nation, and this amendment will enhance the ability of our valuable law enforcement officers to do their job—to protect and serve.

One of the problems we have now, of course, is with multiple jurisdictions in multiple States. A good example is where I live in southwest Colorado, a law enforcement officer who lives, say, in Durango, only 30 miles from New Mexico, is duly authorized to carry a weapon on or off duty in Colorado. But if he goes to New Mexico, he is in violation if he has a concealed weapon. It seems to me we need some kind of blanket protection for law enforcement officers when they cross State lines.

Also, there is another factor involved in this issue, and that is we are in a new kind of war, one in which the Geneva Convention rules of engagement and distinguishing between an armed soldier or armed opponent and an innocent child is simply no longer a consideration. ''Kill all Americans'' seems to be the credo of terrorists, and because of that, American policemen, firemen, and EMTs have become frontline warriors.

I know some question that this is a States rights issue. As I explained, there is a patchwork, a crazy quilt of different jurisdictions, and we need some kind of Federal recognition of that. Congress certainly has this authority under the full faith and credit clause of the Constitution to extend full faith and credit to qualified and active retired officers who have met the criteria to carry firearms set by one State and to make those credentials applicable and recognized in all States and territories in the United States.

This legislation maintains State power to set these requirements and to determine whether or not an active or retired officer is qualified for continued use of a firearm. It would only allow, to a narrow group of people, the authority to carry firearms when traveling outside their immediate jurisdiction. I think this is very good. We have already done this in one case by allowing airline pilots to arm, and that bill did pass and was incorporated in H.R. 5005, which is now a public law. So this is not the first time we have done this.

I hope my colleagues will support this amendment when it comes up for a vote because I think it is going to be beneficial, not only to law enforcement officers, but certainly to people who rely on law enforcement officers who are off duty but still trained in the use of firearms and trained in the rule of law to protect us in this new kind of war.

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

Mr. CAMPBELL. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CRAIG. Mr. President, I thank my colleague from Colorado for his excellent amendment and for his willingness to stand up and speak out on these critical issues.

I now yield 10 minutes of my time to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, Senators CAMPBELL, LEAHY, REID and I have offered as an amendment to S. 1805 the ''Law Enforcement Officers Safety Act of 2003'' which was favorably reported out of the Judiciary Committee with strong bi-partisan support during last session. This amendment, which permits qualified current and retired law enforcement officers to carry a concealed firearm in any jurisdiction, will

help protect the American public, our Nation's officers, and their families. I note that this bill has the overwhelming support of the Fraternal Order of Police and other law enforcement associations, which have vigorously worked in support of this measure.

The amendment allows qualified law enforcement officers and retired officers to carry, with appropriate identification, a concealed firearm that has been shipped or transported in interstate or foreign commerce regardless of State or local laws. Importantly, this legislation does not supersede any State law that permits private persons to prohibit or restrict the possession of firearms on private property or any State law that prohibits possession on State or local government properties, installations, buildings, bases or parks. Additionally, this amendment clearly defines what is meant by ''qualified law enforcement officer'' and ''qualified retired [or former] law enforcement officer'' to ensure that those individuals permitted to carry concealed firearms are highly trained professionals.

There are approximately 740,000 sworn law enforcement officers currently serving in the United States. Since the first recorded police death in 1792, there have been more than 16,300 law enforcement officers killed in the line of duty. A total of 1,800 law enforcement officers died in the line of duty over the last decade, an average of 180 deaths per year. In 2001 alone, there were 232 police deaths, representing a 49 percent increase from the 156 officers who died in 2000. Roughly 5 percent of officers who die are killed while taking law enforcement action in an off-duty capacity.

While a police officer may not remember the name and face of every criminal he or she has locked behind bars, criminals often have long and exacting memories. A law enforcement officer is a target in uniform and out; active or retired; on duty or off.

Because law enforcement officers are, in reality, never ''off-duty,'' this amendment will not only provide law enforcement officers with a legal means to protect themselves and their families when they travel interstate, it will also enhance the security of the American public. By enabling qualified active duty and retired law enforcement officers to carry firearms, even when not on the clock, more trained law enforcement officers will be on the street to enforce the law and to respond to crises.

The idea that a police officer is never really off-duty is not some abstract concept. Let me share a real life off-duty example. Not long ago in Arlington, TX, Bradley Merreighn, a serial bank robber, walked into a bank, pulled out and pointed a gun at a young woman employee of the bank and demanded the bank's money. Unbeknownst to Merreighn, off-duty Arlington Police Sergeant John Gonzales was standing directly behind him with his two small children.

Merrieghn took the bank's money from the young woman and left the bank. Sergeant Gonzales instinctively identified himself to the bank's employees as an off-duty police officer, asked the bank employees to watch his children and, although unarmed, followed Merrieghn as he fled from the bank.

Sergeant Gonzales' police instincts were to try to tail Merrieghn to prevent him from hurting someone and to assist on duty police officers in apprehending him. Sergeant Gonzales commandeered a car outside the bank and followed Merrieghn. During the pursuit, Sergeant Gonzales fortunately avoided being shot and killed when Merrieghn unleashed a torrent of gunfire in an attempt to stop Sergeant Gonzales from following him. Ultimately, because of Sergeant Gonzales' instincts and efforts, other police officers were able to respond and, after a standoff, arrest Merrieghn before he harmed anyone.

The FOP has shared with Members of this body another example of the need for this legislation. Two Maryland police officers and their families were camping in Harpers Ferry, WV. While packing up their campsite following a 3-day camping trip, a gunman opened fire on another camper, wounding him in the lower leg. Two police officers instinctively directed their families away from the scene and retrieved their firearms.

They confronted the gunman with their weapons and ordered the gunman to the ground. After searching the gunman, the off-duty officers discovered that the man had several more live rounds for his shotgun in his possession. These officers held the gunman until West Virginia authorities could arrive. It was later discovered that the gunman had an extensive criminal history—including a murder conviction. The Jefferson County Sheriff's Department remarked that there was no way to know how many lives the off-duty officers saved that day.

Although they were certainly heroes, they were also in violation of West Virginia law because they possessed firearms. These brave officers—who prevented a massacre that day, on their day off and outside of their jurisdiction—were not charged, but they were in technical violation of the law. No one can argue that allowing officers to carry firearms off-duty and outside of their jurisdiction did not save lives that day.

These are but a few of the many examples of law enforcement officers acting on instinct to protect the public and thwart violent crime, even though they are not armed and face life threatening circumstances.

We should adopt this amendment because this important piece of legislation will provide that extra layer of protection to current and retired law enforcement officers and their families who have ably served our communities across the country.

I yield the floor.

AMENDMENT NO. 2637

Mr. HATCH. Mr. President, I am compelled to speak out against continuing this assault weapons ban proposed by Senator FEINSTEIN. An assault weapon is a military firearm which can be fired either automatically or semiautomatically with the flip of a switch. In other words, a true assault weapon is a machine gun, which is a gun already regulated by Federal law.

The firearms covered by the so-called ''assault weapons'' laws are semiautomatic handguns, rifles, and shotguns. Some of these firearms are made to look like a military-style weapon but are mechanically indistinguishable from any true traditional-looking deer rifle.

According to the FBI, in 2001, nearly five times as many individuals were murdered at the hands of criminals wielding knives than were murdered by criminals using rifles. I might add, only a fraction of those rifles were the semiautomatic rifles that were banned by the so-called assault weapons ban. What I think is most interesting and telling about this statistic is that the proportion is nearly identical to what it was 10 years ago; that is, according to the FBI, in 1991, 3 years before the assault weapons ban passed, nearly five times as many murders were committed with knives than rifles—exactly the same proportion as exists today.

The so-called assault weapons ban has succeeded in only one thing: law-abiding men and women, precisely because they abide by the law, were stripped of some of their second amendment rights. We cannot make the same mistake this body made 10 years ago.

The number of murders committed with different weapons has decreased in all areas, proportionally, over the last 10 years. The suggestion that the assault weapons ban is responsible for this decrease is as preposterous as it is misleading. There is no more evidence that the ban on semiautomatic weapons has had a positive impact on crime than there is that the setting Sun is responsible for street lights turning on.

The fact is, just as we feared 10 years ago, the only impact the ban on semiautomatic weapons has had has been on law-abiding citizens. I would like, therefore, to take a few minutes about how we ought to address gun violence. Instead of banning certain firearms for merely political reasons, we need to continue aggressively prosecuting criminals.

Rather than focusing on crafting and enacting more laws that erode law-abiding citizens' constitutionally protected rights, we ought to channel our efforts towards enforcing our current laws and punishing those who choose to abuse those rights and commit crimes with guns.

For example, President Bush has made a commitment to reduce gun crime by getting armed criminals off the streets through his initiative,

Project Safe Neighborhoods. In contrast to the 10-year assault weapons ban and its ineffectiveness in combating gun violence is the overwhelming success of Project Safe Neighborhoods. Project Safe Neighborhoods, announced by the President and the Attorney General in 2001, is a comprehensive strategy that brings together Federal, State, and local agencies to reduce violent crime in our communities.

I might add that we have had a 68-percent reduction in violent crime since that came into being. And I might also add that the only way to keep this under control is to get tough on those who abuse the right to have guns and who abuse the use of guns.

The President is on the right track. We do not need this particular amendment. I hope my colleagues will not accept it.

This ought to be our approach. Not simply saying all guns of a certain appearance are banned. We must continue to vigorously pursue those who abuse the right to own a firearm—not stripping away law-abiding individuals' rights to own and possess firearms. Especially when, other than their appearance, those firearms are no different than thousands of other firearms that are considered legitimate. In fact, in May of last year, I held a hearing for the purpose of determining the effectiveness of Project Safe Neighborhoods. The results are in, and they are impressive.

The number of Federal firearms prosecutions has increased significantly every year under Project Safe Neighborhoods. Specifically, prosecutions have increased 68 percent in the past 3 years. In 2003, the Department of Justice filed over 10,500 Federal firearms cases—the highest number ever recorded by the Department.

Federal offenders are being sentenced to significant jail time. In 2003, approximately 72 percent of offenders were sentenced to prison terms greater than 3 years.

The per capita number of violent crimes involving firearms has dropped 14 percent since the start of the Bush administration. This has translated into an average of over 32,000 fewer gun crimes annually in each of the first 2 years of the Bush administration.

There were nearly 130,000 fewer victims of gun crime in 2001–2002 than in 1999–2000.

The President has been and Congress should be making America's neighborhoods safer by vigorously enforcing gun laws and preventing and deterring gun crime. Arbitrarily taking guns away from law-abiding citizens does not assist the President in making the neighborhoods of America safer.

Inthe course of the debate over gun liability my colleague, Senator DURBIN, spoke of Korean-American victims in Illinois. Let me tell you about Korean-American victims in California.

Many of the guns which current assault weapons bans are targeting—including the Federal ban enacted in 1994—are the very guns with which the Korean-American merchants used to defend themselves during the 1992 Los Angeles riots. For those of you who may not recall the Los Angeles Riots, let me tell you about this tragedy. On April 29, 1992, African Americans, upset over the verdict in the Rodney King case, took to the streets of Korea Town in downtown Los Angeles. Although these innocent Korean-Americans had nothing to do with the police brutality inflicted upon Rodney King, their businesses were singled out. Calls for help came in to 911 by the hundreds. but citizens were informed that no assistance was available. Order had broken down. People were on their own.

As a result of one night of violence, 55 people died, over 2,300 were injured and one billion dollars of property damage was sustained according to the Christian Science Monitor. Gunfire killed 35 people. Six died in arson fires. Attackers used sticks or boards to kill two people. Two other were stabbed to death. Six died in car accidents, two in hit-and-runs, and one person was strangled. The violence crossed racial and ethnic lines.

Seventy-five percent of the businesses destroyed belonged to Korean Americans. Those Korean-American merchants who possessed assault weapons and used them to defend themselves, would likely have a different story about gun control laws and how they help victims. The Korean-American merchants would agree that when one is facing mob violence and the police are unable to respond, one may need a gun that shoots more than just six bullets or has a menacing appearance. A ban on large capacity semi-automatic firearms will only harm one's ability to defend himself and his family rather than deter crime.

While most American spend little time thinking of what the police can do to protect them during times of domestic tranquility, there is no guarantee that this will always be the case. Citizens, like the police, have a right, and some would say a duty, to defend themselves and their families against deadly threats.

The assault weapons ban is a measure entirely devoid of rational thought. It is not based upon compelling factual data or civil necessity, but of political strategy and the machinations of overreactive, quick-fix ideologues. This amendment addresses neither the problem nor the solution, when it comes to gun crime. And because the amendment serves only the political agenda of the few and not the convictions and rights of the many, I strongly oppose the amendment.

AMENDMENT NO. 2636

Mr. HATCH. Mr. President, another issue I would like to talk about is the amendment sponsored by my colleague, Senator MCCAIN, the so-called gun show loophole.

Based on some of the arguments I hear made by Senator MCCAIN and his cosponsors, it is apparent there are some misunderstandings about what gun shows are, how they operate, and existing applicable laws.

Gun shows are large events that are open to the public. These events attract a broad range of people. They include collectors, hunters, target shooters, police officers, and those who serve in the Armed Forces.

Gun shows are an opportunity for Americans—fathers and mothers and their sons and daughters—to pass along a family tradition. Exhibitors at these gun shows include gun dealers who are all federally licensed, as well as gun collectors, hunting guides, target shooting clubs, and vendors of books, clothing, hunting accessories, and so on.

What Federal laws currently apply to gun shows? Contrary to popular opinion, there are no special exemptions for gun shows. Anyone who engages in the business of selling firearms must be licensed, regardless of where he or she does business.

More specifically, there is simply no such thing as an unlicensed dealer. In fact, dealing in guns without a license is a Federal felony, punishable by up to 5 years in prison and a substantial fine. Congress authorized licensed firearms dealers to conduct business at gun shows in 1986 under the Firearms Owner Protection Act.

So what happens when these dealers sell guns at gun shows? Have these dealers applied for and received Federal firearms licenses from the Bureau of Alcohol, Tobacco, Firearms, and Explosives? The answer is a simple yes.

Dealers are required by Federal law to conduct a criminal background check. They must conduct a check through the national instant check system at gun shows just as they would have had to do in any other location. So if we adopt this amendment, who will it affect? The answer is not surprisingly, but unfortunately ignored by the proponents of this amendment. The answer is it would affect law-abiding citizens who are out to hurt no one.

It would drive out and shut down the gun collectors who buy and trade some of their guns at gun shows. They represent a fraction of the exhibitors at gun shows.

Remember, gun collectors are not gun dealers and may not engage in the business of dealing firearms without a firearms license.

I would like to touch on an issue that many Utahns and I find particularly troublesome. If we adopt this amendment, it will effectively create gun owner registration.

I want to make sure my colleagues understand how this legislation, if it became law, would work. Under the amendment, special firearms event operators would have to verify the identity of all participating vendors and have those vendors sign a ledger saying they were there selling firearms, whether or not any of the vendors actually sold a firearm. This requirement is

a modest improvement of the original bill, which, as introduced, would have required vendors to submit to the Attorney General the names of all vendors slated to participate in the Gun Show. Regardless of the slight change, it is clear what the sponsors of this amendment intend. That is, to track and register law abiding citizens who merely want to exercise their constitutionally protected Second Amendment rights.

So suppose a private, law-abiding citizen enters a gun show hoping to sale or trade a firearm, but that person does not make a deal and leaves with his own firearm. This person, this private law-abiding citizen, would be on file and in a ledger forever as a special firearms event vendor, copies of the ledgers to be used for any future purpose.

This amendment also purports to provide for instant background checks. Now, anyone who knows anything about the national instant criminal check system knows that they do not turn around such inquiries in 24 hours. In fact, currently, the national instant criminal check system has 3 days to turn around a request for a background check.

The amendment before us provides that the wait may be reduced to 24 hours if a State applies for the privilege of improving its records. With a 3-business-day period still allowed to check out-of-State records, a few large States will drag down the whole scheme for all transfers across the Nation.

Again, what is the practical effect? Gun collectors who occasionally attend gun shows for a day or two on a weekend will be shut down because they will not be able to have the national instant criminal check system run the required check on a prospective buyer and make such a transaction in that day.

There are two more important points that I think many of the Members in this body may have overlooked. First, in November of 2001, the Bureau of Justice Statistics released a report on imprisoned felons and where they obtained their firearms. Fewer than 1 percent obtained the guns they used to commit their crimes at gun shows. Of that 1 percent, only a fraction obtained weapons through collectors.

What does this tell us? The idea that shutting down collectors at gun shows will affect crime in any appreciable way is dramatically overstated, if not preposterous.

Criminals are getting their guns on the street or from the residential burglaries, but not from heavily police-attended gun shows.

Second, and I want my colleagues to hear this: Law enforcement and Federal prosecutors continue to use gun shows to weed out corrupt gun dealers. In fact, Federal prosecutors stress to me that passing this amendment would serve only to drive those few who would unlawfully deal in firearms without a license into the black market, into the back alleyways, and into the hidden areas of our communities, making it nearly impossible to locate and prosecute such criminals.

So not only will this amendment fail to address the true nature of the problem, but it will punish law-abiding collectors who choose to publicly trade their firearms.

I submit that adopting this politically driven, knee-jerk amendment, which only injects partisanship into a bill that otherwise enjoys broad bipartisan support, will have two effects: One, it will shut down lawful gun collectors who attend and trade guns at gun shows; and two, if it has any effect on crime, it will affect it negatively by driving the few dealers who are unlawful into the black market where it is exorbitantly more difficult for them to be located and prosecuted.

I urge my colleagues on other side of the aisle to re-examine their analysis, put politics aside, and reject this amendment.

It will serve no purpose in pursuing our common goal of fighting crime, but instead will only hurt innocent law-abiding citizens.

Let us not be distracted from the issue at hand.

We have legislation before us that enjoys broad bipartisan support and that deserves our attention. That should be the focus of our efforts, not passage of this unwise amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman of the Judiciary Committee for his comments and the work that he has done to keep the gun laws in this Nation clean, appropriate where necessary, and enforceable without the entrapment of law-abiding citizens. I thank him for that work, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Rhode Island.

Mr. REED. Mr. President, I initially want to respond to some of the comments made by the Senator from Utah. I believe he read a legislative proposal that Senator MCCAIN and I submitted last fall, not the amendment that is before us today because we specifically removed from the amendment today any requirement for the turning in of lists of vendors at gun shows to the Attorney General of the United States. That is not in this amendment.

There is no requirement for unlicensed sellers to execute any paperwork. That requirement will be undertaken by a special licensee, presumably the gun show sponsor and operator, not the unlicensed gun dealer. Furthermore, there is no requirement to seek permission from the Attorney General or any Federal authority to conduct a gun show. So I think the comments of the Senator from Utah reflect not this amendment but previous proposals. This amendment has been specifically modified to make it as easy, as efficient, and as effective as possible to conduct these background checks.

The Federal authorities have a 3-day period of time in which to execute a gun show background check, but, frankly, with the National Instant Criminal Background System, we all know the facts are clear. Ninety-one percent of these checks are accomplished in less than 5 minutes; 95 percent in less than 2 hours. If the check is not completed in 3 days, then the transaction goes through. That is just a backstop in case there is information that these Federal authorities cannot obtain.

So, frankly, the suggestion that gun shows will be put out of business is quite wrong. Those places which have even tougher standards than those suggested by the McCain-Reed bill still have gun shows, and they are still highly popular and highly successful.

I thank the Senator from Idaho for his comments about North Carolina. My comments generally talked about closing the gun show loophole. As he points out, North Carolina requires everyone who is buying a firearm at a gun show to have a North Carolina firearm permit, which is probably a more demanding standard than we are suggesting in our amendment, and we would not suggest that. That is a State prerogative. Technically, they do not require all the background checks on licensees and unlicensees, but they do in fact require any purchaser to have a permit. That is a very stringent standard.

Now, there has also been some discussion today about the fact that this is going to cause tremendous chaos because what if someone saw a weapon at a gun show and then later called a private dealer. Well, that is why the amendment clearly defines activities that are not part of a gun show subject to this amendment.

The language states:

> does not include an offer or exhibit of firearms for sale, exchange, or transfer by an individual from the personal collection of that individual, at the private residence of that individual, if the individual is not required to be licensed under section 923 or 932.

For example, if someone is a private collector, if they have some guns in their home and they are selling those weapons from their home, then they are not subject to this provision.

It is as clear as we can make it to exempt the many people who are private collectors and the many people who, indeed, should not be subject to this license requirement.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

The Senator from Nevada.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for an additional 2 minutes.

Mr. REED. Mr. President, I want to thank my colleague, Senator REID from Nevada, for the 2 minutes.

In summary, this amendment that Senator MCCAIN and I proposed is as sensible as I think one can ever fashion a law. When someone walks into a gun show with thousands of individuals, hundreds of booths, it makes no sense to the average person why one individual should require a background check and another does not have to conduct a background check in the sale of a firearm. It makes sense to have an even playing field.

These are public events. It is virtually impossible for a seller at a major gun show to know the background of all the potential purchasers. We know these gun shows are exploited. This is not hypothetical. They are exploited by criminals. Goodness gracious, it makes perfect sense why they would be. It is a supermarket where a person can obtain firearms without any background check. It is like a neon sign that says: Come here if you are looking to get weapons and you cannot buy them legally.

We know what happens. We also know because of the threat of terrorists that terrorists have looked at these gun shows as possible ways to obtain firearms. Frankly, I think the American public would demand, as they have in the past, anything we can do that would curtail access to dangerous weapons to terrorists.

So I hope we support closing the gun show loophole. I also hope we support the assault weapons ban. Finally, I think we have to carefully look at the underlying legislation as a severe encroachment on hundreds and hundreds of years—indeed, many years—of common law tradition.

The PRESIDING OFFICER. The Senator has used his 2 minutes.

Mr. REED. I yield the floor.

Mr. REID. Mr. President, I yield 3 minutes to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 3 minutes.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Nevada.

This bill, which has been in place since 1994, held back on the availability of assault weapons, those holding more than 10 rounds in their cartridge holder.

The assault weapons ban amendment would simply extend the current ban on these deadly weapons for another 10 years, with no other changes in current law. It is hard to understand why we would not go ahead and simply extend this. The President of the United States said at one point that this ban should continue to exist. Assault weapons are intended for one purpose and one purpose only, and that is to kill as many people as possible in the shortest amount of time.

We should never forget that ill-fated day of April 20, 1999, in Littleton, CO, when Eric Harris and Dylan Klebold opened fire on teachers and fellow students at Columbine High School. They were armed with a TEC–DC9 assault weapon. When the shooting was over, 15 people, including the gunmen, were dead and 23 wounded. We can never forget the picture of those youngsters hanging out the window, pleading for help, pleading for safety, trying to protect themselves.

These assault weapons have no place in a civilized society. According to FBI data, one in five law enforcement officers who were killed in the line of duty between 1998 and 2001 were killed with assault weapons.

Even terrorists have identified our gun laws as a point of vulnerability. Found among the rubble at a terrorist training camp in Afghanistan was a manual called ''How I Can Train Myself for Jihad.'' The manual stipulates that terrorists living in the United States should ''obtain an assault weapon legally, preferably AK–47 or variations.''

It also advises would-be terrorists on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms. It defies logic to understand why it is that we have to protect those who want to have assault weapons.

I was in the Army during the war. I carried a carbine. Assault weapons were available for those in the infantry—sometimes—so they could kill as many of the enemy as possible. Who is the enemy here?

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

Mr. REID. I am happy to yield an additional minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. LAUTENBERG. Mr. President, who would be the enemy in this case? More law enforcement officers? More kids in a school? More people in an office where a disgruntled employee took out his rage by pointing a rapid-fire weapon at fellow workers?

No, this amendment makes all the sense in the world. Ban these weapons. Don't let them continue to be available in our society—assault weapons, weapons of war.

Why is it necessary to ensure that the rights of those who would carry that lethal a weapon be protected? I see no sense in it, and I hope my colleagues will take a second look. I hope those who support the gun immunity bill will take a second look and say: You know what, this is not a fight worth having. We don't need these weapons in our society, and we ought to continue this ban as it is.

I would have preferred something stronger, and I think people here know that, but let's at least continue the ban as it exists, as the Senator from California presented it.

I thank my colleague from Nevada and yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho.

Mr. CRAIG. Mr. President, would you notify me when I have used 5 minutes of my remaining time?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. CRAIG. Mr. President, why are we on the floor today debating a law, not debating a proposed law? We are debating this law because some years ago, when the Congress put it in place, they said, let's sunset it to force Congress to come back and look at it to see whether or not it worked. Because at that time there was a concern and somebody sought a political placebo to go home to their constituents and say, look what I did for you to protect you and therefore the world is safer. But many of us said, wait a moment, let's watch the law and see if it works. Let's put a sunset in it and come back and revisit it. That is what we are doing today.

In September of 2004, the assault weapons ban expires and the great debate is whether we ought to extend it for another period of time or whether we should not. The rationale to extend it is based on the fact it worked.

If it is a good law in place, it ought to be extended. I think the argument today is, fundamentally, did it or did it not work? That is the business of statistics and polling and data. The Senator from California, who offered the extension, used tracing data. I am using data that has been put forward by the Justice Department. Let's compare the two.

I am not saying the Senator from California's data is wrong. What she presented to the Congress, and to the Senate, is an accurate presentation. But let's put it into the context of how it was intended to be used because I don't believe it was intended to be used for this debate.

What is tracing data from BATF? This is a phrase to remember when you are talking about tracing data: Not all crime guns are traced—period. Not all gun traces are of crime weapons. Not all traces are of crime weapons.

For example, if you get a search warrant and you go into a house and you find firearms and the police department wants to know from whence they came, you do a trace. Were they used in the commission of a crime? No. In other words, it is an intelligence-gathering piece of information for the law enforcement community.

In 1994, in the passage of the assault weapon ban, there was this bubble of public interest because there was a lot of accusation out there that semiautos and assault weapons were the common weapon of the criminal. A lot of traces were done during that period of time. It tapered off over time. So if you argue it worked, the law worked—it didn't. It was simply reassessing the value of the trace at that time and the need to trace.

Back to the same premise: Not all crime guns are traced and not all gun traces are of crime guns. It is an information-gathering tool by BATF.

Let's turn to this statistic. Let's turn to the 2 percent of semi-autos used in the commission of a crime pre-1991;

same difference after the passage of the bill and the implementation of the bill.

Where do my figures come from? My figures come from the Justice Department, from extensive surveys of criminals now in prison as to how they gained their gun, and through additional information and polling data; a different purpose and a different educational informational flow.

The Senator from California, BATF, mine, the Justice Department—are they inaccurate? No. But, if you are really talking about a reason, a basis from which to extend the current law, and you look at this and some people stand on the floor and say, oh, you have to stop this because this is the weapon of choice of criminals and they are using it all the time, that simply is not true. Those facts do not bear out. That is not a valid basis from which to argue the extension of the semiauto ban.

The Senator from California said ''all'' law enforcement—and she went through several. Many law enforcement groups have said: Extend it. Why? I guess it is logical. I will tell you one that didn't, though, the Western States Sheriffs' Association. The elected sheriffs of the Western States of this Nation, when the Brady Center brought them a resolution and said, here, we want you to pass this supporting the extension of the semiauto ban, they voted on it and voted it down by a very large margin.

Why? They looked at the statistics and saw that this bill would have more to do with stopping law-abiding citizens from owning the gun of their choice and very little to do with the crime element.

Let us return to the weapon that is the choice of the criminal. It is not packing around a rifle. Somehow they are just visible on the street. It is the handgun. It always has been the handgun. It is the choice, tragically enough, of most of the criminal element. Sure, there is a small percentage—less than 2 percent. Pictures have been shown graphically about the assault weapon and what it is.

Well, what is a semiauto rifle? I went through that argument yesterday. A semiauto rifle, semiauto shotgun, a semiauto pistol is one that you pull shot by shot, trigger by trigger. You do not depress the trigger and rapid-fire your entire amount of ammunition within the weapon itself.

The PRESIDING OFFICER. If the Senator will suspend, the Senator has used 5 minutes.

Mr. CRAIG. I thank you, Mr. President. I allot myself 2 more minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRAIG. Machine guns: Fully automatic—the kind that is already banned. You can acquire them by permit from BATF to put in your collections, but you can't go to the street and buy them unless you buy them illegally and you buy them in the black market. You don't buy them at gun shows. That is the reality of what we are talking about.

Where lies the burden of proof to renew or re-up a law that has restricted the ability of law-abiding citizens, created another tripwire, and denied them what is a legitimate ownership right in this country? Less than 2 percent. I believe those are fully verifiable statistics when we are examining this. That is why the House and many others have said, no, let's not go there. Let this law expire. It may have been necessary at the time largely for political purposes only. Many of us opposed it then, saying it wouldn't work and it wasn't necessary. It didn't work and it isn't necessary. That is the reality of what we are doing.

Let us take this law from the books. Let us make sure we go after the criminal who misuses the gun—who uses a gun in the commission of a crime. That is where we get law enforcement. That is how we protect law-abiding citizens in this country and we don't thereby deny them their constitutional right.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. Mr. President, I have 7 minutes under my control. It is my understanding that the Senator from Arizona wishes to speak for 2 minutes. I yield the Senator from Arizona 2 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. MCCAIN. Mr. President, let me just for a minute put a practical face on the issue we are talking about this morning. These are just a few examples of the criminals who are exploiting this loophole.

Ali Boumelhem, a Lebanese national, member of the terrorist group Hezbollah, arrested and convicted for attempting to smuggle firearms bought from Michigan gun shows to Lebanon; Muhammad Asrar, a Pakistani national in this country on an expired visa who admitted to buying and selling firearms at Texas gun shows. Asrar is a suspected al-Qaida member who obtained a pilot's license and had photos of tall buildings in American cities and, though seemingly impoverished, purchased a time-share for a Lear jet. And Conor Claxton, an admitted member of the Irish Republican Army, spent over $100,000 at Florida gun shows and through other private dealers to obtain firearms to smuggle into Ireland.

We are talking about the ability of terrorists—the proven record of terrorists exploiting the gun show loophole for the purpose of obtaining weapons that could be used against the United States of America.

This is a serious amendment and a serious issue. I want my colleagues to understand when voting on this amendment that there have already been cases where members of known terrorist organizations have exploited the gun show loophole and purchased weapons with which to eventually commit acts of terror against the United States of America. This is not an issue that should be in any way dismissed. There are many others.

Mr. Thomas Timms was arrested October 2003 with 147 guns and 66,000 rounds.

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

Mr. MCCAIN. Mr. President, do I have time remaining on my time?

The PRESIDING OFFICER. The Senator has used his time.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from New Jersey. I would like to reserve the last 3 minutes for the Senator from Rhode Island, Mr. REED, on this matter.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. LAUTENBERG. Mr. President, I don't know what we are talking about when I listen to the speeches. I hear it said that these aren't necessarily the guns of criminals.

By the way, I asked the question whether the two kids who killed their classmates and others in Columbine High School, were they criminals before they started to shoot that gun? I don't think so. The question is, how does the gun get into their hands? It was an assault weapon, and we ought to ban these weapons. The President of the United States even said so.

I heard reference to the fact there were organizations that said this ban should be removed. I want to talk about those who want to support the ban. For instance, the Fraternal Order of Police, the world's largest organization of sworn law enforcement officers; the International Brotherhood of Police Officers; the Major Cities Chiefs of Police; the International Association of Chiefs of Police; the Hispanic American Police Command Officers Association—and the list goes on.

Let us listen to what the people are saying. Who are we protecting? Are we protecting the average citizen? Are we protecting the worker who has a disgruntled fellow employee pull the trigger? I don't think so.

We ought to continue this ban.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Mr. CRAIG. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. Five minutes 30 seconds.

Mr. CRAIG. Mr. President, we are within a short time of beginning three very critical votes today starting at 11:30 on three very important items.

First, let me start with the underlying bill, S. 1805. The Statement of Administration Policy is to keep the bill clean. Don't add all of these other amendments to it. It is a clean, well-drafted, narrow provision that says we are going to exempt law-abiding gun manufacturers and dealers who play by the rules from third party suits of those who might take a law-abiding object and turn it into a criminal weapon; and that action should not be allowed to reach back through the court

system and go after law-abiding gun manufacturers and licensed dealers.

Product liability: Don't change that law. Standard tort law: Don't change that law. But we narrow and we define so that all of these new creative arguments that the trial bar is trying to bring up in the 30-plus lawsuits they have brought don't fit anymore.

It is plain and simple. We go back to old tort in this country that says the individual is responsible for their actions. The individual is responsible for their actions. That is the underlying premise of S. 1805.

Added to that, certainly the Senator from California will attempt to extend the assault weapon ban.

A few moments ago I argued that there is no clear evidence, and the Justice Department's own statistics would argue that it really doesn't make a lot of sense.

The Senator from Arizona talked about the gun show loophole and mentioned that it is now accessed by terrorists for their weapons of choice. He also didn't mention that all of those terrorists were arrested. Somehow the law worked. They were caught. They were illegal. They may have made the point of contact and they may have lied and they may have acquired a firearm which they could have acquired outside of a gun show, but they were caught. They were arrested. They were trafficking in guns. And darn it, that is illegal in this country. We have well established that.

Do you create a whole new bureaucracy and a whole new hurdle over which the law-abiding citizen has to jump? I don't think so. I hope not. Or do you really create that gray area that I talked about earlier?

What if I go to the gun show and see the gun I like, but it is a licensed dealer, it is a collector, and months later I have his card? I call him up and I say, I visited with you at the gun show. I have decided to buy your weapon, the firearm. I want to add it to my collection. I want to add it to my personal inventory.

A legal action, it is today a legal action. If the gun show loophole bill passes, I think it is a phenomenally gray area. We set up another tripwire for the law-abiding citizen.

The Senator from Arizona and I know how creative the trial bar is. Let's at least argue that they discussed it and that they avoided the background check at that time by buying it outside the gun show. The point of contact was the gun show. The point of contact for millions of Americans who legally buy firearms is the gun show, with 1,000 gun shows a year, millions of people attending them. So now we overlay that with the Federal bureaucracy.

Yes, States do shape gun shows in their own likeness, and I don't object to that. Permits are required in some instances. Twelve States have done so. Have they plugged a loop hole? They have required that on all gun sales in their State, whether they are done inside of a gun show or outside of a gun show. Is that plugging a loophole or is that standardizing a law that fits that given State and the population of that State? That is 12 or 15, at the most. The rest have not. We had those kinds of requirements in the State of New York in 1911 and Congress did not speak to it. It was not called a loophole then. It was called a loophole only when the BATF, in their survey, said there might be a loophole through which some might be acquiring guns. One percent, 2 percent, 20 percent—how about 1.7 percent? It was true before the law; it is now true after the law.

Did the law work? In the case of assault weapons, it did not work. We have denied it before, but what the Senator is going to say, let's plug the loophole in the gun shows and then later on let's reach outside the gun shows and do the same thing, by gosh, that is called gun control. When the right of a free citizen to engage with his neighbor, which they have exempted now, and they have trimmed it down a bit—and I don't argue that—that is a new Federal law over all of our citizens. I question the need and I question the responsible act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me first indicate that this legislation already includes an amendment by Senator BOXER on child safety locks, so the bill is not clean.

The question today is, Will we add additional sensible gun safety measures? One of them is the assault weapons ban. That is something that is entirely appropriate, one that has been supported by vast numbers of the American public, that we should continue.

The idea we are suddenly going to open up, once again, access to assault weapons across this country is difficult to bear, particularly by police officers. That is why they are so committed to this extension of the assault weapons ban because they are the individuals who have to face these weapons on the street.

There is another amendment which I cosponsored with Senator MCCAIN that will close the gun show loophole. Senator MCCAIN pointed out quite clearly the terrorists who have already been identified as exploiting this loophole or attempting to exploit it. Indeed, I suspect there are others because the nature of terrorists is that they do not go around advertising themselves too much. The loophole is there. They know it is there. They will exploit it to our detriment. It is our responsibility to do everything we can to prohibit, preempt terrorists from attacking us within the United States.

My colleague from Idaho conjured up this fear that this legislation is creeping gun control; this amendment will interfere with private sales. That is why the McCain-Reed amendment clearly specified that it does not apply to the sale, exchange, or transfer by an individual from the personal collection of that individual at the private residence of that individual. That is a private transaction unaffected by this legislation.

We know this loophole is being exploited. We know guns are going into the hands of criminal elements, perhaps terrorist elements, through the gun show, and we also know it makes no sense to anyone—forget legislative, forget advocates, the common person—to walk into a gun show and understand some people have to do background checks and others do not because those weapons are equally dangerous. The potential customers of these shows could be terrorists, could be criminals. We have to be responsible and reasonable. That is exactly what this amendment does.

This amendment does not create any new Federal bureaucracy. It does not require a gun show operator to report vendors to the Attorney General. It does not require that the Attorney General approve a gun show. It places no administrative burden practically at all on an unlicensed vendor.

Just remember, 5 years ago, two young men went into a high school and killed 13 people because they were able to exploit the gun show loophole.

The PRESIDING OFFICER. Under the previous order, the time from 11:15 a.m. to 11:25 a.m. is under the control of the Democratic leader or his designee.

Mr. REID. Mr. President, I yield 6 minutes to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the issue before the Senate today can really be summed up in one word: Responsibility. I first started hunting with my cousins when I was a kid, and I still enjoy hunting today. I believe strongly in the second amendment. I believe in the right to bear arms as it has been interpreted in our country.

But I also believe that with our rights come fundamental, commonsense responsibilities. The right to bear arms is a right that should be protected for law-abiding Americans who want to protect themselves and their families.

There is, however, no right to place military-style assault weapons into the hands of terrorists and/or criminals who wish to cause American families harm. There is no right to have access to the weapons of war in the streets of America. For those who want to wield those weapons, we have a place for them. It is the U.S. military. And we welcome them.

If we do not act today to continue the ban on these deadly weapons, then our families in America, our police officers in America, are more threatened than they ought to be. For 10 years, the assault weapons ban has stopped fugitives, rapists, and murderers from purchasing weapons such as AK–47s. And

for 10 years, not one honest, responsible American has had their guns taken away because of this law.

It is interesting that a few months ago I was actually hunting in Iowa with the sheriff and with some of his deputies. As we walked through a field with the dogs, hunting pheasant, he pointed out a house in back of me, a house they had raided only a few weeks earlier, where meth and crack were being sold. On the morning when they went in to arrest this alleged criminal, there was an assault weapon on the floor lying beside that individual.

That sheriff and others across this country do not believe we should be selling these weapons or allowing them to be more easily available to criminals in our country. That is why gun owners across America support renewing the assault weapons ban. They support also closing the gun show loophole so that gun shows can continue uninterrupted without being magnets for criminals and/or terrorists who try to get around the law.

If there is a gun show loophole, a terrorist could simply go to one State, go into the gun show, buy a gun without the kind of ground check normal in the process, leave that gun show, travel to another State, and engage in either criminal or terrorist activity or both.

Let's be honest about what we are facing today. The opposition to this commonsense gun safety law is being driven by the powerful NRA special interest leadership and by lobbyists in Washington. I don't believe this is the voice of responsible gun owners across America.

Gun owners in America want to defend their families, and I believe the NRA leadership is defending the indefensible. There is a gap between America's ''Field & Stream'' gun owners and the NRA's ''Soldier of Fortune'' leaders.

When he ran for President in 2000, President Bush promised the American people he would work to renew the assault weapons ban. But now, under pressure, he is walking away from that commitment, as he has from so many other promises—from education, to the environment, to the economy. This President says he will sign this giveaway to the gun industry, but he is refusing to sign the assault weapons ban he told America he would support.

I believe gun owners have a responsibility, and so does the President of the United States—a responsibility to keep his word, a responsibility to do what he says he will do, a responsibility to protect Americans from danger, and to provide for the common defense.

There is a reason every major law enforcement and police group in America supports this ban. They know no police officer should ever have to face the prospect of being outgunned by the military-style assault weapons. No American citizen should have to live in fear of being gunned down by snipers, gang members, or even terrorists who wield assault weapons.

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

Mr. REID. Mr. President, is there any time left on our side?

The PRESIDING OFFICER. Four minutes.

Mr. REID. Mr. President, I yield the remaining time to the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished leader.

President Bush needs to tell America's police officers why he is not standing on their side.

Today George Bush will celebrate the anniversary of the creation of the Department of Homeland Security, and I am glad the President joined us in that effort. But it will take more than a big, new bureaucracy to make America safer. Today airport screeners are being cut, air marshals are not getting trained, fire departments only have enough radios for about 50 percent of the firefighters, and almost two-thirds of our firehouses are shortchanged. The COPS funds have been eliminated in order to fund the President's tax cuts for the wealthiest few. By taking cops off our streets with one hand, and allowing military-style assault weapons back on them with the other, this President is jeopardizing the safety of our communities. It is wrong to do so, to pay for more tax breaks for billionaires and pay back more favors to a special interest lobbying group.

Let me just say one word quickly about the overall issue of liability itself. I am not for, and I do not think any reasonable person is for, a gun manufacturer being held liable for a murder that takes place in the life of America, unfortunately too often. But what we do know is about 1.2 percent or so of gun dealers and wholesalers are responsible for about 57 percent of the weapons that wind up in the hands of criminals. There are many ''straw'' transactions that take place in situations where manufacturers know who the problem dealers are.

To not have a wanton-and-reckless-conduct standard for liability is to avoid responsibility; it is to allow people to look the other way, as they have in the past, when we demand responsible actions in the communities of America.

I believe American gun owners are right to act responsibly and to live by common sense, and I am proud to stand with those gun owners today. I hope President Bush, the NRA leadership, and other lobby groups will reverse course and join the millions of Americans who know gun rights and gun responsibilities are mainstream American values, and that is what we should vote for in the Senate.

I thank the leader for the extra time.

Mr. FEINGOLD. Mr. President, I wish to speak today on the bill before us, S. 1805, and some of the amendments relating to firearms that have been offered to it.

Listening to the debate on this issue, the American people might get the impression that there are just two sides to the gun debate: On one side are those who view the right to bear arms as absolute and oppose any proposals that could remotely be considered as restrictions on that right. On the other side are those who view gun use as an evil in our society that must be limited in any way possible. Sometimes the rhetoric gets turned up so high that reasoned analysis and debate is obscured. That is unfortunate.

I have never accepted the proposition that the gun debate is a black and white issue, a matter of ''you're with us, or you're against us.'' Instead, I have followed what I believe is a moderate course, faithful to the Constitution and to the realities of modern society. I believe that the Second Amendment was not an afterthought, that it has meaning today and must be respected. I support the right to bear arms for lawful purposes—for hunting and sport and for self-protection. Millions of Americans own firearms legally and we should not take action that tells them that they are second-class citizens or that their constitutional rights are under attack. At the same time, there are actions we can and should take to protect public safety that do not infringe on constitutional rights.

I supported the Brady bill requiring background checks of gun purchasers. I have voted in favor of closing the gun show loophole that unacceptably increases the danger that a gun will fall into the hands of a criminal. And I support child safety locks and other measures to make firearms less dangerous to gun owners and their families. These are reasonable measures that do not infringe on the rights of law-abiding citizens to own and use guns.

On the other hand, I have long opposed banning handguns, requiring national gun registration, and restricting the rights of young adults to own guns even if they are well trained and operating under adult supervision. I believe that prohibiting certain types of weapons is problematic as well. Although I voted for the ban on certain kinds of semi-automatic weapons in 1994, I have come to believe that it is a largely arbitrary and symbolic measure. Citizens see it as a first step towards confiscating their firearms. I will, therefore, vote against its reauthorization.

Finally, on the bill before us, I do not believe that granting special liability protection to the gun industry is necessary to protect the right to bear arms. There is no evidence that liability lawsuits threaten the existence of the gun industry in America. I believe it would be a mistake to impose a nationwide standard of tort liability on this industry that is more lenient than the standard that applies to the manufacturers or suppliers of any other product. The gun industry, like other industries, owes a duty to consumers of reasonable care, and juries of citizens are best able to define that standard as they do in tort cases of every imaginable type every day in this country.

Giving sweeping liability protection will cut off the rights of those injured by negligence and set a very dangerous precedent for how Congress treats corporate wrongdoers. I will, therefore, vote against S. 1805.

I realize that many have very strong feelings about gun issues. But I also believe that most Americans favor a moderate approach. That is the approach I intend to follow. My votes will not satisfy those on the extremes of this debate, but I believe they reflect the commonsense views of reasonable Americans who regret that this issue has become the subject of such overheated rhetoric.

Mr. BIDEN. Mr. President, I rise today to make plain my strong opposition to the bill under consideration today, S. 1805, the ''Protection of Lawful Commerce in Arms Act.'' Let me state at the outset, I support the rights of law-abiding citizens to own and appropriately use firearms. But this bill has nothing to do with protecting those citizens' rights. Instead, this bill is about protecting rogue gun manufacturers that sell defective products and rogue gun dealers who turn a blind eye to suspicious sales and thefts.

The shorthand title for the bill is accurate, the Gun Industry Immunity Act. I won't mince words, this bill gives an entire industry a free pass. In exchange for that free pass, hundreds of thousands of victims across the county will confront closed doors at the courthouse. While I recognize that the bill carves out a set of exceptions of permissible law suits, this is cold comfort. The exceptions are extremely narrow and do not provide reasonable opportunities for legitimate lawsuits to proceed. I am deeply troubled by the fact that this bill will stop pending and future civil lawsuits against the gun industry, including those filed in the wake of the DC Sniper shootings.

As the American public well knows, prior to their killing spree, John Muhammad and Lee Malvo allegedly obtained a Bushmaster rifle from a store in Tacoma, Washington, the infamous Bull's Eye Shooter Supply Shop. This rifle was one of 238 weapons that disappeared from the store's inventory over a three year period. More than fifty of those same ''missing'' firearms turned up in crime traces. Civil suits have been filed against Bull's Eye alleging that the store was negligent by failing to keep track of its weapons, and against the gun manufacturer alleging that continuing to supply such dangerous weapons to a store that cannot maintain accurate track is also negligent conduct. But under today's bill, these allegations do not fit the narrow exceptions of permissible suits. Legal experts David Boies and Lloyd N. Cutler, as well as the Congressional Research Service, opine that these sniper suits will be dismissed immediately if the President signs the gun industry immunity act. In real terms this means that the snipers' victims, including Denise Johnson, widow of the Montgomery County bus driver Conrad Johnson, and the family of James ''Sonny'' Buchanan, who was gunned down while mowing the lawn, will have no remedies.

Another lawsuit that will be derailed if the gun industry immunity bill passes is a 1999 case against a gun dealer who repeatedly supplied a so-called ''straw purchaser'' with handguns, one of which killed 9-year old Nafis Jefferson in Philadelphia, PA. I was struck by what Nafis' mother said when advised that her lawsuit may be dismissed. She stated, ''Before this happened, I believed in the American dream. You work hard, you have a family, you have a good life. This—this has devastated me. I understand commerce, but there also has to be common sense.''

Under the gun industry immunity bill it is quite likely that a pending suit filed by the families of two New Jersey police officers will be dismissed. The officers' families have sued the gun dealer who sold the gun used to shoot them, one of twelve guns the dealer sold in one transaction, in cash, in circumstances so suspicious that the dealer subsequently called to alert the Bureau of Alcohol, Tobacco and Firearms. Yet rather than having the careful consideration of the facts by judge and jury, today, Congress will decide that Mr. McGuire's and Mr. Lemongello's families cannot pursue any remedies in civil court.

A family in Massachusetts will also be denied a right to sue should the Gun Industry Immunity Bill pass. Twenty-six year old Danny Guzman was killed with a 9 mm Kahr Arms gun. The gun was one of a dozen taken from Kahr's unsecured factory, some by the manufacturer's own employee with a criminal record and history of drug abuse. The guns were taken before serial numbers had been stamped on them, making them very difficult to trace. Eventually, a young child found the gun used in Mr. Guzman's death behind an apartment building close to the scene of the shooting. A Massachusetts court found that the suit alleges valid negligence and public nuisance claims against the gun manufacturer and it is set for trial. Yet today's bill would deny Mr. Guzman's family their day in court.

Some have characterized the lawsuits against the gun manufacturers and dealers as ''junk'' suits that are cluttering our court houses and bankrupting the industry and thus, justifying this extraordinary solution of blanket civil immunity. But our local, State and Federal judges and court personnel are no where to be found in this debate. No letters or reports document an inundation of firearm lawsuits plugging up the halls of justice. Furthermore, there is no evidence that our State and Federal courts cannot efficiently and effectively manage the pending forearm lawsuits. Indeed, the opposite is true. Look no further than a recently issued opinion by the U.S. Court of Appeals for the Second Circuit in which the court addressed the certified question on whether state law created a duty to protect victims of handgun violence from injury caused by illegal gun trafficking. This Court wrote a careful and balanced opinion that fully addressed the issue. As a former Chairman of the Judiciary Committee, I am well aware of the complicated and deliberate process courts follow to develop tort law. I am not persuaded that Congress should tread into these waters so adeptly managed by our nation's judges and juries.

Gun manufacturers and dealers are not above the law. The gun industry Immunity bill is a radical and unprecedented attempt to undercut common tort law, usurp the responsibilities of judges and juries and most importantly, deny worthy victims of their day in court. I urge my colleagues to vote against S. 1805, and thank the distinguished Senator from Rhode Island for his hard work fighting this bill.

Mrs. CLINTON. Mr. President, I rise to join many of my colleagues, led by Senator REED of Rhode Island, to express the strongest opposition that I possibly can to the legislation before the Senate. I want to say, Mr. President, that enough is enough.

In doing so I am proud to not only stand with many of my colleagues but many of my fellow Americans who are on the front lines trying to keep our communities safe, such as our chiefs of police, other law enforcement, and mayors from around the country, as well as the tens of thousands of victims of gun violence, including my friends Jim and Sarah Brady.

Here in Washington, there is a lot of talk about responsibility and accountability. Yet, this legislation does just the opposite. It does nothing but shield irresponsible gun makers and gun sellers from accountability.

Gun owners are asked to act responsibly and the vast majority of them do. Gun makers and gun sellers should be held to the same standard. And yet, the legislation before us—the gun immunity bill—says to gun makers and gun sellers that they don't need to meet the same standards as every as other business is required to meet, and that is to conduct one's business in a reasonable and non-negligent manner.

No other industry has the kind of protection that the NRA is seeking on behalf the gun industry with respect to a relatively small number of lawsuits that have been filed or may be filed in the future. I simply cannot understand why the Congress would give this extraordinary and unprecedented liability protection to the gun industry.

Mr. President, we must do all we can to defeat the gun immunity bill which, among many other things, will give legal protection to the gun dealer—Bull's Eye Shooter Supply—who armed the D.C. area snipers and will take away the right to sue from the victims.

What an injustice to the DC sniper victims and the American people. What a real shame.

Let me be clear, Mr. President. Despite protestations and suggestions to the contrary, this bill isn't about helping people. This bill is not about the rights of hunters.

Not one single gun owner will be helped by this immunity legislation. This bill is also not about jobs. This is about serving the will of the gun industry first, and the interest of the American people a distant second.

As noted by Mayor Bloomberg of New York City, Mayor Daley of Chicago, Mayor Kahn of Los Angeles, and Mayor King of Gary, in an op-ed in the New York Times opposing this bill, federal data from 2000 shows that a little more than 1 percent of dealers account for 57 percent of all guns recovered in criminal investigations.

Responsible gun sellers should be angry about this. They should demand action to clean up their industry. Yet, the legislation the Senate is considering now would say to the small group of irresponsible gun dealers, ''don't bother running a responsible business,'' and ''you are not responsible for your actions no matter how reckless or negligent they may be.''

Before addressing the specifics of this legislation, let me clear up some other misinformation about how criminals get their guns. Many falsely believe that criminals and drug dealers steal most of their guns and that gun dealers are not responsible in any way for the vast majority of guns that end up being used in violent crime, that it is the fault of criminals. This is simply not true.

In 1998, a Northwestern University study of records maintained by the Bureau of Alcohol, Tobacco, and Firearms demonstrated that more criminals buy their guns new than steal them. Specifically, the ATF determined that while more than 11,000 of the weapons traced were stolen from licensed gun dealers or residences, almost four times as many—more than 40,000—were sold by licensed dealers. This number is astounding.

Almost four times as many guns recovered from criminals by the ATF were gained through licensed traffickers and not through theft.

This is an important point to note because if most guns used in crimes in our country are not stolen but in fact are purchased, manufacturers and sellers of guns and ammunition can greatly influence the degree to which guns flow get in the hands of criminals.

Gun dealers hold an enormous and unparreled power over the supply of guns in America. While most gun dealers who wield this power act responsibly, the negligence and irresponsibility of a few bad seeds, like the Bull's Eye Shooter Supply in Tacoma, WA, are the cause of the problem. These bad gun dealers, the 1 percent of dealers who account for 57 percent of all guns recovered in criminal investigations, need to be held accountable. Yet this bill removes that accountability.

This legislation removes that accountability through section 3 of the bill, which precludes even the bringing of civil actions against gun manufacturers, gun dealers, distributors, sellers of ammunition, and even trade associations in any Federal or State court.

By the way, the prohibition on commencing an action applies not just to individuals, but to states, local governments, and, incredibly, even the federal government.

Section 3 also states that pending civil actions ''shall be immediately dismissed'' by the court in which the action was brought.

This bill is particularly disturbing to me because it directly and significantly affects New Yorkers. Currently, the City of New York has a suit pending—initially commenced by Rudy Giuliani when he served as Mayor of New York. Given that bill proponents have argued that this legislation is needed to protect against frivolous lawsuits, are they suggesting that Rudy Giuliani would file such a lawsuit against the gun industry. I don't think so.

It would be a shame if New York City's suit were to be dismissed because New York City—under the Giuliani administration—filed suit to try and protect the health and safety of New Yorkers by getting the gun industry to change its practices.

Indeed, a New York federal court has already found in another case that gun manufacturers improper sales and distribution practices contribute to the illegal gun market in NY State, and there is ample evidence, including a study conducted by the National Economic Research Associates, that if gun manufacturers and sellers change their practices and use care and act responsible in their selling practices, many fewer guns wind up in the hands of criminals and used in committing crimes.

And the New York Police Department—the largest and one of the finest law enforcement agencies in the world—has had to expend enormous resources to control gun-trafficking. I don't want their work—none of us should want their work—to be conducted in vain by failing to hold accountable irresponsible gun dealers.

As New York Attorney General Eliot Spitzer has said: ''The nation's law enforcement officials struggle every day against the scourge of gun crimes, and we look to Congress to assist us in that fight, not make our jobs harder. By providing broad immunity to the gun industry, this bill will endanger the very police officers who place their lives on the line to protect all Americans.''

In addition to New York City, a small number of New Yorkers who have been severely injured because of the negligence of others have also commenced actions against certain gun manufactures and gun dealers. I am not going to prejudge the merits of these cases, but the bottom line is that they deserve their day in court. This law would deny them that basic right.

One of these suits arose out of what has been referred to as the ''Wendy's Massacre.''

In May of 2001, two criminals armed with an allegedly illegally acquired semi-automatic pistol went into a Wendy's restaurant, ordered all of the employees into the basement, marched them single file into a walk-in refrigerator, duct taped their mouths, tied them up, covered their heads with plastic bags, and one by one, shot them execution style in the back of the head. These workers were brutally gunned down for a total of $2,400.

One of those injured individuals fortunate enough to have survived the tragedy was Jaquione Johnson, who now has a suit pending against Bryco Arms. Johnson sustained serious injuries including brain damage and paralysis.

Jaquione contends that the defendant's distribution practices created, contributed to, and maintained the illegal secondary gun market through which the handgun passed until it did its deadly work. This underground market, the complaint asserts, depended upon defendants' irresponsible business practices, such as multiple firearms sales and straw purchases.

The complaint further asserts that because the gun dealers could gain significant revenue from illegal firearms sales, they failed to adopt basic policies and practices that would greatly decrease the number of guns reaching criminals despite the knowledge that it was reasonably foreseeable that individuals like the plaintiff and the public at large would be harmed.

No one in the Wendy's case is arguing that the defendant gun manufacturer and dealer pulled the trigger that killed and maimed the Wendy's workers. Instead, the victim is simply seeking to be compensated for serious injuries that were caused by the negligence of another.

If the defendants were not negligent in distributing the deadly weapon used here, they will not be held liable by the court. However, if the defendant gun dealers were negligent in their distribution of the guns and that negligence helped cause the plaintiff' harm, then they will be held accountable.

A suit like Jacquoine's, despite what others would have you believe, is not frivolous. This is a meritorious suit that must be heard in our courts to ensure accountability.

In fact, just a few weeks ago, on February 3, a Federal judge in New York denied the defendant's motion to dismiss Jaquione's suit, making clear that Jaquione claim is anything but frivolous. Yet, the NRA believes that it, by legislative fiat, should pre-ordain the result in Jaquione's case.

This New York case and the case commenced by the City of New York

under the Giuliani administration are not outliers. Gary, IN has a suit pending and the Supreme Court of Indiana has held that city had a valid legal claim. The Illinois Court of Appeal held similar with respect to a case brought by the city of Chicago. The bill before us, however, would override the decisions of these appellate State courts.

Similarly, in New Mexico, a teenager who was shot in the face has brought suit against Bryco Arms alleging that the pistol's design was defective and unreasonably dangerous for its failure to incorporate safety devices like a loaded chamber indicator and a magazine disconnect safety that would prevent a pistol from being fired with the magazine removed.

The New Mexico Court of Appeals held that the suit stated a valid legal claim and should go to trial. Further, the court stated, ''application of our tort law can be expected to enhance [gun] ownership by tending to increase the safety of guns.'' This legitimate and worthy claim would be in danger of dismissal if this bill is passed.

There are a number of other suits just like the ones I have just mentioned and they are before our State and Federal courts. That Congress, rather than these courts, would make the decision by legislative fiat to dismiss these cases, regardless of the facts and the law, is extraordinary and unprecedented and a real shame. It should not be countenanced.

The proponents of this legislation point to the exceptions contained in section 4 of the bill and have argued that the exceptions are sufficient to allow non-frivolous lawsuits to be maintained.

First of all, despite all the talk of frivolous suits, the proponents point to not one court that has deemed any lawsuit brought in any federal or state court against a manufacturer or gun dealer as frivolous. The proponents of this special interest legislation cannot point to such a decision because there is none. No frivolous lawsuits have been filed. That assertion is simply devoid of merit.

As to the purported exceptions in the bill, they are so narrowly crafted as to be illusory.

The first exception provides that a lawsuit can be brought by the party ''directly harmed'' against a defendant who has been convicted of the crime of ''knowingly'' transferring a firearm ''knowing'' that the guns would be used to commit a crime of violence or a drug trafficking crime.

In other words, this exception would not apply to a dealer who is extraordinarily reckless or negligent as to how it markets or sells its guns unless the dealer knew it was selling a gun to someone who would commit a violent crime.

This is an extraordinarily high burden because it says that you can only sue a dealer if the dealer engaged in a criminal act—if the dealer is, in affect, an accomplice to a violent or drug trafficking crime.

The second exception provides that an action may be brought ''against a seller for negligent entrustment or negligence per se.''

''Negligent entrustment'' is defined in the bill to mean ''the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.''

In other words, according to the Congressional Research Service, this exception would appear to allow a suit to be maintained against an entity that supplied a firearm or ammunition to a person who, because of age, mental disability, intoxication, or violent propensity, seems likely to use the product in a dangerous manner.

That may be all well and good, but I wondered why the crafters of the bill went to the trouble of defining ''negligent entrustment,'' when such a cause of action is defined by state law.

Well, it's because ''negligent entrustment'' has been defined in this legislation much more narrowly than how it has been defined by many states under state law.

In fact, in the case brought by the victims of the DC snipers against Bull's Eye Shooter Supply, the Washington state court held that ''negligent entrustment'' also occurs when a firearms manufacturer sells firearms to a retail store that it ''knew or should have known . . . was operating its store in a reckless or incompetent manner, creating an unreasonable risk of harm.''

Indeed, one of the allegations in the complaint brought by victims of the DC sniper against the manufacturer of the gun used by the DC snipers was that the manufacturer knew or should have known that the retailer—Bull's Eye—had a ''history of a large number of weapons for which it could not account.''

The Washington state court found that if the plaintiff could prove this, then the manufacturer ''may be liable for plaintiff's injuries under the theory of negligent entrustment.'' The court, therefore, denied the defendant manufacturer's motion to dismiss.

So the bottom line is that this supposed ''exception'' in the bill is not really an exception because it dramatically narrows the State law definition of negligent entrustment.

To make matters even worse, the exception does not cover manufacturers; it only covers ''sellers,'' such as gun dealers. So even if there were a broader definition of negligent entrustment in this exception, it would still prohibit such a cause of action from ever being brought against a manufacturer. This is one of the major objections to the bill made by New York Attorney General Eliot Spitzer.

Lastly, as to this second exception in section 4 of the bill, including ''negligence per se'' doesn't add much because the common law definition of ''negligence per se'' means that a person or entity is negligent per se, 1, if the party violated a state or federal statute; 2, if it demonstrated that the person bringing the action was the member of the class of persons that the statute was intended to protect, and 3, that the party's injuries suffered were the kind that the statute was enacted to prevent.

But the bottom line is that violation of a statute is required. That's not very much of an exception to the gun immunity's general provision that no civil action can be brought in any federal or state court and that all pending cases must be dismissed.

There has been much discussion about the third exception because it was recently added to this legislation, but this exception, like the others in the bill, is extraordinarily narrow as to be almost meaningless.

The third exception provides that an action may be brought in which a manufacturer or a seller of a gun violated state or federal law concerning the sale or marketing of guns or ammunition and the violation of the statute was the proximate cause of the harm for which relief is sought, including, 1, any case in which the manufacturer or seller knowingly made a false entry in, or failed to make an appropriate entry in, any record required to be kept under federal or state law; 2, any case in which the manufacturer or seller aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any material factor concerning the lawfulness of the sale; or 3, any case in which the manufacturer or seller aided, abetted, or conspired with some to sell or otherwise dispose of a gun or ammunition, knowing, or having reasonable cause to believe, that the actual buyer of the gun or ammunition was prohibited from possessing or receiving a firearm or ammunition under subsections (g) or (n) of section 922 of title 18.

I know this section has already been discussed at some length, but I want to underscore that two esteemed lawyers, Lloyd Cutler and David Boies, after reviewing this language extensively and the complaint filed by the DC sniper victims against Bull's Eye Shooter Supply, stated that in two separate legal opinions that this suit could not be maintained under this exception and would have to be dismissed.

The fourth exception is an action for breach of contract or warranty in the connection with the purchase of a gun.

This exception is also of no moment, however, because as troubling and out of the mainstream as this legislation is, one would hope that the United States Congress would not seek to render null and void contracts and warranty agreements entered into between the sellers and purchasers of guns.

The fifth and final exception to the general provision requiring the dismissal of pending cases and the prohibition on bringing any future cases is

an exception for ''an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a manner that is reasonably foreseeable.''

''Reasonably foreseeable'', however, is defined to exclude any criminal or unlawful misuse—violation of a statute, ordinance, or regulation—of a gun or ammunition, other than possessory offenses. What does this mean?

Contrary to what some of my colleagues have said during this floor debate, it does not mean that all design or manufacturing defect cases can be brought or maintained.

This is so for a number of reasons. First, the product would have to be used as intended. If there is a defect in the gun, for example, but an unintended use is that a child uses the gun and accidently maims or kills himself, this legislation would prevent the child or his parents from even filing a lawsuit against the manufacturer to seek recovery and, equally important, from trying to hold the manufacturer accountable so that the defect could be fixed and such injuries to other children could be prevented.

This exception is also extraordinarily narrow in that even if there is a design or manufacturing defect and even if someone is harmed because of the defect, no recovery can even be sought if the gun was used in any criminal activity or misused in any way.

I know I have taken a fair amount of time to talk about the exceptions contained in section 4 of this bill, but I felt it important because proponents of this legislation have constantly said ''look to section 4,'' suggesting that these exceptions will enable legitimate cases to be brought and/or maintained against negligent manufacturers and gun dealers.

As I have laid out in great detail, the assertion made by the proponents of this legislation is unequivocally—simply—not true. And I want to make sure that the American people who are watching and listening to this debate understand that.

I also want to take a moment to correct some other misstatements that have been statements in support of this bill.

As noted above, one of the assertions is that there are thousands of frivolous lawsuits—including I guess the one filed by former New York Mayor Rudy Giuliani—that have been filed. Well, as we now know, that statement is simply not true because not one court has deemed any case filed to be frivolous.

In fact, a respected senior Federal judge in New York, Judge Jack Weinstein, actually dismissed a case brought by the NAACP because he held that the NAACP wasn't the proper plaintiff. However, in his 178-page ruling, Judge Weinstein found that gun manufacturer's improper sales and distribution practices contribute to the illegal gun market in New York State. His conclusion was based on previously unavailable data from the ATF and from the gun industry that established a connection between the gun industry's marketing practices and access to guns by criminals.

He also found that the data demonstrated that a ''handful of 'bad apple' retailers in the industry supply a disproportionate share of guns used in crimes.''

Indeed, according to Robert Haas, the former Senior Vice President for marketing and sales for defendant Smith & Wesson, the gun industry knows that the criminal market is fueled by the industry's distribution practices, but does nothing.

Haas has said: ''The company and the industry as a whole are fully aware of the extent of the criminal misuse of firearms.''

''The company and the industry are also aware that the black market in firearms is not simply the result of stolen guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal firearms licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices.''

This failure to take action is particularly disturbing because the problem can be fixed. If all gun manufacturers took reasonable measures in distributing their guns, then there would be significantly fewer guns in the hands of criminals.

This is consistent with Judge Weinstein's finding that the data in the case before him showed that the handgun industry could have done something about these dealers, including implementing obvious common sense solutions such as data gathering and monitoring regulations, but chose not to do so.

Another assertion by proponents of this legislation is that these lawsuits—less than 100 of them—are bankrupting the industry. Well, from what I can tell, the gun industry is doing anything but hurting. That's not my view, but the view of gun manufacturers that have filed reports with the Securities and Exchange Commission.

Manufacturer after manufacturer has reported to the SEC that it is financially stable and that ''it is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the Company.''

Another claim made is that these suits are going to cause jobs to go overseas. Now, I would love it, and more important, the American people would greatly appreciate it, if instead of considering this bill, the Senate was seeking to address in a comprehensive way the more than 3 million jobs lost in the past 3 years. But the Senate has chosen not to do so.

I have worked hard to support the development of jobs in my state and appreciate that there are New Yorkers in my state who help to manufacture guns at Remington Arms.

But the truth is that Remington Arms is not in financial trouble based on this litigation. Remington Arms produces long guns primarily and the vast majority of the victims of gun violence and crime are shot by hand guns, not long guns, such as rifles and shotguns. Remington Arms does not need this protection; it is financially strong. Instead, it is the victims of gun violence that need protection from this legislation.

In short, these suits are not about putting the gun industry out of business. They are about responsible business practices, they are about keeping the guns out of the wrong hands through responsible distribution practices.

In fact, it is because of some of the lawsuits that have been filed that some gun manufacturers have improved their marketing and distribution practices.

In March of 2000, for example, the gun manufacturer Smith & Wesson reached a settlement with a number of government entities, including the State of New York.

This settlement demonstrates why the gun immunity bill will actually make guns less safe.

As part of the agreement, Smith & Wesson agreed to change the ways it distributes guns it manufacturers. It promised to sell only to authorized distributors and dealers who adhere to a stringent code of conduct and it agreed to terminate sales to any dealer who sells a disproportionate number of guns used in crime. The settlement makes us safer because it helps to ensure that guns won't end up in the hands of criminals.

Smith & Wesson also agreed that their guns will be shipped with external safety locks, that all pistols will have a chamber loaded indicator, that new gun designs will include smart gun technology, and that all guns must pass performance tests to ensure safety and quality.

These are reasonable agreements that all gun manufacturers should follow. They make guns safer for everyone, especially those who own and operate them, especially for the children of gun owners. This settlement demonstrates the great possibilities that exist to improve the safety of guns.

This settlement underscores how much manufacturers and dealers can do to keep Americans safer without unduly affecting the bottom business line.

If the bill before us becomes law, however, don't expect to see any similar settlements in the future. If gun makers cannot be held liable, they will have no incentive to enter into a settlement. If they cannot be held liable, gun makers will have absolutely no financial incentive to make their guns safer. Indeed, they will actually have a financial disincentive to develop new safety mechanisms and distribution practices.

As a Senator from a State with millions of law abiding gun owners, I want

guns to be as safe as possible. I want new safety features and improvements developed. And I want—we should all want—the victims who are injured or killed because of defective guns or bad marketing and sales practices to not have the courthouse doors slammed in their faces.

Gun violence is a dangerous threat throughout our nation claiming the lives of thousands of people every year across America and New York State.

In 2001, the number of deaths in the U.S. from firearms was 29,573. In addition, for every firearm fatality in the U.S., there are two non-fatal firearm injuries.

A study of all direct and indirect costs of gun violence estimates that gun violence costs the nation $100 billion a year.

In 1999, New Yorkers suffered 1,652 hospitalizations and 965 deaths at the hands of gun violence. 291 of those deaths were individuals below the age of 24.

In 2000, there were 1,093 deaths in New York State from firearms.

We should be talking about how we can reduce gun violence and prevent deaths of American men, women, and children, not how to slam the courthouse door shut to gun victims and while at the same time giving bad gun dealers blanket immunity from irresponsibly and negligent conduct.

Although this very bad bill is currently before the U.S. Senate, all of my colleagues, including the bill's proponents, have an opportunity to help make our communities safer by supporting a number of amendments currently pending, including the amendment offered by Senators FEINSTEIN, WARNER, and SCHUMER that reauthorizes the assault weapons ban and the amendment offered by Senators MCCAIN and REED that seeks to close what has been called the ''gun show loophole.''

I must say that it is astonishing to me that we even need to debate the reauthorization of the assault weapons ban because there is no reasonable argument that can be made against it. People do not hunt with assault weapons. Instead, assault weapons are designed for one purpose and for one purpose only and that is to kill people.

Extending and improving upon the assault weapons ban is essential because assault weapons are a clear threat to law enforcement. Assault weapons kill police officers.

One in five law enforcement officers slain in the line of duty is killed with an assault weapon. I would hope that everyone would agree that we need to put the interests of law enforcement officers far ahead of the interests of the NRA. If we are to remain true to our support for law enforcement officials, we need to extend and improve the assault weapons ban because it is our duty to protect those who risk their lives to protect us.

In addition, a report released yesterday by the Brady Center to Prevent Gun Violence, ''On Target: The Impact of the 1994 Federal Assault Weapons Act,'' demonstrates that the assault weapons ban passed 10 years ago has been working. The report shows that the assault weapons banned by name in the Act have declined substantially, 66 percent, as a percentage of overall crime gun traces since the assault weapons ban was enacted in 1994. The study concludes that the ban has contributed to a substantial reduction in the use of assault weapons in crime, despite the industry's efforts to evade the law through the sale of copycat guns.

The assault weapons ban has been successful keeping these killing machines off our streets but it is set to expire later this year. To protect our law enforcement officials, to protect our safety, we cannot let this law expire. We must reauthorize the ban on assault weapons.

We must also do all we can to close the ''gun show loophole'' because the loophole enables those who are otherwise prohibited from purchasing firearms under federal law to easily obtain guns.

Terrorists, criminals and other people prohibited from buying or possessing guns seek out unlicensed sellers at gun shows because they know that they can simply put down their money and walk away with deadly weapons. Additionally, because these unlicensed sellers are not well-regulated and do not keep records, criminals exploit gun shows to sell firearms and law enforcement has difficulty tracing gun-show firearms that turn up at crime scenes. Gun shows are now the second leading source of firearms recovered in illegal gun trafficking investigations.

The gun show loopholes in our laws allow individuals otherwise prohibited from legally purchasing firearms to easily gain access to potentially deadly weapons. Both the City and State of New York have enacted laws regulating gun sales and the possession of guns within the City and State. Yet, because of the gun show loophole, these laws have been unable to stop guns from coming into New York. Expert studies by Dr. Howard Andrews of Columbia University show almost 90 percent of guns recovered at crime scenes in NY were purchased out state.

If our background checks on gun purchases are going to have meaning and value, we must close the gun show loopholes and that is why I support the McCain-Reed-DeWine-Lieberman amendment and I hope the entire Senate will do the same.

In closing, Mr. President, I want to implore my colleagues to examine the legislation before us that will give blanket immunity to bad gun manufacturers and dealers and to support the amendments designed to make our country safer.

I can't even begin to imagine what this nation will be like at the end of this September if the assault weapons ban is not renewed, the gun show loophole is not closed, and the gun immunity bill becomes law.

Unscrupulous and negligent gun manufacturers and dealers—both licensed and unlicensed—will be able to sell guns of all kinds, including assault weapons, and incredibly, no matter what happens, no matter how many Americans will be maimed and killed, they will be immune from liability.

I implore my colleagues to do all we can to make sure that doesn't happen.

The PRESIDING OFFICER. There is still 1 minute remaining of the minority's time.

Under the previous order, the time until 11:35 is under the control of the majority leader or his designee.

Mr. CRAIG. Mr. President, I might ask the other side how they want to deal with their 1 minute remaining prior to my closing statement.

Mr. REID. I yield it back.

Mr. CRAIG. Mr. President, I have been granted the time of the leader to close out this debate before we start votes at 11:35.

I must tell you, I am honored by the presence of the Senator from Massachusetts today on the floor to debate this critical issue. I am honored we have lifted the gun debate, on a fundamentally important bill for the average American, to Presidential politics. So let's go to where the average American is, by a Zogby poll taken some months ago, and this is: The red States versus the blue States, the Bush States versus the Gore States, in 2000.

When the average American, by the Zogby International polling group—certainly no rightwing polling group—did their work with Southern Methodists, here is what they got. For the statement: ''There are enough laws on the books. What is needed is better law enforcement for current laws regarding gun control.''—69 percent in the Bush States agreed, 63 percent in the Gore States; for the military, the veterans, and the nonmilitary—all of them well above a majority of 50 percent. When it comes to the underlying bill, that number jumps into the 70s.

Americans are fed up with the politics and the placebos to put a law on the books and somehow you have made the world safer. What they want is the cop on the beat arresting the bad guy or gal, and the courts not summarily putting them back on the streets. And when you use a gun in the commission of a crime, I suggest, and we suggest, and the American people suggest, you do the time. You don't plea-bargain them back to the streets out of a liberal court system.

That is the reality. That is what is important about this underlying debate. I am proud we have elevated it to the stature it is today.

I yield 5 minutes of my remaining time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I thank Senator CRAIG.

Mr. President, I want to address this bill generally but then close my comments on the so-called gun show loophole amendment.

I believe there are those who benefit from the job-destroying lawsuit lottery in this country, and there are those who seek to restrict the rights of law-abiding citizens to use firearms for legitimate purposes.

On the job-destroying lawsuit lottery, let me just mention one company in Texas, Maverick Arms, located in Eagle Pass, where 140 dedicated people work to assemble Mossberg and Maverick guns, high-quality firearms for shooting sports, military, and law enforcement communities. Maverick's ability to continue providing good jobs to the citizens of Texas is in jeopardy. It is in jeopardy because of junk lawsuits filed by trial lawyers, and the politicians who support their right to terrorize a legal employer providing a legal product, as opposed to focusing our efforts on the criminals and those who illegally use firearms who should be punished for doing so.

I believe it is absolutely imperative that, rather than focusing on and punishing law-abiding citizens who want nothing more than to provide for their families by engaging in a lawful enterprise and producing a legal product, we ought to focus our law enforcement efforts on the criminals. Indeed, we have found through programs such as Project Exile in Richmond, VA, and Texas Exile in my own State, we can have a real impact by punishing the convicted felons who illegally possess firearms and those who use firearms illegally to jeopardize our communities and threaten our communities, and that there is absolutely no benefit to be gained by passing additional laws, as the proponents of these amendments would do, that limit the rights of law-abiding citizens.

I would like to just mention in closing why I believe we do need to expand the role of instant background checks to all commercial gun sales, no matter where they occur. But as well-intentioned as the amendments proposed by Senator MCCAIN and Senator REED and Senator LIEBERMAN and others are, the so-called closing the gun show loophole bill—as well-intentioned as they are, I think it misses the mark. I would like to work with them to try to bring the instant background check to all commercial gun sales in this country.

The problem is this amendment, as well-intentioned as it is, will have the effect, should there be a State attorney general who doesn't seek a 24-hour instant background check period, that there will be a default through a 3-day check period, which will essentially obliterate gun show sales.

It is important to point out that, currently, everybody who is a dealer in firearms is subject to the Federal firearms license. Indeed, there is no such thing as an unlicensed dealer. But what this amendment would seek to do would be to affect people who are not dealers in firearms, but are collectors, people who engage in sales to friends and family and others, and these are. As long as they are lawful possessors of these firearms, I don't believe the full apparatus of the Federal Government ought to intrude on that ability to conduct a sale that is no threat to the people of this country.

So S. 1706, which Senator CRAIG and others have cosponsored, which currently sits in the Judiciary Committee, I suggest is an appropriate vehicle. Senator MCCAIN and others are cosponsors of that bill. I think it will ultimately accomplish the goal of this gun show amendment. I cannot support that amendment as it is written now, but I look forward to working with them to write a bill that would address the real problem, and that is a need for instant background checks across the board to make sure guns are not sold to common criminals, and make sure that we do not unnecessarily interfere with the rights of law-abiding citizens.

With that, I yield back the remaining time to the Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Texas for his debate and leadership on these issues. He has been a statewide law enforcement officer. He knows what laws are all about. He knows how the public reacts to them, and he knows that laws have to be enforced.

We are minutes away from starting a very critical vote process on three amendments before we break for lunch. We will vote on the Feinstein, McCain, and Campbell amendments. There will be time allotted for each one as we get to them. In the minute that remains, I will say this has been a very positive debate. At the same time, I think there is a common sense and a reality that stacking up gun laws on the Federal books of the U.S. Code doesn't work, unless they are effectively enforced on the ground and the criminal element who may violate these laws knows there is a bite in the law; that somehow if they use a gun in the commission of a crime, they are going to do the time.

Everywhere that principle has been applied, crime has gone down, the use of a gun by a criminal has gone down. There have been arguments about keeping guns out of the hands of terrorists. They have not made their case because every example they use was a terrorist who had been arrested, stopped. The guns, strangely, were to be exported out of the country by the terrorist. So they placed themselves in double jeopardy. Now they are doing the time. Somehow, in that portion of the law it worked well. But the vote we are going to take is over whether to extend the law for another period of time that Congress said some years ago they wanted to look at. Therefore, we would sunset it and reconsider it. That is what we are doing and will do by a vote on the extension of the assault weapons ban, the extension of a law that hasn't worked.

All of the statistics are in. The numbers have not changed. Is the assault weapon, or a weapon of similar appearance, misused on occasion? Yes, it is, but by less than 2 percent in participating in a crime. Is that a justification for, again, establishing a tripwire? The Senator from Massachusetts said you are going to unleash AK–47s back on the streets. Well, the law that bans them is still in place. It doesn't fall out with the assault weapons ban going away. That and the Uzi law are in place.

Senators will now come to the Chamber for a vote in a few moments on these critical issues. I hope they have been engaged. The debate has been very civil over a very important part of what we do in the Senate.

Mr. REID. 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. REID. Mr. President, the first vote will be 15 minutes, and for the second two there is an order that they be 10 minutes.

The PRESIDING OFFICER. Also, there are 2 minutes of debate equally divided before each of the amendments. The first amendment is the Feinstein assault weapons amendment.

Who yields time? If no one yields time, time will be charged equally.

The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I understand we are about to vote on the Feinstein amendment. On behalf of Senator FEINSTEIN, I urge all colleagues to support this amendment. This amendment would continue a ban on assault weapons that has been in place for 10 years. It has ensured that military weapons will not be on the streets of America, will not be used in crimes, will not be accessible to terrorists, which will not force our police officers to confront these weapons.

I urge my colleagues to support this amendment. It is a continuation of present law. It is not a new law. I think the American public has come to understand this law and appreciate it and support it. I think they would urge its adoption and its continuation. Again, I urge a favorable vote on the Feinstein amendment.

Mr. CRAIG. Mr. President, I ask my colleagues to let the assault weapons ban die in peace. It expires in September of 2004. Statistics show it has not changed the method of operation of criminals in this country. The assault weapons or the definition to which we prescribe in the law is not a weapon of choice of the criminal on the streets of America. It has simply set up the tripwires for law-abiding citizens who may choose to have this type of gun in their collection. By definition, that means that gun doesn't get misused. The stolen weapon, the one trafficked in the black market, is the one that is misused. That is why I believe—and many colleagues agree with me—when you sunset a law, you do so for the purpose of reexamining it to see whether it is worthy of staying on the books of

this country. It is not. It is time for it to go away. I ask my colleagues to vote no on this amendment.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2637.

The yeas and nays are ordered and the clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—52

Akaka	Dorgan	Lincoln
Bayh	Durbin	Lugar
Biden	Edwards	Mikulski
Bingaman	Feinstein	Murray
Boxer	Fitzgerald	Nelson (FL)
Breaux	Graham (FL)	Pryor
Byrd	Gregg	Reed
Cantwell	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Smith
Collins	Kennedy	Snowe
Conrad	Kerry	Stabenow
Corzine	Kohl	Voinovich
Daschle	Lautenberg	Warner
Dayton	Leahy	Wyden
DeWine	Levin	
Dodd	Lieberman	

NAYS—47

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Baucus	Enzi	Nelson (NE)
Bennett	Feingold	Nickles
Bond	Frist	Reid
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Kyl	Sununu
Cornyn	Landrieu	Talent
Craig	Lott	Thomas
Crapo	McCain	

NOT VOTING—1

Johnson

The amendment was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

Mr. SCHUMER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2636

Mr. CRAIG. Following this is the debate on the gun show loophole. There are 2 minutes of debate and a 10-minute vote to follow. I wish my colleagues would cease conversation so they can hear the proponent of the amendment.

The PRESIDING OFFICER. The Senate will please come to order. Will the Senators in the well please cease their conversations so we can continue with the debate. We will now proceed with debate on amendment No. 2636. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, if I could have the attention of my colleagues, another critical vote is at hand.

To my colleagues, envision a door. If you walk through the door, the Federal Government takes over. If you stay outside the door, the current laws are in authority. It is called the gun show loophole. We have an amendment here that puts a whole new tripwire in front of the law-abiding citizen. It does not go after the criminal element. We know less than 2 percent of guns that are used in the commission of a crime are gotten through a gun show. Most of them are obtained in the back streets.

Let's talk about law enforcement and the argument about terrorists gaining their guns through gun shows. The reason they arrested the terrorists is the current laws work. There are 1,000 gun shows for law-abiding citizens. Let's not create a Federal bureaucracy that will begin to govern and control what is the right of free commerce in this country. Let the current Federal law work.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Arizona.

Mr. MCCAIN. I remind my colleagues all reference to the Attorney General has been removed from this amendment. There is no Department of Justice oversight of the gun shows in this amendment.

Ali Boumelhem, a Lebanese national and a member of the terrorist group Hezbollah, was arrested and convicted for attempting to smuggle firearms he bought from Michigan gun shows to Lebanon.

Muhammed Asrar, a Pakistani national, in this country on an expired visa, who admitted to buying and selling firearms at Texas gun shows. Asrar is a suspected al-Qaida member who had obtained a pilot's license, had photos of tall buildings.

Connor Claxton, an admitted member of the Irish Republican Army, spent over $100,000 at Florida gun shows and through other private dealers to obtain firearms to smuggle to Ireland.

They were arrested. How many were not arrested? This is the most curious logic I have ever heard. They were arrested. Who wasn't arrested? A loophole exists. If we are interested in the security of this Nation, we will close it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CRAIG. 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.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—53

Akaka	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Lugar
Bingaman	Feinstein	McCain
Boxer	Fitzgerald	Mikulski
Breaux	Graham (FL)	Murray
Byrd	Hagel	Nelson (FL)
Cantwell	Harkin	Pryor
Carper	Hollings	Reed
Chafee	Inouye	Reid
Clinton	Jeffords	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kerry	Schumer
Daschle	Kohl	Stabenow
Dayton	Landrieu	Voinovich
DeWine	Lautenberg	Warner
Dodd	Leahy	Wyden
Dorgan	Levin	

NAYS—46

Alexander	Crapo	Murkowski
Allard	Dole	Nelson (NE)
Allen	Domenici	Nickles
Baucus	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham (SC)	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Campbell	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Kyl	Talent
Collins	Lott	Thomas
Cornyn	McConnell	
Craig	Miller	

NOT VOTING—1

Johnson

The amendment (No. 2636) was agreed to.

Mr. REED. I move to lay that motion on the table.

Mr. CRAIG. I move to reconsider the vote.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2623

The PRESIDING OFFICER. The next amendment is amendment No. 2623, the Campbell-Leahy amendment. There are 2 minutes of debate equally divided.

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, this amendment has 67 cosponsors. I am proud to say Senator LEAHY and Senator REID of Nevada are original cosponsors.

This is the No. 1 priority for the 300,000-member Fraternal Order of Police, and has been endorsed by literally every major police organization in the country, giving off-duty and retired policemen authority to carry concealed weapons interstate with proper training.

We already have a similar law in place for airline pilots. Certainly law enforcement is kind of the front line of new defense in the war on terrorism as well as the work they do with traditional law enforcement.

It defies common sense that trained policemen cannot carry interstate when we all know criminals and terrorists do outside of the law. I want to make sure we give America's policemen the same protection.

I yield to Senator LEAHY.

Mr. LEAHY. Mr. President, Senator CAMPBELL and I have worked on this for some time. I serve in the Judiciary Committee where it passed nearly unanimously. Having served in law enforcement, I know what it is like.

Our bipartisan amendment will establish national standards for law enforcement officers to carry concealed firearms so that they may respond immediately to crimes across State and other jurisdictional lines, as well as protect themselves and their families from vindictive criminals.

I look forward to the Senate approving our bipartisan amendment today to make our communities safer and to better protect law enforcement officers and their families.

Ms. CANTWELL. Mr. President, I am pleased to rise today as a cosponsor of the amendment offered by Senators CAMPBELL and LEAHY, the Law Enforcement Safety Act. This legislation will take sensible steps to improve public safety by allowing trained active and retired law enforcement officers to carry their service weapons across State lines without needless bureaucratic hurdles.

In my State of Washington, all law enforcement officers are permitted to carry concealed weapons, and many jurisdictions require officers to do so. In addition, all retired officers can obtain concealed weapons permits, and my State grants reciprocal privileges to any law enforcement officer visiting the State. This allows officers to continue to play a role in maintaining public safety wherever they may be. I believe that the successful example set by officers in my State shows that this legislation warrants the support of this body. I believe that this is solid policy and that extending a similar policy across the country will have beneficial public safety effects.

I fully support aspects of this bill that are stronger than the current policy in my State: Requiring retired officers to maintain their firearms skills, and preserving local laws barring firearms in specific locations, like churches and schools.

Police officers are entrusted by the public with an important responsibility. Since the events of September 11, we have placed new burdens of our Federal, local, and State officers. We have often done so without providing them the resources they need to do the job. This amendment is a step to correcting that oversight by allowing the people who are the most well-trained in how and when to use firearms to avoid outdated restrictions on carrying and traveling with firearms.

I urge my colleagues to support this legislation, and to provide additional support to our law enforcement officers across the country. I look forward to working with the amendments sponsors to ensure its adoption.

Mrs. BOXER. Mr. President, as we all know, law enforcement officers are never ''off duty.'' They are dedicated public servants who are sworn to protect public safety at any time and place that the peace is threatened. They need all the help that they can get.

That is why I am so proud to cosponsor this bipartisan amendment to allow off-duty and retired law enforcement officers to carry a firearm if they meet the same state firearms training and qualifications as an active officer.

Today, there is a complex patchwork of Federal, State, and local laws that govern whether current and retired law enforcement officers can carry concealed firearms. This patchwork approach is confusing and ineffective. This amendment will establish a measure of uniformity and consistency across the country.

Over 740,000 sworn law enforcement officers serve in this country. In the last decade alone, more than 1,700 law enforcement officers have been killed in the line of duty. That's an average of 170 deaths per year. And, roughly 5 percent of these were killed while taking law enforcement action in an off-duty capacity.

Even the death of one police officer is unacceptable. We can and must do more to protect them, and that is why I support this amendment. It will increase the ability of law enforcement officers to protect themselves, their families, and our communities.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am under no illusion what the outcome of this vote is going to be. But this is gun legislation run amok. This is demonstrating that the Senate is more interested in the profits of the gun industry than protecting the citizens.

This legislation will override every mayor's decision that has ruled that they do not want concealable weapons in the bars and the churches or on the playgrounds of the schools of their district. This legislation will override every Governor's decision to protect local citizens by prohibiting concealable weapons in bars and churches and schoolyards across the country.

The mayors have made the decision. The States have made the decision. Now in the Senate of the United States we say it does not make any difference if the local community is making a judgment to protect their local citizens; we know better in the Senate.

I don't want to hear from the other side anymore about one size fits all. This is it. Override the States, override the local communities, that is what this does with concealable weapons which are deadly to the children and the people of this Nation.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2623.

Mr. CRAIG. 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 bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—91

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Mikulski
Baucus	Dorgan	Miller
Bayh	Edwards	Murkowski
Bennett	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Clinton	Jeffords	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Leahy	Thomas
Corzine	Levin	Voinovich
Craig	Lieberman	Warner
Crapo	Lincoln	Wyden
Daschle	Lott	
Dayton	Lugar	

NAYS—8

Akaka	Fitzgerald	Lautenberg
Dodd	Inouye	Sarbanes
Durbin	Kennedy	

NOT VOTING—1

Johnson

The amendment (No. 2623) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, we will now adjourn for lunch. When we return at 2:15, we will have under consideration the Frist-Craig amendment on armor piercing, the Kennedy amendment on the armor-piercing gun ban, and a Levin amendment to be tabled, and final passage. We will reconvene at 2:15.

RECESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now recess until 2:15 p.m. for the weekly party lunches.

There being no objection, the Senate, at 12:46 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BUNNING).

UNANIMOUS CONSENT AGREEMENT—S. 1637

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 381, S. 1637, at 10:30 a.m. on Wednesday, March 3, 2004.

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

The Senator from Nevada.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—Continued

Mr. REID. Mr. President, I ask unanimous consent that instead of 1 minute on each side between votes, there be 2 minutes on each side.

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

AMENDMENT NO. 2625

The PRESIDING OFFICER (Mr. VOINVOICH). Who yields time on the Frist amendment No. 2625? The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that we proceed with 2 minutes of debate prior to the vote. The Frist-Craig amendment is the pending amendment. I would like to close. I ask the Senator to proceed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am glad if Senator CRAIG wishes to close on this amendment. I would like to close on the next amendment, if that is agreeable.

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

Mr. KENNEDY. Mr. President, I have seen a lot of phony amendments around here in the 42 years I have been here, and this is about as phony an amendment as one could possibly imagine.

We have to ask ourselves, What is the problem? The problem has been 17 law enforcement officers have been killed, according to the FBI, from armor-piercing bullets. Deer and ducks do not wear armor vests. Police officers wear armor vests. What do police officers do? They try and protect the public interest.

What is out there now on the Internet? I have four different charts that show what is out on the Internet selling this armor-piercing ammunition. Let's just take a look at what the armor-piercing ammunition does.

Armor-piercing projectiles contain a core of hardened steel or tungsten carbide which allows it to penetrate metal objects. That is what our police officers are up against.

The Craig amendment does what? It asks whether we ought to have a study of this kind of problem. In the meantime, if we accept that and oppose my amendment, we know there will be law enforcement officials who will be killed, shot, with these armor-piercing bullets.

What in the world justification is there for hunters to use armor-piercing bullets? Perhaps that can be answered. I have not heard it, but the Senator wants to have a study.

What else will they do? They will increase the penalties. That will be fine. Tell that to the families after these police officers have been killed. What is going to happen after that? They will even provide the death penalty in some instances. This does not protect law enforcement officials, and I hope the Senate will support my amendment later.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

The Senator from Idaho.

Mr. CRAIG. Mr. President, the Fraternal Order of Police, 311,000 police, oppose what the Senator from Massachusetts has just said. Their official organization says this is nothing more than a smokescreen to ban about 30 percent of ammunition that is currently in the market for the purpose of hunting, for the purpose of using in it a law-abiding way by sportsmen.

Can a piece of ammunition, shot in a 30.06, that will kill a deer or an elk pierce certain types of armor? The answer is, yes, it can. The Senator from Massachusetts is truthful in that. But do we want to now summarily erase all of that from the market or do we want to do an official bona fide ballistic study, directed by the Department of Justice, to have a clear and clean understanding of what is, in fact, armor piercing and what is, in fact, a legitimate piece of ammunition that is used by marksmen, that is used by sportsmen, that is used in the legitimate business of hunting that we have longtime said is a great tradition in this country?

Anti-gunners have always said, if you can't get the gun, go after the ammo—if you can't get the gun, go after the ammo. Clearly, the underlying amendment that we will debate next goes after the ammo. The Frist-Craig amendment says, whoa, wait a minute, let's make darn sure what we are doing is the right thing before we go there.

No one is in favor of a cop-killer bullet. Shame on anybody who would accuse any Senator on this floor for being in favor of a cop-killer bullet. What we are in favor of is legitimate ammunition and its use, not its misuse, and not the ability to say, well, that is a good bullet but it was used badly; therefore, it ought to be eliminated.

Mr. HATCH. Mr. President, I urge my colleagues to vote in favor of the Frist-Craig amendment relating to armor piercing ammunition. The Frist-Craig amendment restates existing law which prohibits the manufacture, import, or sale of armor piercing ammunition except for use by the United States Government or for export. Additionally, the Frist-Craig amendment requires the Department of Justice to study and report to Congress whether a uniform standard for the testing of projectiles against body armor is feasible.

The Department would include in its study the standards which Senator KENNEDY seeks in his proposed amendment. Ideally, this report will confirm or put to rest the issue of whether the amendment proposed by Senator KENNEDY would have the effect of banning standard hunting information. This is a sensible approach to an issue which has so many legitimate hunters and other gun owners concerned. Finally, and importantly, the Frist-Craig amendment does something about SENATOR KENNEDY's concerns in a way that his amendment does not. Specifically, the Frist-Craig amendment imposes serious penalties on those who use and carry armor piercing ammunition during and in relation to crimes of violence and drug trafficking crimes.

The Frist-Craig amendment sends a clear message that those criminals who use this type of ammunition in their crimes that they will face significant punishment. Additionally, if the criminals murder someone with armor piercing ammunition in the course of a drug trafficking crime or crime of violence, they will face the full range of punishment, including the death penalty.

The Frist-Craig amendment would therefore punish those who use armor piercing ammunition to carry out illegal activities while permitting those who intend to legitimately use ammunition with common and conventional hunting or sporting rifles to do so.

It is through the Frist-Craig amendment that we would preserve what is the classic first deer rifle given to millions of Americans; that is, the 30-30 Winchester deer rifle. Finally, it is important to note that the Fraternal Order of Police, representing over 311,000 police officers nationwide, supports the Frist-Craig amendment.

A difficulty many have with Senator KENNEDY's amendment is the definition of body armor, which is directed at the minimum standard for protection of law enforcement officers. According to the Department of Justice, the minimum standard is level 1 body armor which is designed to resist bullets fired from various low caliber handguns, such as .22s or .380s. Therefore, under this amendment common handgun ammunition for other handguns, including .44 calibers and 9 mm, would be banned. Additionally, neither level 1 nor level 2 body armor is designed to prevent penetration by rifles. Therefore, to ban all ammunition that may penetrate level 1 body armor, or level 2 body armor for that matter, would in effect ban all rifle ammunition.

I am troubled by this issue because I remember the draft AFT report issued in 1997 by ATF's career personnel that concluded that there was no need for new legislation. Unfortunately, those in that administration's political positions whose agenda was to push gun control legislation reversed those findings.

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

Mr. CRAIG. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2625.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South

Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 85, nays 12, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—85

Alexander	Dodd	McCain
Allard	Dole	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham (FL)	Pryor
Breaux	Graham (SC)	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Schumer
Campbell	Hatch	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Sununu
Cornyn	Landrieu	Talent
Craig	Leahy	Thomas
Crapo	Lieberman	Voinovich
Daschle	Lincoln	Warner
Dayton	Lott	
DeWine	Lugar	

NAYS—12

Akaka	Feingold	Levin
Cantwell	Hollings	Reed
Carper	Kennedy	Sarbanes
Corzine	Lautenberg	Wyden

NOT VOTING—3

Domenici	Edwards	Johnson

The amendment (No. 2625) was agreed to.

AMENDMENT NO. 2619

The PRESIDING OFFICER. There will be 4 minutes of debate evenly divided before the vote on the Kennedy amendment.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe the Kennedy amendment is now up. Both the Senator from Massachusetts and I agree, this being his amendment, he should be able to close the debate.

Let me suggest as clearly as I can to all of our colleagues, if you just voted yes on the immediate past amendment that passed by a very large margin, 85 to 12, then you would vote no on Kennedy. It is quite simple why.

He sets a new ballistic standard. He does not allow the professional to determine what is or is not armor piercing. I don't believe a Senator wants to ban from the marketplace potentially 30 percent of the kind of ammunition that is now used in legitimate hunting.

That is fundamentally the issue that is at hand, to reach out into the marketplace and arbitrarily draw a line when we all know that hunting weapons, when misdirected, have the potential of penetrating soft armor and other types of armor. Are they armor piercing? No. But they have the capability of phenomenal penetration. That is why they are hunting ammunition. That is why our sportsmen use them.

It is not the role of the Senate to draw that kind of line and determine what is hunting and what is not in respect to this amendment. I believe that is the underlying basis of the Kennedy amendment.

I ask that the Senate oppose it and vote no.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the current cop-killer bullets that we have accepted now took 5 years to pass in the Senate. We heard the same arguments. I was part of that whole effort. It took us 5 years to provide it. We have made very marginal progress on it.

I raise this: Law enforcement officers killed and assaulted, on page 17, law enforcement officers killed by firearms while wearing body armor. There it is, page 17: 17 law enforcement officers were killed while wearing body armor by armor-piercing bullets.

Don't worry about this amendment. The only people who have to worry about this amendment are people who use sniper rifles and assault weapons and use armor-piercing bullets.

That is the record. The FBI has stated that. We have a chance to make a difference. We have had a study. I can understand some people want a study. You can vote for this amendment.

Let me finally say this has the support of the International Association of Chiefs of Police, International Brotherhood of Police Officers, City Chiefs Association, National Organization of Black Law Enforcement, National Association of School Reserve Officers.

This applies to sniper rifles and assault weapons. Some of these bullets can travel as far as a mile. Some of them have incendiary tips with electronic scopes. We are talking about homeland security and we are not even prepared to do something about armor-piercing bullets that can go through police officers' vests. It is as simple as that.

If we care about our law enforcement officers trying to protect our people, we will at least resist letting snipers have armor-piercing bullets.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2619.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON), are necessarily absent.

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

The result was announced—yeas 34, nays 63, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—34

Akaka	Durbin	Lieberman
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kerry	Stabenow
Corzine	Kohl	Wyden
Dayton	Lautenberg	
Dodd	Levin	

NAYS—63

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Dorgan	Miller
Baucus	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bingaman	Fitzgerald	Nickles
Bond	Frist	Pryor
Breaux	Graham (SC)	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chambliss	Hutchison	Smith
Cochran	Inhofe	Snowe
Coleman	Jeffords	Specter
Collins	Kyl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Leahy	Talent
Craig	Lincoln	Thomas
Crapo	Lott	Voinovich
Daschle	Lugar	Warner

NOT VOTING—3

Domenici	Edwards	Johnson

The amendment (No. 2619) was rejected.

AMENDMENT NO. 2631

The PRESIDING OFFICER. There will now be 4 minutes equally divided on the Levin amendment.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, if I could have the attention of our colleagues, this is a key amendment to the underlying S. 1805.

I yield to the Senator from Arizona.

Mr. KYL. Mr. President, I went to law school and studied the concepts of gross negligence and reckless conduct. There are thousands, in fact probably millions, of pages of case law trying to define those legal terms.

The reality is no judge or lawyer can tell you today what they mean. They say it all depends. This amendment does not clear that up. In fact, it only adds to the confusion, because it statutorily creates a standard of care when there is no underlying cause of action, no basis for liability against the defendant. There will still be lawsuits to defend and lawyers to pay even if you win. I guess that may be the whole point of the proponents—create a requirement for manufacturers to defend themselves in court even though there is no legitimate cause of action against them. They pay more insurance, more lawyers, so even if they win, they lose.

This bill is all about ensuring there is no cause of action against a manufacturer which makes a legal, nondefective product. It makes no sense to say unless he is grossly negligent. He is already liable if he is grossly negligent. Say the gun blows up and kills somebody; that standard applies already if there is a legal cause of action against

him—in other words, a legal basis for holding him liable. It adds nothing but confusion when there is no underlying cause of action.

Here is an example: You get yourself rear-ended by the guy behind you, and I am not that guy. You have no right to sue me. It doesn't change anything if we say in the law ''unless KYL is grossly negligent;'' KYL wasn't even there. All we are doing is adding confusion to this by adding this gross negligence language which, unfortunately, will cause a lot of people to have to defend themselves in court, pay lawyer fees, and at the end of the day we are trying to avoid that here.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the purpose of this bill is said to be that you want to make sure you do not hold people accountable for the actions of others. That is what we have been told the purpose of this bill is. That is what the stated purpose of this bill is. This amendment says we surely should hold people accountable for their own actions. That is the difference. Are people going to be held accountable for their own reckless and grossly negligent conduct? The way this bill is written, the only grossly negligent conduct or reckless conduct somebody is held accountable for is if that conduct is also illegal.

What if the conduct is not illegal but is grossly negligent and reckless and causes the death or injury of somebody else? Should that manufacturer or that dealer be immunized if his own reckless or grossly negligent conduct is a proximate cause of death or injury? It is a simple provision. I am going to read it, if I have 20 seconds left:

> None of the provisions in the act shall be construed to prohibit a civil liability action from being brought or continued against the person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

The key word in this whole sentence is ''own.'' The key argument that the opponents of the amendment make is that you only should be responsible for your own actions, and I agree. The NRA has a point. You should be responsible for your own actions. This amendment says if your actions are reckless or grossly negligent, then you are not going to be immunized. This is not someone else's conduct. It is your own.

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

Mr. CRAIG. Mr. President, I move to table the Levin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—56

Alexander	Dole	Murkowski
Allard	Dorgan	Nelson (NE)
Allen	Ensign	Nickles
Baucus	Enzi	Pryor
Bennett	Frist	Reid
Bond	Graham (SC)	Roberts
Breaux	Grassley	Rockefeller
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Hutchison	Smith
Chambliss	Inhofe	Snowe
Cochran	Kyl	Specter
Coleman	Landrieu	Stevens
Collins	Lincoln	Sununu
Cornyn	Lott	Talent
Craig	McCain	Thomas
Crapo	McConnell	Voinovich
Daschle	Miller	

NAYS—41

Akaka	Dodd	Leahy
Bayh	Durbin	Levin
Biden	Feingold	Lieberman
Bingaman	Feinstein	Lugar
Boxer	Fitzgerald	Mikulski
Byrd	Graham (FL)	Murray
Cantwell	Harkin	Nelson (FL)
Carper	Hollings	Reed
Chafee	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Warner
Dayton	Kohl	Wyden
DeWine	Lautenberg	

NOT VOTING—3

Domenici	Edwards	Johnson

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

Mr. CRAIG. Mr. President, I believe the order at hand is final passage on S. 1805, as amended. I turn to my colleague, Senator REED, for any closing comments he would like to make.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, despite the passage of three very important amendments for gun safety—one that closed the gun show loophole, another that extended the assault weapons ban, and a third to require child safety locks with all handguns sold in this country—the underlying bill still represents a fundamental undermining of a principle of law that has lasted for centuries, and that principle is that an individual is not just responsible to follow the statutes of this country, that individual is responsible to act reasonably. Even the most elaborate construct of statutes will never reach all the variations of human behavior. That is why this fundamental principle of responsible conduct must by maintained.

This bill turns it on its head. This bill, if enacted, will be a license to be irresponsible, and there is no more graphic example than Bull's Eye Shooter Supply in Washington State, the source of the weapons for the snipers who terrorized Washington, DC. The individual could not account for 238 weapons, had numerous citations by ATF, and was unaware that a weapon was shoplifted and had fallen into the hands of assassins. That is irresponsible conduct. That conduct would be immunized by this legislation.

I urge all my colleagues to vote no, against this legislation. We have made progress on important gun safety measures, but the underlying legislation would say to gun manufacturers: You can be irresponsible through your distribution network to whom you sell; to dealers, you can be irresponsible to the customer to whom you sell. We don't want that. The peace, security, and safety of all of us cannot tolerate that, and I urge defeat of this measure.

Mr. CRAIG. Mr. President, we are about to vote on S. 1805, as amended. The House passed a clean S. 1805 with over a 2-to-1 margin. The President has asked for a clean bill. But in the process of the last 5 days we have added a great deal to this bill that makes it much less than clean.

We have added back the assault weapons ban. We have added trigger locks. We put a new tripwire in gun shows that will allow law-abiding citizens to be at risk.

I don't think we can go there, nor do I believe we should go there. I, and certainly my colleagues, have worked in good will, as have all who have come to the floor to debate this issue. There has been a real difference of opinion.

I am now told even if we passed it, it would never get to conference. If you can't work the process and get to conference, how can you complete the legislative process for which the House and the Senate have always historically been known? To simply have someone say no to allow the difference between the House and the Senate to be worked out is the very clear message I am hearing at this moment. That is a message that doesn't work. If that is the strategy here, that we move legislation by offering amendments by working in a bipartisan fashion only to say no at the end, how can we accept the process and simply say, well, let us vote it out, anyway?

This is a very important bill. There is no question about that. It was a substantial move in tort reform. It enshrined once again the historic tort belief that you as an individual are responsible for your own actions. If

somebody acts criminally down the line and you have been law abiding and you are at risk, that is what the bill said. It wasn't convoluted. It was clear and it was clean. I worked on it a long while, as have many others.

I am proud of our work product, and I would love to see this bill pass. But I now believe it is so dramatically wounded that it should not pass. I urge my colleagues to vote against it.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 8, nays 90, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—8

Breaux	Lincoln	Pryor
Daschle	Lugar	Voinovich
Lieberman	McCain	

NAYS—90

Akaka	DeWine	Leahy
Alexander	Dodd	Levin
Allard	Dole	Lott
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Brownback	Frist	Reed
Bunning	Graham (FL)	Reid
Burns	Graham (SC)	Roberts
Byrd	Grassley	Rockefeller
Campbell	Gregg	Santorum
Cantwell	Hagel	Sarbanes
Carper	Harkin	Schumer
Chafee	Hatch	Sessions
Chambliss	Hollings	Shelby
Clinton	Hutchison	Smith
Cochran	Inhofe	Snowe
Coleman	Inouye	Specter
Collins	Jeffords	Stabenow
Conrad	Kennedy	Stevens
Cornyn	Kerry	Sununu
Corzine	Kohl	Talent
Craig	Kyl	Thomas
Crapo	Landrieu	Warner
Dayton	Lautenberg	Wyden

NOT VOTING—2

Edwards	Johnson

The bill (S. 1805), as amended, was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield to the Senator from Arizona.

MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DODD. Mr. President, may I inquire, what sort of time—I want to get a few minutes in morning business, myself.

Mr. CRAIG. Mr. President, I would like only to thank all who were involved in the legislation.

Mr. KYL. Mr. President, I have a presentation I would like to make in morning business.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. While the Senator from Idaho is speaking, I will be happy to speak to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Idaho.

CONSIDERATION OF S. 1805

Mr. CRAIG. Mr. President, we have just had 5 days of very important debate. I think all who entered the debate entered it with good will in mind. There have been different points of view, very strongly held different points of view. As a result of that, the final passage of S. 1805 was not possible, and the Senate defeated it. That is all I will say about that process.

I wish to thank so many people who have been tremendously helpful on my staff: Brooke Roberts, Lisa McGrath, and Doug Lucke, who worked extremely hard with me to perfect S. 1805 and bring it to the floor; Chairman HATCH and his staff of the Judiciary Committee: Ted Lehman, Brett Tolman, and Reed O'Connor; the leadership staff in the cloakroom; and the 55 cosponsors of S. 1805.

Certainly, there was a strong effort on the part of all to get this legislation to the floor, to get clean votes on it. We even, of course, had the effort of the House, with a better than two-to-one majority in the House, on a clean bill. The President asked that a clean bill be received at the White House.

None of that, in the final hours, appeared to be possible. Clearly, we were not going to be allowed to go to conference. The minority saw no advantage in allowing the process that is historical and responsible in the Senate to move forward because that, of course, takes unanimous consent or prolonged effort and votes to get there.

It is a very short timeline for this year, and we clearly need to move the process forward. We will look now to bring the House bill forward in a clean way. Ultimately, we hope we might get a cloture vote. This issue will not go away. It deserves to be voted on, up or down, by the Senate. Clearly, it is the will of the American people and, ultimately, we will have that day and that opportunity. That day was not today, as much as I wished it could be.

At the same time, when you have a bad bill that is created by the amendment process, it sometimes is difficult, if not impossible, to make it better or to make it acceptable. I would not send to this President or any President a bad bill of the kind that was crafted in the Senate through the amendment process over the last several days.

But, again, I thank so many who were involved in this effort. It is greatly appreciated.

With that, I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Connecticut, Mr. DODD, be recognized for up to 30 minutes—we are in a period of morning business—and following that, the floor return to Senator KYL.

Mr. KYL. Reserving the right to object; 20 minutes, yes, 30 minutes, no.

Mr. REID. I would say, no, he asked for 20 minutes.

Mr. KYL. Sorry. I say to the Senator from Nevada, is 20 minutes all right, then?

Mr. REID. Could we give him 25? Twenty minutes is fine. Twenty minutes is fine. Then the floor would return to Senator KYL.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, first, I thank the distinguished Senator from Nevada and the Senator from Arizona for their courtesies. I appreciate that very much.

HAITI

Mr. DODD. Mr. President, I wish to address, if I may, the subject matter of Haiti and the events that have occurred there over the last several days, now going back a week or more, in that country, that beleaguered nation only a few hundred miles off the southern coast of Florida.

On Sunday morning, as we now all know, the democratically elected government, the President of Haiti, was forced out of office. The armed insurrection, led by former members of the disbanded Haitian Army, and its paramilitary wing called FRAPH, made it impossible for the Aristide government to maintain public order, without assistance from the international community—international assistance that was consciously withheld, in my view.

President Aristide left Haiti on Sunday morning aboard an American aircraft. President Aristide reportedly has

gone into exile in the Central African Republic, where I am now being told he is not allowed to communicate with others outside of that country.

Members of the Black Caucus of the other body, and others who had an opportunity to speak with President Aristide yesterday, have publicly restated his claim that he was forcibly removed from Haiti by U.S. officials.

I quickly point out that Secretary of State Colin Powell and others have emphatically denied that charge. Such an allegation, if true, is extremely troubling and would be a gross violation of the laws of the U.S. and international law. Only time will tell. I presume there will be a thorough investigation to determine exactly what occurred from late Saturday night and early Sunday morning, regarding the departure and ouster of the President of Haiti, President Aristide.

Over the coming days, I believe an effort should be made to reconstruct what happened in the final 24 or 48 hours leading up to President Aristide's departure so we can resolve questions of the U.S. participation in the ouster of a democratically elected leader in this hemisphere.

Let's be clear that whether U.S. officials forcibly removed Aristide from Haiti, as he has charged, or he left voluntarily, as Secretary of Powell and others have stated, it is indisputable, based on everything we know, that the U.S. played a very direct and public role in pressuring him to leave office by making it clear that the United States would do nothing to protect him from the armed thugs who are threatening to kill him. His choice was simple: Stay in Haiti with no protection from the international community, including the U.S., and be killed or you can leave the country. That is hardly what I would call a voluntary decision to leave.

I will point out as well, if I can—and I know that international agreements are not always thought of as being terribly important in some people's minds. But in 1991, President Bush, the 41st President, along with other nations in this hemisphere, had signed the Santiago Declaration of 1991. That declaration, authored by the Organization of American States, said that any nation, democratically elected in this hemisphere, that seeks the help of others when they are threatened with an overthrow should be able to get that support.

Ten years later, the Inter-American Charter on Democracy was signed into law, a far more comprehensive proposal, again authored by the Organization of American States, the U.S. supporting. The present President Bush and our administration supported that. That charter on democracy stated that when asked for help by a democratically elected government being threatened with overthrow, we should respond.

President Aristide, a democratically elected President made that request and, of course, not only did we not provide assistance, in fact we sat back and watched as he left the country, offering assistance for him to depart.

I cite those international agreements because we think of our Nation as being a nation of laws, not of men. These agreements either meant something or they didn't. The Santiago Declaration and the Inter-American Charter on Democracy, apparently both documents mean little or nothing when it comes to supporting democratically elected governments in this hemisphere—not ones that you necessarily like or agree with or find everything they do is in your interest, but we do adhere to the notion that democratically elected governments are what we support in this hemisphere.

When they are challenged by violent thugs, people with records of violent human rights violations, engaged in death squad activity, in the very country they are now moving back into and threatened, of course, successfully the elected government of President Aristide, then I think it is worthy of note that we have walked away from these international documents signed only 3 years ago and 10 years ago.

There is no doubt, I add, that President Aristide has made significant mistakes during his 3 years in office—these last 3 years. He allowed his supporters to use violence as a means of controlling a growing opposition movement against his government. The Haitian police were ill trained and ill equipped to maintain public order in the face of violent demonstrations by progovernment and antigovernment activists. Poverty, desperation, and opportunism led to wide government corruption.

President Aristide, in my view, must assume responsibility for these things. But did the cumulative effect of these failures amount to a decision that we thought we could no longer support this democratically elected government? If that becomes the standard in this hemisphere, we are going to find ourselves sitting by and watching one democratically elected government after another fall to those that breed chaos and remove governments with which they don't agree. They are being told by the Bush administration now that the Haitian Government was a government of failed leadership. That is a whole new standard when it comes to engaging in the kind of activity we have seen over the last several days.

Having been critical of President Aristide, I point out that he was elected twice overwhelmingly in his country. He was thrown out of office in a coup in the early 1990s. Through the efforts of the U.S. Government and others, he was brought back to power in Haiti. Then he gave up power when the government of President Preval was elected. During those 4 years, President Aristide supported that transitional government. He ran again himself, as the Haitian Constitution allowed, and was elected overwhelmingly again, despite the fact the opposition posed little or no efforts to stand against him.

There was a very bad election that occurred in the spring of 2000, in which eight members of the Haitian Senate were elected by fraud. Those Senators were removed from office. Six months later, President Aristide was elected overwhelmingly again. It is the first time I know of in the 200-year history of Haiti as an independent nation where a President turned over power transitionally peacefully to another democratically elected government. Whatever other complaints there are—and they are not illegitimate about the Aristide government—there was a peaceful transition of democratically elected governments in Haiti. That never, ever happened before. What has happened there repeatedly is one coup after another—33 over the 200-year history of that nation.

Whatever shortcomings they may have had, President Aristide provided for the first time in Haiti's history a democratically elected government transitioning power to other people peacefully. I will also point out that he abolished the military and the army, an institution that did nothing but drain the feeble economy of Haiti of necessary resources.

Haiti did not have a need for an army. There were no threats to Haiti. In retrospect, he may regret that. But the army, in my view, was a waste of money in Haiti, served no legitimate purpose, and President Aristide should be commended for abolishing an institution that had been the source of constant corruption and difficulty on that nation.

Blame for the chaos does not rest solely on the shoulders of President Aristide. The so-called democratic opposition bears a share of the responsibility for the death and destruction that has wreaked havoc throughout Haiti over the past several weeks.

The members of CARICOM, with U.S. backing, put on the table a plan calling for the establishment of a unity government to defuse the political crisis. The opposition rejected this proposal on three different occasions, despite the fact that President Aristide said he was willing to have a government of unity, to give up power, to share governmental functions with the opposition. The opposition said no on three different occasions, despite the fact that the nations of the Caribbean region urged the opposition to avoid the kind of transition that we have seen over the last several days.

A hundred or more Haitians already have lost their lives. Property damage may be in the millions. Given the direct role the U.S. played in the removal of the Aristide government, it is now President Bush's responsibility, in my view, and moral obligation to take charge of this situation. That means more than sending a couple hundred marines for 90 days or so into Haiti. Rather, it means a sustained commitment of personnel and resources for the

foreseeable future by the U.S. and other members of the international community that called for the removal of the elected government.

If the Bush administration and others inside and outside of Haiti had been at all concerned over the last 3 weeks about the fate of the Haitian people, perhaps the situation would not have deteriorated into near anarchy, nor would the obligation of the U.S. to clean up this mess now loom so large.

We are now reaping what we have sown. Three years of a hands-off policy left Haiti unstable, with a power vacuum that will be filled in one way or another. Will that vacuum be filled by individuals such as Guy Philippe, a former member of the disbanded Haitian Army, a notorious human rights abuser and drug trafficker, or is the administration prepared to take action against him and his followers, based upon a long record of criminal behavior?

It is rather amazing to this Senator that the administration has said little or nothing about its plans for cracking down on the armed thugs who have terrorized Haiti since February 5.

Only with careful attention by the United States and the international community does Haiti have a fighting chance to break from its tragic history. In the best of circumstances, it is never easy to build and nurture democratic institutions where they are weak and nonexistent. When ignorance, intolerance, and poverty are part of the very fabric of a nation, as is the case in Haiti, it is Herculean.

Given the mentality of the political elites in Haiti—one of winner take all—I, frankly, believe it is going to be extremely difficult to form a unity government that has any likelihood of being able to govern for any period of time without resorting to repressive measures against those who have been excluded from the process.

It brings me no pleasure to say at this juncture that Haiti is failing, if not a failed state. The United Nations Security Council has authorized the deployment of peacekeepers to Haiti to stabilize the situation. I would go a step further and urge the Haitian authorities to consider sharing authority with an international administration authorized by the United Nations in order to create the conditions necessary to give any future Government of Haiti a fighting chance at succeeding. The United States must lead in this multinational initiative, as Australia did, I might point out, in the case of East Timor; not as Secretary Defense Rumsfeld suggested yesterday: Wait for someone else to step up to the plate to take the lead. It will require substantial, sustained commitment of resources by the United States and the international community if we are to be successful.

The jury is out as to whether the Bush administration is prepared to remain engaged in Haiti. Only in the eleventh hour did Secretary of State Colin Powell focus his attention on Haiti as he personally organized the pressure which led to President Aristide's resignation on Sunday. Unless Secretary Powell is equally committed to remaining engaged in the rebuilding of that country, then I see little likelihood that anything is going to change for the Haitian people. The coming days and weeks will tell whether the Bush administration is as concerned about strengthening and supporting democracy in our own hemisphere as it claims to be in other more distant places around the globe. The people of this hemisphere are watching and waiting.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arizona.

Mr. REID. Mr. President, will my friend yield for a question?

Mr. KYL. Yes.

Mr. REID. Mr. President, we have people on both sides trying to determine what their schedules will be tonight. It is my understanding the Senator from Arizona would like to speak for an extended period of time or have someone on his side speak. We certainly think that is appropriate. We would, however, like to see what we can do to determine how much time would be used on each side. I ask my distinguished friend from Arizona, through the Chair, if he believes they can do their speeches in 2 hours.

Mr. KYL. If I can answer the question of the Senator from Nevada this way, I know that we have 2 hours. I just asked the staff on the schedule they have if it goes beyond that. They are checking that right now. I say to my friend from Nevada, if there are no people beyond that time, then 2 hours, and then if there are, then whatever the Senator is willing to agree to we will be happy to enter an agreement on.

Mr. REID. Mr. President, I ask unanimous consent that during this period for morning business, that I be in control of 2½ hours and that the majority be in control of 2½ hours, with the time starting from the time Senator KYL starts his speech.

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

IRAQ

Mr. KYL. Mr. President, I rise today to discuss the subject of the removal of Saddam Hussein's regime in Iraq and to address some of the recent criticism regarding whether, given that large stockpiles of weapons of mass destruction have not been found, action by the United States was justified. When I have concluded, I know there are some colleagues who will want to address this same question from slightly different perspectives.

The tragic events of September 11, 2001, demonstrated with great clarity that we can no longer afford to wait for threats to fully emerge before we deal with them. We paid a heavy price that day for our previous half-measures against those who hate us and want to destroy us.

By definition, intelligence is imprecise, and no matter what reforms we implement in our intelligence community, the fact is, at least to some degree, it will always be uncertain. This is precisely why intelligence information is just part of a larger puzzle, as it was in the case of Iraq, that we used to determine the direction of U.S. policy.

So given the uncertainty about weapons of mass destruction stockpiles, were our actions in Iraq justified? The answer to that question is most certainly yes. There is no doubt that the United States, the Iraqi people, and the international community are far better off today without Saddam Hussein in power.

The inability to find weapons of mass destruction stockpiles now does not mean that Iraq did not have access to such weapons, and that under Saddam Hussein Iraq was not a grave and gathering danger. In fact, the overwhelming body of evidence, including most recently that from the Iraq Survey Group, indicates that his regime did, indeed, pose a threat, and that its removal will aid in our overall aid against terror.

Some of our colleagues have charged that the President led the American people to war under false pretenses; that the case for removing Saddam Hussein's regime was supposedly based on an imminent threat posed by that regime because of its arsenals of weapons of mass destruction which now cannot be found. This assertion is categorically false, and today I intend to explain why.

Let's briefly review how we arrived at the decision to authorize force against Iraq in October of 2002.

Contrary to what some would have us believe, the Bush administration did not fundamentally change U.S. policy with Iraq from that of the Clinton administration. Upon entering office in January 2001, President Bush inherited from the Clinton administration a policy of regime change. I repeat, the Bush administration pursued the same Iraqi policy as the Clinton administration. That policy was based on the 1998 Iraq Liberation Act which stated:

> It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power and to promote the emergence of a democratic government to replace that regime.

This policy was unanimously approved by this Senate. This legislation and, thus, the shift in U.S. policy from containment to regime change reflected an acknowledgment that diplomatic solutions for dealing with Saddam's intransigence were being exhausted.

Even before that shift, however, the Clinton administration was clear about the nature and capabilities of Saddam

Hussein's regime and, moreover, believed that if left unchecked, the regime would pose a serious threat in the future.

On February 17, 1998, as he prepared for war against Iraq, President Clinton stated the following:

> Now let's imagine the future. What if [Saddam Hussein] fails to comply and we fail to act or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction and continue to press for the release of the sanctions and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he will use that arsenal. . . . In the next century, the community of nations may see more and more of the very kind of threat Iraq poses now—a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed.

That quote was from President Clinton's remarks in 1998 as he prepared for war against Iraq. He pointed out that the arsenal which Iraq possessed—''a rogue state with weapons of mass destruction'' were his exact words—will pose a threat because he can provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed.

Note that he talked about weapons of mass destruction which Saddam Hussein possessed.

I have noted no objections or caveats on these warnings by Democratic Members of the Senate.

Later that year, not 2 months after President Clinton signed the Iraqi Liberation Act into law, he delivered an address to the Nation explaining his decision to order air strikes against Iraqi military targets. He discussed the potential long-term threat posed by Saddam Hussein. Again, I quote President Clinton:

> The hard fact is that so long as Saddam Hussein remains in power he threatens the well-being of his people, the peace of his region, the security of the world. The best way to end that threat once and for all is with a new Iraqi government, a government ready to live in peace with its neighbors, a government that respects the right of its people.
>
> . . . Heavy as they are, the costs of inaction must be weighed against the price of inaction. If Saddam defies the world and we fail to respond, we will face a far greater threat in the future. Saddam will strike again at his neighbors; he will make war on his own people. Mark my words, he will develop weapons of mass destruction. He will deploy them, and he will use them.

Again, I note no dissent from Democratic Senators to these comments of President Clinton.

Consider the striking similarity between these statements by President Clinton and the statements Bush administration officials made about Iraq during the leadup to Operation Iraqi Freedom. In the first statement I cited from February of 1998, President Clinton discussed the consequences of inaction in the face of continued noncompliance by Saddam Hussein, noting that inaction would lead the dictator to conclude the international community had lost its will.

Consider the statements of President George W. Bush to the United Nations General Assembly in September 2002:

> The conduct of the Iraqi regime is a threat to the authority of the United Nations. Iraq has answered a decade of U.N. demands with a decade of defiance. . . . The United Nations [faces] a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?

I point out the focus of President Clinton's statements was on the totality of our knowledge about Saddam Hussein's history, his defiance of the United Nations, use of chemical weapons, aggression against his neighbors, savage treatment of his own people.

This is what we had to gauge his intentions by. This broad focus on Saddam's past actions and known capabilities, not any particular piece of intelligence, was also what prompted many Members of this body to authorize force against Iraq in October 2002. Consider some of the statements made in 2002 by my colleagues. First I quote Senator DASCHLE, majority and minority leader:

> Iraq's actions pose a serious and continued threat to international peace and security. It is a threat we must address. Saddam is a proven aggressor who has time and again turned his wrath on his neighbors and on his own people. Iraq is not the only nation in the world to possess weapons of mass destruction, but it is the only nation with a leader who has used them against his own people . . .

Note: 2002, Saddam Hussein possesses weapons of mass destruction, no qualifications except he is not the only country to do so. No expression of doubts or caveats. As minority leader or majority leader, Senator DASCHLE has access to all of the intelligence that is available to anybody in this body.

Now I quote Senator BIDEN, whose comments I quote not just because he is one of the more thoughtful Members of this body and ranking member of the Foreign Relations Committee, but also because they happen to be very close to the views I expressed on this issue. I quote Senator BIDEN in his colorful way of putting it:

> There is a guy named Saddam Hussein who, in the early 1990s broke international law, invaded another country, violating every rule of international law. The world, under the leadership of a President named Bush, united and expelled him from that country. Upon expulsion, he said a condition for your being able to remain in power, Saddam Hussein, is you sue for peace and you agree to the following terms of surrender . . . If the world decides it must use force for his failure to abide by the terms of surrender, then it is not preempting, it is enforcing. It is enforcing, it is finishing a war he reignited, because the only reason the war stopped is he sued for peace.

That is exactly true. That is precisely what happened.

Now let me quote another leader in the Senate, Senator KERRY, who said this:

> It would be naive, to the point of grave danger, not to believe that, left to his own devices, Saddam Hussein will provoke, misjudge, or stumble into a future, more dangerous confrontation with the civilized world. . . .

So this was the backdrop against which we all had voted to authorize the President to act and upon which he acted. I should not say we all voted to authorize the President because there were a few who did not, but the vast majority of the House of Representatives and the Senate voted to authorize the President to take appropriate action.

Some now are voicing second thoughts. Since our successful removal of Saddam Hussein from power, it emerges that some of the intelligence regarding the regime's weapons of mass destruction capabilities may have been wrong, because most notably large stockpiles of chemical and biological weapons have yet to be found.

I feel compelled to point out three obvious facts: One, an intelligence failure is not synonomous with a misuse of intelligence. Two, this intelligence issue does not fundamentally change the case against Saddam Hussein. Three, since Iraq itself had provided documentation to the United Nations on its production of chemical and biological agents, the question is not whether but what happened to the stockpiles.

Let's take the first, the misuse of intelligence. The fact remains the Bush administration relied largely on the same intelligence information used by the Clinton administration during the late 1990s, the same information that was available to Senators and about which they spoke on this floor, some of which I have quoted.

President Clinton's CIA Director was retained by President Bush. By and large, the intelligence information was also the same as that of the other allied intelligence services, with a primary source being the two U.N. inspection bodies UNSCOM and UNMOVIC, the initials of which are U-N-S-C-O-M and U-N-M-O-V-I-C, which were led by non-Americans, such as Rolf Ekeus and Richard Butler. That Saddam had weapons of mass destruction capabilities was widely accepted, even by those who vehemently opposed the war. As French President Jacques Chirac commented during an interview with ''Time'' Magazine in February of 2004:

> There is a problem—The probable possession of weapons of mass destruction by an uncontrollable country, Iraq. The international community is right to be disturbed by this situation, and it's right in having decided Iraq should be disarmed.

I would note, if he does not have any weapons of mass destruction, there is no point in talking about disarming him. The entire world community believed he possessed these weapons, among other things because he himself had said he did.

So given the information the international community had at the time, the conclusions about Iraq's capabilities seemed clear. As former head of the Iraqi Survey Group David Kay recently stated in his testimony to the Senate Armed Services Committee:

. . . All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to WMD.

I might add, that is exactly what President Bush said. That is obviously a big-picture view.

It seems opponents of the President, in charging the administration misled the American people, preferred to point to specific intelligence. So let's take a closer look at a couple of those examples. First, that the President's reference in his State of the Union Address regarding Iraq's attempts to purchase uranium and, second, that the administration presented intelligence community information on Iraq's WMD capabilities as though it were an undeniable fact rather than qualifying it properly with caveats.

First, there were the following 16 words in the President's State of the Union Address:

The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

Major newspapers, the Democratic National Committee, and some policymakers claim this is one of the top examples of the Bush administration knowingly misleading the American people and presenting false intelligence information. As the DNC chairman Terry McAuliffe stated:

This may be the first time in recent history that a President knowingly misled the American people during a State of the Union Address. . . . this was not a mistake. It was no oversight and it was no error.

That is a grave charge. Charges that the administration purposely included false information in the President's speech I deem despicable, an attempt to create a scandal where one does not exist. The President had every reason to believe the information in his speech was true. It had been vetted by the CIA Director and it was consistent with the judgment of the intelligence community in October 2002. The National Intelligence Estimate at that time said Iraq was ''vigorously trying to procure uranium ore'' from several African countries.

The British government, which the President cited, included a judgment in its dossier similar to that of the intelligence community's majority judgment on this point.

In retrospect, Director Tenet stated this phrase, though factually correct and approved in the interagency process, should not have been included in the President's speech because it was not central to the intelligence community's judgment that Iraq was reconstituting its nuclear weapons program. In other words, it was just a piece of evidence, not important enough to include in a speech like the State of the Union speech, and certainly not what we relied upon for our conclusion Iraq was trying to reconstitute its nuclear weapons program. In any event, it does not suggest in any way that the President was at fault for including the information, or that he had any intention of misleading the American people. The President believed the text was sound. It was not in error. If there was an error, it was simply including a piece of information which really wasn't central to making the case, but not misleading the American people.

Second, the President's critics argue he failed to mention caveats in the intelligence community's assessment of Iraqi capability. This criticism is highly misleading. According to the 2002 National Intelligence Estimate, and I have an unclassified copy of it here, the intelligence community had ''high confidence'' in the following statements:

Iraq is continuing, and in some areas expanding, its chemical, biological, nuclear, and missile programs contrary to U.N. Resolutions.

Iraq possesses proscribed chemical and biological weapons and missiles.

Iraq could make a nuclear weapon in months to a year once it acquires sufficient weapons-grade material.

So the National Intelligence Estimate, prepared by the entire intelligence community, led by the CIA Director George Tenet, had high confidence, among other things, in the fact that Iraq possessed proscribed biological and chemical weapons and missiles. After the fact we found some of the missiles. We found the programs to make chemical and biological weapons. But we don't find the big stockpile of those weapons. It turns out the intelligence community's high confidence in this statement was either misplaced or we simply haven't found the material yet, or it went somewhere else. We don't know the answers to those questions.

As to this, the only dissent came from the State Department. But even in its alternate view it said Saddam continues to want nuclear weapons and available evidence suggests Baghdad is pursuing a limited effort to maintain and acquire nuclear weapons capabilities.

Moreover, it appears the State Department did not have significant objections to the key judgments related to chemical, biological, and missile programs.

So it is clear, it is fair to say, we had a general opinion of Saddam's capabilities, that that is what the President addressed.

I want to also make it clear the President and the administration never claimed Iraq posed an imminent threat, as some have said. To the contrary, administration officials said the United States and the international community needed to act before it became imminent. Indeed, President Bush challenged those who wanted to wait until the threat was imminent in his 2003 State of the Union Address, saying the following:

Some have said that we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions, politely putting us on notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late. Trusting in the sanity and restraint of Saddam Hussein is not a strategy, and it is not an option.

So said President Bush.

Administration officials did use words like ''immediate'' and ''urgent'' but more to convey the importance of dealing with the threat they judged to be growing; that they did not imply or state was imminent, in other words, that the attack was about to occur. They did not say that.

Indeed, that the threat was not yet imminent was well understood on both sides of the aisle. As Senator DASCHLE, whom I quoted earlier, stated in explaining his support for the resolution authorizing the use of force against Iraq:

The threat posed by Saddam Hussein may not be imminent, but it is real, it is growing, and it cannot be ignored.

I submit he was correct. One can argue, and indeed some of my colleagues have argued, administration officials were at times too certain in the way they said it, too certain in their statements using phrases like ''we know.'' But given all the information we had about Saddam's history of using and producing weapons of mass destruction, his aggressive intentions, and the intelligence community's high confidence in the key areas of assessment, it is difficult to imagine how the administration could have determined Iraq was not a threat that needed to be dealt with immediately.

So, no, there may have been mistakes in intelligence. We have yet to find that out. But there was not a misleading—an attempt to mislead by the administration.

The second point is the larger point, that whatever deficiencies there may have been about the stockpiles of weapons of mass destruction, it doesn't change the basic case against Saddam Hussein. Some of what I have quoted earlier makes that point. While it is troubling our intelligence cannot tell us where these stockpiles are, the larger case remains. The Bush administration, supported by a large coalition, pursued a responsible policy, given all of the pieces of the puzzle it had. As I said, there was Saddam's previously known missile capabilities and chemical and biological weapons programs; his desire to acquire a nuclear weapon; his continuing flagrant violation of numerous Security Council resolutions; his history of aggression including, I might add, shooting at American airplanes constantly in the no-fly zone while we were trying to enforce that, if you will recall; and even an attempt to assassinate former President Bush. Add to this the regime's vast human rights

abuses which really only came to light after we were able to liberate Iraq.

In other words, absent any statement or specific piece of intelligence, the case against Saddam Hussein was already made by Saddam Hussein himself and this was before, as I said, we found the mass graves of hundreds of thousands of Iraqis.

Our colleague Senator KERRY summed it up well at the time. He said this:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by the use of force, if necessary.

I want to quote that again:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by use of force, if necessary.

There is no suggestion here we had to find weapons of mass destruction, or even necessarily that we had to believe those weapons existed at the time, even though, as I said, we all did, based upon the intelligence at the time, but that this gross violation of human rights was, in and of itself, a sufficient casus belli.

Given the same causes and information, what then accounts for the differences between the actions of the Bush and Clinton administrations? Very simply, the Bush administration made a decision that, post 9/11, it was too dangerous to allow American security to rest in the hands of an international organization that, after 12 years, had failed to enforce its own resolutions demanding Iraqi compliance with the 1991 Gulf war cease-fire. It was too dangerous to allow a regime to stay in place which had demonstrated a clear intent to develop weapons of mass destruction, had ongoing ties to terrorist organizations, and whose leader made it abundantly and routinely clear the United States was his enemy.

We needed to begin the process of changing the facts on ground in the Middle East.

In fact, it was, in part, the very uncertainty that made dealing with Saddam Hussein an urgent matter.

As Senator KERRY explained before his vote in favor of the authorization to use force:

> In the wake of September 11, who among us can say, with any certainty, to anybody, that those weapons might not be used against our troops or against allies in the region? Who can say that this master of miscalculation will not develop a weapon of mass destruction even greater—a nuclear weapon—then reinvade Kuwait, push the Kurds out, attack Israel, any number of scenarios to try to further his ambition to be the pan-Arab leader or simply to confront in the region, once again miscalculate the response, to believe he is stronger than those weapons?
>
> And while the administration has failed to provide any direct link between Iraq and September 11, can we afford to ignore the possibility that Saddam might accidentally, as well as purposely, allow those weapons to slide off to one group or other in a region where weapons are the currency of trade? How do we leave that to chance?

While we have not and may not find these weapons stockpiles, the case against Saddam Hussein is not diminished. His was a threat that needed to be dealt with.

The third and final point, the jury is still out as to what happened to Iraq's weapons of mass destruction and when. It is an intelligence failure—a lack of knowledge, not an attempt to mislead people—that we don't know the answer to that question. Presumably, some day we will find out or at least come closer to the resolution of the issue. Perhaps some day we will find some of the weapons, or maybe we will find evidence they were destroyed or removed before the war. There is no way now to know.

But one fact is certain. What we know is that at one time Saddam Hussein had chemical and biological weapons. Saddam Hussein admitted it and the entire world believed it. What is more, that Saddam used those weapons against Iran and against the Iraqi Kurds will remain forever etched in our minds.

I point to simply one picture among many which we can present to remind us of the fact that Saddam Hussein had weapons of mass destruction and used them—in this case, against his own people. Who will forget the picture of this Kurdish mother with arms wrapped around baby, both dead, as a result of Saddam Hussein's perfidy—the use of his chemical weapons.

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

Mr. KYL. I am happy to yield for a question.

Mr. MCCONNELL. Is it not correct that was one issue upon which everyone was in agreement prior to the Iraq war, the French, the Germans, the Russians, the British, ourselves, the United Nations, the world in its entirety? The one thing they agreed on prior to the Iraq war was the point the Senator from Arizona was just making.

Mr. KYL. Mr. President, if we didn't agree on anything else—and there were some issues we agreed on—all of the countries mentioned, all of the intelligence services mentioned by the Senator from Kentucky, in fact agreed on that point.

Among other things, they agreed because they read the documentation provided to the United Nations by Saddam Hussein in which he admitted he had biological and chemical weapons stockpiles. We knew he had used them. He said he had them. The question now is, What happened to them between sometime in the late 1990s, maybe right up to a week or two before the Iraqi war, and the time we were able to go in after the Iraqi war in search of them since we haven't yet found large stockpiles? We found some things. We certainly found missiles. We have found the programs to reconstitute the chemical weapons program and the biological weapons program. But what we thought we were going to find was a lot of artillery shells filled with chemical munitions and some mortars and things of that sort. We thought they were going to be used against our troops. That we haven't yet found. That is a mystery. You can say it is an intelligence failure, but as the Senator from Kentucky pointed out, nobody disagreed with the proposition that at one time he had those weapons. There is a lot of evidence to that fact.

Mr. MCCONNELL. So if there were any effort to mislead the public, an awful lot of countries were complicit in this effort, were they not?

Mr. KYL. If there was an effort to mislead, there would have been a lot of countries complicit and a lot of Senators complicit. I don't believe for a minute that, in fact, any of us attempted to mislead; that Jacques Chirac attempted to mislead, that the United Nations, or President Bush attempted to mislead. We were all going forth with the same intelligence. We all reached the same conclusion.

Maybe we don't know yet, but at some point in the last few months or years Saddam Hussein buried, sent to Syria, blew up, or otherwise got rid of those weapons. We just do not know. But about their existence at one time, there can be no doubt.

Mr. MCCONNELL. I thank my friend from Arizona.

Mr. KYL. I thank the Senator very much. The Senator made the last point I wanted to make in this regard, and then I will conclude my remarks.

We were briefed every day of the war at 9 o'clock in an area here in which we can receive classified briefings by the general in charge of the operation at the Pentagon and representatives of the CIA, the Defense Department, State Department, and others. Every morning they checked several boxes to remind us of the status of the open relationship.

Before the operation started, they told us about their belief that Saddam Hussein would lob artillery shells with chemical munitions at our troops. They pointed out that they were going to make efforts to try to prevent this from happening. They called it the ''red line'' around Baghdad. When we got that close, then there would be this threat of chemical weapons fired against our troops—maybe biological.

So before the war, they began the bombardment on the command and control systems that would send the orders out to the generals in the field. They bombed artillery sites hoping to destroy their artillery weapons. They bombed the warehouses where they thought the munitions might be stored. They dropped millions of leaflets warning that if any officer carried out an order to use these weapons against the allied forces we would hold them accountable as war crime criminals.

As our troops got closer to that red line, they had to don the equipment

that would protect them against these munitions. It was not easy to fight under those conditions, but we believed this attack could very well occur.

We got to the Baghdad Airport. By that briefing, the generals were scratching their heads saying: We are not sure why, but we haven't been attacked with these artillery shells. Yet maybe it is because we destroyed the artillery units that would have fired them. Maybe they just got scared because of our leaflets or they couldn't issue the orders. We are not sure. But for some reason they didn't fire them. For several days, they continued to wonder about that.

My point is this: At the highest levels, our troops and our leaders at the Department of Defense all believed this was a threat that could well materialize against our troops. They went to great lengths to try to protect against it. This was not a matter of somebody misleading the American people. We believed it, our troops believed it, the generals believed it, and the Defense Department believed it. And, yes, the President believed it. Nobody was trying to mislead anyone. We based a lot of our actions on this belief.

Let me conclude my remarks by saying this: Much has been made of David Kay's acknowledgment that all of the intelligence agencies apparently were wrong about the weapons stockpiles. But listen to what David Kay said as he reflected on the decision to go to war:

> I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, likes ants to honey, were going after it.

Kay stated on numerous occasions that Saddam Hussein was in clear material breach of Security Council Resolution 1441. The Iraq Survey Group, of which he was head, discovered hundreds of cases of activities that were prohibited under the original United Nations cease-fire resolution and that should have been but were not reported under Resolution 1441.

The group found a prison laboratory complex which may have been used in human testing of biological agents. It found ''reference strains'' of biological organisms which can be used to produce biological weapons. It found new research on agents applicable to biological weapons, including the Congo-Crimean hemorrhagic fever. It found continuing research on ricin and aflatoxin. It also found plants and advanced design work on new missiles with ranges well beyond what was permitted.

Not just the words of Resolution 1441 but the entire credibility of the U.N. was at stake. The years of Iraqi violations had to come to an end. Now that awful and bloody regime has come to an end.

In the final analysis, whatever the inaccuracies of specific pieces of intelligence, that Saddam Hussein continued to harbor intentions for the development and use of WMD remains true. The observations of David Kay, once again, showed this. He reported earlier this year that Iraq ''was in the early stages of renovating the nuclear program, building new buildings.'' This is the regime that, as I said, David Kay called ''far more dangerous than even we thought. To wait any longer to remove it would have been a gamble not worth taking.''

I yield to the Senator from Kentucky.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kentucky.

Mr. MCCONNELL. I thank the Senator from Arizona and appreciate so much his contribution to this important discussion about the war in Iraq and how we got into it and what people understood at the time.

It has occurred to me there is a criminal analogy that summarizes the debate we seem to be having. So let's pose a hypothetical question to all of our fellow Senators. Say the FBI has received a credible tip that a domestic terrorist group is planning to bomb the Capitol. This group is responsible for previous deadly terrorist attacks, we know that, but has been able so far to avoid capture. When the FBI breaks down the door to the group's rural compound, they find all sorts of prohibited weapons—machine guns, sawed-off shotguns, and grenade launchers. They also find detailed plans to gun down lawmakers, diagrams of the Capitol, and information on how to construct a large bomb capable of destroying the Capitol Building. But they do not find the bomb itself or any grenades or the grenade launchers. They found all of the other things, but they did not find the bombs themselves or the grenade launchers.

Should the FBI apologize to the terrorists and offer to replace their door, even though they just caused the apprehension of the terrorists? Since they had yet to construct the bomb, should the terrorists go free? Should we fret that we acted before the bomb was ready, even though the terrorists' intent to attack the Capitol was absolutely clear?

The answer is obviously and definitely no; we should not wait until terrorists roam our streets before responding. We should not wait until the planes have been hijacked or until the bombs have been assembled. We should not have waited until Hussein's army once again stood ready at the border. We should not have waited until the threat he posed to the United States and its allies was imminent. We should not have waited for the French to say it was OK to act to defend the free world.

Some seem to suggest that even though we know Saddam Hussein continued to develop ballistic missiles prohibited by the U.N., our military effort was illegitimate because we have not yet found WMD warheads or the missiles. I can confidently state that Saddam's ballistic missiles were not for the Iraqi space program.

On another note, I am fairly confident that the Iraqi people do not believe for a minute that their liberation is any less legitimate because we have yet to find stockpiles of WMD. I raise this simple analogy because the fundamental questions about our policy in Iraq are fairly basic. The crux of the matter is that Saddam Hussein posed a growing threat to the United States, to our allies, and to his own people. There is no doubt that Iraqis and Americans alike are better off now that Saddam Hussein is in prison and his evil sons have met their end.

Now it occurs to me, we have also lost sight of the moral dimension that accompanied our liberation of Iraq. I represent in my State Fort Campbell, KY, the home of the 101st Airborne. I followed their efforts in that country very closely. This is the unit whose brave soldiers brought to justice Usay and Quday Hussein. The 101st Airborne got them. My colleagues are surely not unaware of how vile these two murderers were and how deserving they were of the tow missiles that ended their brutish lives.

In case we have forgotten that, let me recount a little bit of their evil legacy. According to many reports, Usay Hussein routinely ordered his bodyguards to snatch young women off the streets so that he could rape them. He also ordered political prisoners to be dropped into tubs of acid to punish them. Usay was also in charge of Iraq's olympic committee where he oversaw the training of that country's professional athletes. Usay's training regimen included torturing and jailing athletes for poor performance. Usay would sometimes force Iraq's track stars to crawl along a strip of newly poured asphalt, and once required soccer kickers to kick a concrete ball until their feet were broken after they failed to reach the 1994 World Cup finals. This was Usay Hussein.

Although it is difficult to think of an individual more brutal and evil than Usay Hussein, his brother, Quday, who was known by many Iraqis as ''the snake'' for his blood thirsty manner, surely comes close. Quday was responsible for the massacre of tens of thousands of Shiite Muslims in the wake of the first gulf war. Maybe some of our colleagues have forgotten about the marsh Arabs who live in southern Iraq. These Iraqis used to live in the Iraqi wetlands that covered nearly 3,200 square miles. They had lived in these marshes for hundreds and perhaps thousands of years until Quday ordered them drained in a massive ethnic cleansing operation. Quday was also responsible for horrible cleansings of Hussein's prisons.

When Hussein's prisons became overcrowded, the regime did not build more jails or let prisoners go. Instead, Quday ordered mass executions in order to reduce overcrowding. A London-based

human rights group reports that these unlucky prisoners were sometimes put feet first into massive shredders at Quday's request.

We do not hear much about these awful crimes anymore, so maybe some of our colleagues have forgotten, if they ever knew, about the extent of the Hussein family's brutality. I highlight their brutality in order to ask a serious question about the reality of the international system in the absence of American action. Does anybody seriously believe that had the 101st Airborne not banged down their door, Usay and Quday would have been brought to justice? Of course they would not have. Without the 101st Airborne going after them, they would not have been brought to justice. Absent U.S. leadership, I cannot imagine a situation in which the U.N. would have been able to arrange for the apprehension and trial of the Hussein family.

Had the United States not acted in Iraq, who could say with any confidence that Usay and Quday would not this very day be raping young Iraqi girls and torturing Iraqi dissidents. Of course they would still be doing that. That is what they did.

Had the United States not acted in Iraq, could anyone say with any confidence that Saddam would not be plotting our doom, that his sons would not be torturing the Iraqi people, and that his regime would not be preparing to rebuild the WMD infrastructure we all have agreed Hussein once had?

In conclusion, Madam President, it is more than enough to justify the war in Iraq and the liberation of the Iraqi people.

I yield the floor.

Mr. KYL. Madam President, I know the majority leader wishes to speak next; and then I know the distinguished chairman of the Judiciary Committee is here as well. I now yield to Majority Leader FRIST.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I just want to share with my colleagues some recent experiences I had in meeting with Kurdish physicians not too long ago in my office, not too far from here, because it relates so dramatically to the debate and to the unfolding of many of the questions that seem to be raised today.

I should really begin by saying in my home State of Tennessee there are a number of Kurdish residents who live, who reside particularly in the area of Nashville where I am from. I have had the opportunity to meet with them and to listen to their concerns and have had the opportunity to support a project called the Health Partnerships With Northern Iraq, which is a project that is sponsored by the Meridian International Center here in the District, with the support of the State Department. It is a fantastic program, it is a great program, the purpose of which is to train Kurdish doctors in northern Iraq to do primary care; that is, basic care. It is probably 90 percent of health care in terms of responding to individual needs of families and individuals.

What is interesting is these doctors, for a period of time, spent a few weeks, and then months, of their training in this country in primary care, and part of that time was spent in Tennessee at East Tennessee State University.

Last January, I met with this group of Kurdish doctors in my office, just down the hall. They came to me as a physician, as a doctor, and also as majority leader, but they came to me with very specific concerns. They shared with me that they knew the war to topple Saddam Hussein was near, and they were concerned—these are Iraqi physicians—that they would be attacked with chemical and biological weapons. Their concern, as I will share with my colleagues shortly, was based on practical experience, experiences they have firsthand knowledge of, in terms of being with people who had suffered from attacks.

But at the time when they were in my office, they came to me because they said: We are simply unprepared to be practicing primary care in our homeland in northern Iraq. They were in a region of about 6 million individuals, which had 240 primary care centers, but they had very few supplies. They had only the very most rudimentary needs in terms of treatment. They had no personal protective equipment in terms of biological contaminants or chemical weapons. They had no ability to contain or even treat victims of a chemical or biological attack. They had little time for the intensive training they knew they would need in order to respond to such a biological or chemical attack. Yet they came to my office very specifically asking for help.

Dr. Ali Sindi, the delegation leader, asked for basic supplies. He asked for medical supplies and some help with acquiring medical supplies, coming to the majority leader, but also coming to a physician. He asked for hydrogen peroxide. He asked for bleach. Hydrogen peroxide and bleach, as most people know today, are used to decontaminate affected areas from biological or chemical weapons. He asked for gas masks. He asked for chemical suits. He asked for antibiotics in the event there was a biological attack.

He noted—and, again, it was a group of Kurdish physicians—he told me the Kurdish water systems are generally open to the air and, a lot of times, sitting on the rooftops of the villages there. So he, concerned about chemical and biological attacks, said: And in addition, what I need is some kind of protection for these rooftop water systems.

Their fear—these doctors' fear, the doctors from Iraq—was not based on intelligence briefings. Their fear was based on experience. Their fear was based on reality. Their fear was based on what they had seen, and their fear was based on what they had actually treated; that is, chemical weapons, weapons of mass destruction.

As the Senator from Arizona knows, the Kurds had been attacked by chemical weapons before, most notably in the city of Halabja. There, thousands of innocent Kurds were killed with weapons of mass destruction, these chemical weapons. These doctors from that region had come to see me. They had treated victims of that particular attack. They know from that direct experience what chemical weapons, weapons of mass destruction, can do. These doctors believed, obviously, the Kurds were going to be attacked with chemical weapons once again. They asked from me and from our Government, through me, for that help to be prepared.

At this juncture, I ask the Senator from Arizona, in light of these doctors' past, direct experience with weapons of mass destruction—these chemical weapons—does the Senator agree the Kurds were acting reasonably when they, with this direct experience, believed Saddam Hussein possessed and intended to use weapons of mass destruction; namely, the chemical weapons they had seen and had experience with being used before?

Mr. KYL. Madam President, I would answer the question this way: It is easy for us, in this sort of antiseptic environment of the Senate, to talk about these matters. But I was moved by the story of these Kurdish doctors, who saw it with their own eyes. I cannot imagine how they would not believe, and why we should not think it reasonable they would believe, Saddam Hussein would do this again, that he had every intention to, every capability of doing it again.

When I look at this picture, I think of the words of Secretary Powell when he visited Halabja and saw what occurred there and basically vowed the United States would never, ever again allow something like that to happen if he could do anything about it. It made me proud. It made me recommitted to the proposition that when we know something like that is going on, or we believe it to be the case, like these Kurdish doctors did, we have a duty to do something about it.

I absolutely agree with the Senator.

Mr. FRIST. I thank the Senator from Arizona.

Again, these physicians who came to see me from Iraq had seen with their own eyes these chemical weapons having been used before. They had come—and this is just last January—to me to say: We need help to protect ourselves and our communities from the use of these biological and chemical weapons.

Is the Senator aware many of the critics of the war to topple Saddam Hussein seem to suggest there was never cause to be concerned with Saddam Hussein? In fact, if you listen closely to the critics, they go so far as to imply there was never a threat at all.

Is the Senator from Arizona familiar with the details of one of the most horrendous examples of Saddam's brutality, the 1988 massacre of Kurdish civilians in the village of Halabja? Indeed, at the time, 50,000 Kurds lived in the village of Halabja, a city that is very close to the Iranian border. They had already suffered immeasurably from the 8 years of conventional war between Iraq and Iran. But for Saddam Hussein, that was not enough.

On March 16, 1988, the Iraqi regime launched an artillery attack against Halabja, driving the residents of the city there underground. They went to these underground shelters and to the basements for protection from this overhead attack. But that is when the real, true terror began. Iraqi helicopters then came in with planes, and they came back once again, but this time with chemical weapons. The chemical weapons were all carefully documented—nerve gas, VX, mustard gas—all weapons of mass destruction, which were aimed at these buildings, these cellars, all of a sudden turning these cellars in which the Kurds were hiding into gas chambers. They fled, of course, gathering their families, exposed, running for their lives.

Graphic evidence showed the results of Saddam's use of weapons of mass destruction. The Senator from Arizona just showed that picture with the question: No weapons of mass destruction?

It reminds me so dramatically of what one survivor relayed at the scene:

> People were dying all around. When a child could not go on, the parents, becoming hysterical with fear, abandoned him. Many children were left on the ground by the side of the road. Old people as well. They were running. Then they would stop breathing and die.

Experts agree over 5,000 innocent citizens died as a result of the chemical weapons attack. These were weapons of mass destruction used on Halabja. Again, those physicians in my office told me these stories. Other survivors had scarring of the lungs, something called fibrosis of the lung, where the lung becomes nothing but a fibrous scar. Others were blinded permanently. The consequences of this cruelty continue to this day, and indeed these physicians continue to treat the residual effects of people in that Kurdish community. Chemicals contaminated the food and water supply. The chemicals caused cancer. The chemicals caused those respiratory diseases like fibrosis. They caused infertility and high levels of severe abnormalities in Halabja's children.

Christine Gosden, a British professor of medical genetics, traveled to northern Iraq in 1998 to study the effects on the Kurdish population of the poison gas unleashed on them. She founded the Halabja Medical Institute and discovered the consequences of the chemical weapons attack were even more damaging than she expected. She wrote in the Washington Post:

> What I found was far worse than anything I had suspected—devastating problems occurring 10 years after the attack. These chemicals seriously affected people's eyes and respiratory and neurological systems. Many became blind. Skin disorders, which involve severe scarring are frequent, and many progress to skin cancer. An increasing number of children are dying each year of leukemias and lymphomas.

The Halabja Medical Institute, in its research on the attacks, discovered something even more vicious. Its conclusions noted:

> While these weapons had many terrible direct effects, such as immediate death, or skin and eye burns, Iraqi government documents indicate they were used deliberately for known long-term effects, including cancers, birth defects, neurological problems, and infertility. Inexpensive in terms of death per unit cost, there is evidence that these weapons were used in different combinations by Baath forces attempting to discern their effectiveness as weapons of terror and war.

Yes, Saddam's regime conducted experiments using chemical weapons on innocent Kurdish civilians. These are Kurdish civilians in his own country. Experimenting. The Kurdish physicians told me—it is to vivid in my mind—that in buildings like hotels with different wings, single floors, people would be herded and placed into these rooms; one wing would be to test VX gas on humans, killing them, and another wing would be mustard gas, and there would be another gas in a third wing, to see which was more effective.

Iraqi soldiers even went so far as to return to the town after that attack in Halabja to study how efficient, how effective those chemicals weapons were, using the number of people who died as a measure of success.

I want to ask the Senator from Arizona another question. Does the Senator from Arizona have any doubt in his mind that Saddam would continue to develop and use such weapons at the first possible opportunity?

Mr. KYL. Madam President, I will answer in a couple of different ways. First of all, I served on the Intelligence Committee for 8 years, and I was convinced, based upon the intelligence estimates provided to us over that period of time, these weapons were possessed, they had been used, and they would likely be used again if he had the opportunity to do so, and that there were weapons programs ongoing within the country of Iraq. So I don't have any doubt, as the Senator has so eloquently pointed out here, that the Kurds, who he referred to and spoke with, were absolutely right that these kinds of attacks would occur again.

I wondered whether I was alone in this and, of course, in looking, I found that I was not. Let me note two or three things colleagues have said. Then I will turn to Senator HATCH. But I note that in 1998, long before President Bush came to town, President Clinton had come to the same conclusion, based upon the intelligence that had been provided to him by the intelligence agencies. A couple things struck me and then I will move on. He said:

> Other countries possess weapons of mass destruction and ballistic missiles. With Saddam, there is one big difference: he has used them, not once but repeatedly.

That is the point the leader made.

> Unleashing chemical weapons against Iranian troops . . . against civilians, firing Scud missiles at the citizens of Israel, Saudi Arabia, Bahrain, and Iran . . . even against his own people, gassing Kurdish civilians in Northern Iraq.

I also found it interesting that in December of 1998, in an Oval Office address, President Clinton said this, and I take just one sentence:

> I have no doubt today that, left unchecked, Saddam Hussein will use these terrible weapons again.

That was the President of the United States responding to the intelligence he was given. I know some colleagues have said the current administration hasn't qualified the intelligence enough. They have not said we think or we judge. They said we are pretty sure. Here is President Clinton staying, ''I have no doubt today.'' That is not caveated or qualified.

Then several members of his cabinet—I looked at what they had to say. Madeleine Albright, the distinguished Secretary of State, said:

> I think the record will show that Saddam Hussein has produced weapons of mass destruction, which he's clearly not collecting for his own personal pleasure, but in order to use. Therefore, he is qualitatively and quantitatively different from every brutal dictator that has appeared recently.

That is her judgment.

Secretary of Defense William Cohen talked about Secretary Albright, indicating Saddam Hussein has ''developed an arsenal of deadly chemical and biological weapons. He has used these weapons repeatedly against his own people as well as Iran.''

We are talking about an arsenal of weapons here. Here is the former Secretary of Defense in the Clinton administration talking about that. He went on to say in this particular interview, which occurred at Ohio State University:

> I have a picture which I believe CNN can show on its cameras, but here's a picture taken of an Iraqi mother and child killed by Iraqi nerve gas. This is what I would call Madonna and child Saddam Hussein-style.

That is the picture Secretary Cohen at that time displayed on the screen. He said:

> Now, the United Nations believes that he still has very large quantities of VX.

VX is the nerve agent which is so deadly. As Dr. FRIST knows, a single drop can kill you within a couple of minutes.

Here is Secretary Cohen and Secretary Albright referring to the United Nations believing that he still has a large quantity of this product, the point being that everybody thought he had it.

The United Nations thought he had it, Secretary Cohen thought he had it, Secretary Albright thought he had it, and President Clinton thought he had it.

I found it interesting that Senator LEAHY, the distinguished ranking member on the Judiciary Committee, said in 1988—and he is right on target:

If Saddam Hussein had nothing to hide, why would he have gone to great lengths to prevent U.N. inspectors from doing their job?

That is a question we all asked.

There is no doubt that since 1991, Saddam Hussein has squandered his country's resources to maintain his capacity to produce and stockpile chemical and biological weapons.

The point is, a lot of our colleagues had no doubt and they said they had no doubt.

Senator KERRY—I will make this the last quotation—in 1998 said:

We do know that he had them—

Referring to WMD—

in his inventory, and the means of delivering them. We do know that his chemical, biological, and nuclear weapons development programs were proceeding with his active support.

The bottom line is the distinguished majority leader is absolutely correct. But not only do we have reason, not only did those Kurdish physicians have reason to believe he had these horrible weapons and would use them again, so did the leaders of our country, including the leaders of the United Nations all throughout this period of time of 1996, 1998, right on up forward.

Unless the distinguished majority leader has anything else, I yield at this point to the distinguished chairman of the Senate Judiciary Committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask my colleagues on the floor just to think this through. I have been watching this debate about the threat of Iraq, frankly, since the early 1990s. I have been privileged to serve in this body since 1977, which means I have been here long enough to see the evolving trends in terrorism, from the Iranian revolution to the perversion of the Islamic faith and advent of fundamentalism. I also have been here through all the stages of relations with Iraq since the rise of Saddam Hussein.

I recall the debate prior to the first gulf war. While certainly not absolutely partisan, that debate in 1990 was the last time we had a very partisan debate on foreign policy. Through the 1990s, while I had many disputes with the Clinton administration over various aspects of foreign policy, I seemed to recall that partisanship on the question of Iraq had diminished. In fact, the Iraq Liberation Act of 1998 was passed in this body unanimously and in the House overwhelmingly and was signed into law by President Clinton.

I think my colleagues would have to agree with this. I would like to ask my colleagues if they agree with the following assessment: Since the fall of 2002, the debate over Iraq policy has become more and more partisan and more and more bitter. While the authorization to use force was passed by a large majority—I believe it was 77 to 23—and with the support of many of my Democratic colleagues, including some not present today, the debate since then has been troubling to me.

You would think that Congress could maintain our proper role of oversight without descending into partisan attacks. You would think that with our military in the midst of a historic mission and over 500 American families grieving because their loved ones paid the ultimate sacrifice, that legitimate criticism could be expressed without partisan rancor or misleading rhetoric. You would think so.

One of the most troubling aspects of the criticism of our President and his policy was the suggestion, deceivingly made, that the threat of Saddam Hussein was not imminent. I believe these criticisms beginning last year deliberately tried to confuse the American public. The threat was not imminent, the critics said, implying the response to go to war was not required.

Yet I have reviewed most of the President's rhetoric, and I have concluded that he made numerous honest statements that declared that after the historic attacks of September 11, we would not be defining our response by outdated measures of imminence. I went back and read a key quote from the President's State of the Union Address in 2003 in which he declared to us, the American people, and to the world:

Some have said we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions politely, putting us on notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late.

That is what he said, and it was right then, and it is right today. So will my colleagues recall this extremely clear statement? Do they think his words were casually stated? Give me a break.

I have given a lot of thought to the concept of imminence since September 11, and as we debated our response to Iraq, I recognized that the definition of ''imminence'' is necessary to support a doctrine of preemption. I wonder what our various Senators' views about this are since the definition of ''imminence'' is different in the 21st century than it was in the 19th or the 20th centuries.

During the debate over authorization of the use of force last year, I made the following points:

Osama bin Laden launched an attack that changed the way America sees the world. We had to recognize that the concept of imminence was not an abstract idea as we contemplated preemptive use of force. Preemption is not a new concept in international law, despite what many of the President's critics suggest. It is as old as Grotius, the founder of modern international law.

Contrary to critics' misinformed assertions, the U.S. has never foresworn the use of preemption, not since the U.N. charter and not under either Democratic or Republican administrations.

Preemption has always been conditioned on the idea of imminent threat. In the prenuclear era, we could see conventional armies amassing on a border and base imminence on that measure. But in the nuclear era, the idea of imminence grew quite a bit murkier.

Was it the fueling of an enemy ICBM? Was it the glare on the rocket as it left the launch pad? Was it the warheads' return through the atmosphere? Because we raised these questions, by the way, was the reason the U.S. rejected a ''no first use'' policy during the era of strategic competition with the Soviet Union. Was that the reason we did that? You bet your life.

Imminence becomes even murkier in an era of terrorism and weapons of mass destruction. When did the threat of al-Qaida become imminent? I know when it became manifest. Not, by the way, on September 11. Osama bin Laden had struck many times before then. On September 11, the threat became catastrophic. It was well beyond manifest. It was well beyond imminent.

Today, most people agree the threat of Bin Laden should have been considered imminent well back into the 1990s. I first started speaking of this threat in 1996, but I now believe this threat could have been considered imminent even before that.

Do my colleagues agree we had to reconsider the definition of ''imminence'' after September 11, that the threat of terrorism forces us to redefine threats to our national security, that it would have been irresponsible for any administration entrusted with national security to avoid doing so? Does anybody disagree with that?

Would my colleagues allow me just a few more questions which I would like to ask everybody in this body, please? I wonder if my colleagues would agree with this assessment about the threat that Iraq poses.

I had to make, for my own conscience and to present to my constituents, my own assessment of the threat posed by Iraq. The threats Saddam Hussein posed to his own people were clear. Free Iraqis today will be undertaking the grim task of exhuming mass graves for a long time. Saddam's threat to his neighbors and our friends in the gulf and Middle East are also well established. But all of us had to determine what threat was posed to the United States.

I feared a nexus between weapons of mass destruction and a terrorism-sponsoring state, and we feared they had weapons of mass destruction. The U.N. confirmed they had had weapons of mass destruction. They used weapons of mass destruction against their own people and threatened the use of them against others. They used them against others, as well, in the Iranian war.

On weapons of mass destruction, we know that we have not discovered any weapons of mass destruction so far. This debate has been joined on a number of levels. I fully support the chairman of the Senate Select Committee

on Intelligence in his determined efforts to learn about the failures of our intelligence, if there were, in fact, failures.

We still have not even looked at the vast majority of sites in Iraq where weapons of mass destruction may still lie. I know that every intelligence community professional agrees with our need to learn from many errors because all of us know the value of accurate intelligence, while all of us recognize the limits to perfectibility.

On another level, both in the Intelligence Committee and in the public arena, the debate has become more partisan, acrimonious and, once again, deceptive.

Will my colleagues agree with me that the cost of making intelligence oversight partisan is not worth the devaluation of a tool that we need more than at any other time in our history?

I would like to know if my colleagues would agree with the following conclusion about Saddam Hussein's weapons of mass destruction. We faced a weapons of mass destruction gap.

This gap was the difference between the chemical and biological stockpiles we had confirmed existed until the late 1990s and the lack of evidence regarding their status or destruction in 2002—their status, their destruction, or their removal someplace else. The gap was significant. No other Western government or intelligence government could explain it, nor could the United States verify that the gap had been closed by the cooperation of the Iraqi regime in proving the destruction of these weapons.

This was a requirement, by the way, under international law, made to the international community, a requirement that was the result of the cessation of hostilities at the end of the first gulf war; a requirement that unmet left that war unresolved, unconcluded, and therefore without a promise of peace.

The attempts at denial and deception by the Iraqi regime were blatant. The refusal to cooperate with the international community was obstinate. The potential threat posed by a regime violently hostile to the United States was grave. I hope my colleagues will agree that it would have been irresponsible for any administration entrusted with the national security to avoid reaching similar conclusions.

There was the threat of terrorism. For well over a decade, Iraq was on our list of state sponsors of terrorism. Every Member in this body had ample opportunities to review the evidence supporting this claim—this verified knowledge, by the way.

To my knowledge, no Member on either side of the aisle questioned the President's determination, or this determination.

Now, of course, we have not proven a link to September 11, and ultimately there will likely not be a causal link. Perhaps Saddam was directly involved. Perhaps we will learn more.

Association is not causation, as every logic professor would say. Caution in leaping to conclusions is in order. Associating with terrorist groups, as we know Saddam Hussein has done and had done, training them, giving them moral and financial support, is different than directing them. Nevertheless, his links to terrorism had been evident for a long time.

The President has made it clear, since his first speech before the Congress days after September 11, that associating with terrorist groups would no longer be responded to with apathy. The previous administration did so, there is no question about that, and America's security was gravely compromised.

Do my colleagues remember the President's speech to the Congress after September 11, 2001? Do they recall, as I do, the public's overwhelming support for what the President said that day?

Certainly the evidence of Al-Zurqawi whose documents were captured and released a few weeks ago, as well as the reports in the press suggesting links with the Ansar-al-Islam indicated a troubling link between Iraq and al-Qaida.

I am waiting for some of the administration's critics to suggest that these two terrorist elements were caused by our intervention in Afghanistan and that had we supported the status quo there we would not be facing the terrorists of the jihadists and Ansar-al-Islam. That would have been another very specious analysis.

It is true that Al-Zarqawi and Ansar became more active as a result of our intervention in Afghanistan, when we deposed the Taliban and al-Qaida and fled from that country to hide in Pakistan or to get safe passage from Iran to travel to Iraq. In my estimation, if Saddam Hussein was not involved in September 11, his regime certainly became more dangerous to us as a result of our attack on the Taliban in Afghanistan.

I hope my colleagues can imagine that this President or any President would not have had to respond similarly to the way President Bush responded to the Taliban's protection of al-Qaida after September 11, 2001. That is, of course, unless a President had judged the threat of al-Qaida imminent before that fateful day.

Finally, I would like my colleagues to allow me a question or two on the responses we have heard from David Kay's testimonies. The response to the Kay testimonies has also been very troubling to me because the testimonies of an honest and substantive man have been subject to partisan rancor over the President's difficult decision to go to war.

Listening to some commentators, one would think Kay's honest assessment that weapons of mass destruction will not be found, an assessment that I believe may still be premature, could be interpreted into a challenge to the sincerity of the administration's estimate of the Iraqi threat.

As I have said, I believe we need to investigate any flaws in our intelligence that David Kay or any other serious professional exposes. Yet this is what David Kay told us. In an interview earlier this month, he said: I certainly believe that Iraq was a gathering threat. In fact, in many ways, it will probably turn out that Saddam and that regime were more dangerous than we anticipated because, in fact, it was falling apart into unbelievable depravity and corruption.

Where is that quote among all of our liberal commentators in this country today? Where is that quote? That was one of the most important quotes he made.

The week before, Kay told the public, in responding to a question of whether the decision to go to war was prudent: I think it was absolutely prudent. He said: I think it was absolutely prudent. In fact, I think at the end of the inspection process we will paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability and weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

The fact is, it took guts for the President to do what he did. He was right, and history will prove him to be right.

When I hear these testimonies of David Kay, I become concerned of yet another intelligence failure: We did not adequately assess the political degradation of the Saddam Hussein regime, the political degradation of a regime that killed 300,000-plus of its own citizens, men, women, and children, and buried them in mass graves, and helped to kill a million others in its war with Iran. We did not adequately assess the political depravity and degradation of Saddam Hussein's regime. Iraq had become a gangster state.

It was, according to David Kay, and all the reports we are now getting from free Iraq, more dangerous than we thought. Yet some criticize the President's decision? Give me a break. They ought to be criticized. The critics know these facts as well as I do, and ignoring them is a terrible thing.

I would just like to ask my colleagues whether the assessment by David Kay should not support the President's brave decision to address the threat of the Hussein regime by implementing a policy of regime change—a policy that had been nearly unanimously supported in our Government for 4 years?

Was Iraq a grave and gathering threat, as the President said? I ask my colleagues, especially those who have been so critical of the President, would it have been responsible for any administration entrusted with the national security to avoid reaching similar conclusions? I think Senator KERRY was right when he said this:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international

values and standards of behavior, which is at the core of the cease-fire agreement, with no reach, no stretch, is cause enough for the world community to hold him accountable by use of force, if necessary.

The ranking member of the Senate Intelligence Committee said, back in 2002:

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. We also should remember we have always underestimated the progress Saddam has made in the development of weapons of mass destruction.

That was said in the CONGRESSIONAL RECORD. Why the difference today? Let's go back to my friend, Senator KERRY, the Senator from Massachusetts, again. Back in 1990 he said:

Today, we are confronted by a regional power, Iraq, which has attacked a weaker State, Kuwait. . . . The crisis is even more threatening by virtue of the fact that Iraq has developed a chemical weapons capability, and is pursuing a nuclear weapons development program. And Saddam Hussein has demonstrated a willingness to use such weapons of mass destruction in the past, whether in his war against Iran or against his own Kurdish population.

My gosh, that was said in the CONGRESSIONAL RECORD on October 2, 1990.

On November 9, 1990, the distinguished Senator from Massachusetts said this:

[Saddam Hussein] cannot be permitted to go unobserved and unimpeded towards his horrific objective of amassing a stockpile of weapons of mass destruction. This is not a matter about which there should be any debate whatsoever in the Security Council, or, certainly, in this Nation.

All I can say is why did he say that then, and why, as a candidate, is he saying the things he is saying today?

The distinguished Senator from Massachusetts said:

[W]hile we should always seek to take significant international actions on a multilateral rather than a unilateral basis whenever that is possible, if in the final analysis we face what we truly believe to be a grave threat to the well-being of our Nation or the entire world and it cannot be removed peacefully, we must have the courage to do what we believe is right and wise.

That is in the CONGRESSIONAL RECORD on November 9, 1997.

I think the distinguished Senator from Massachusetts deserves credit for those statements. He was warning America during the Clinton years of how terrible the Saddam Hussein regime really was. He deserves credit for that.

On November 9, 1997, the distinguished Senator from Massachusetts was right again. He said:

It is not possible to overstate the ominous implications for the Middle East if Saddam were to develop and successfully develop and deploy potent biological weapons. We can all imagine the consequences. Extremely small quantities of several known biological weapons have the capability to exterminate the entire populations of cities the size of Tel Aviv or Jerusalem. These could be delivered by ballistic missile, but they also could be delivered by much more pedestrian means; aerosol applicators on commercial trucks easily could suffice. If Saddam were to develop and then deploy usable atomic weapons, the same holds true.

He was warning the nation and he deserves credit for having done so then.

On February 23, 1998, the distinguished Senator from Massachusetts said this:

There are a set of principles here that are very large, larger in some measure than I think has been adequately conveyed, both internationally and certainly to the American people. Saddam Hussein has already used these weapons and has made it clear that he has intent to continue to try, by virtue of his duplicity and secrecy, to continue to do so. That is a threat to the stability of the Middle East. It is a threat with respect to the potential of terrorist activities on a global basis. It is a threat even to regions near but not exactly in the Middle East.

I am hooked. Incredible. I am proud of the distinguished Senator from Massachusetts for having said that during the Clinton years. I just wish he would acknowledge that he said that during the Bush years.

There are other distinguished Senators who knew of this threat and who made statements on what we should do back during the Clinton years, and even during the Bush years.

It bothers me that this President has been so viciously attacked by people who know the facts and who knew them back during the Clinton years and spoke out about them during the Clinton years, who are so willing to demean this President during the years of George W. Bush as President. It never ceases to amaze me how out of tune we become when Presidential years come along. I think it happens to both sides. I really believe that. I believe there are partisans on both sides. But I have never seen it like it is today.

It used to be that we supported whoever was President in foreign matters. We stand together. I guess this partisanship really began during the Vietnam war. But it has reached a pitch today that is unseemly.

Mr. KYL. Mr. President, I yield to the other Senator from Utah, Mr. BENNETT.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my colleague from Arizona for the time and for the opportunity to address this issue. Let me make one statement at the beginning that I think needs to be made on the political rhetoric that is surrounding this issue. I am not questioning the patriotism of those who are complaining about, disagreeing with, or even attacking the President. I question their accuracy. I question their wisdom. But I am not questioning their patriotism. I think that needs to be made clear because in the debate over this war, there has been rhetoric that, in my opinion, has gone over the top.

The former Vice President with the blood rushing to his face and the veins standing out on his neck screeched before a crowd which has been repeated on the television that the President has betrayed this country. You can disagree with George W. Bush. That is legitimate and proper and in an election year expected. But you should not accuse him of being a traitor. You should not accuse him of treason.

I want to make it clear again that as I disagree with those who are attacking the President, I am not attacking their patriotism or their love of this country. But I do disagree with their wisdom and with their accuracy.

In the speeches that have just been given, we have had a lot of conversation about what I would consider past history. I am not going to get into that; that is, what did we know about weapons of mass destruction? What did the inspectors know? What should we have done here? What should we have interpreted there? I will leave that to the historians themselves to sort out. A debate on those issues becomes an attempt simply to bash the President and avoid the fundamental issue.

The fundamental issue that we have to face as Senators, as policymakers, is what do we do now? We are in Iraq whether you voted for the resolution, as Senator KERRY and Senator EDWARDS did and as I did, or whether you voted against it, as Senator DURBIN did. Debating the wisdom of that at this point is merely an exercise in avoiding the reality of the situation with which we find ourselves faced now. What do we do now?

The large majority of this body along with a large majority of the Members of the House of Representatives, and the unanimous vote in the Security Council of the United Nations took us to war. What do we do now?

That is the fundamental question that we should be addressing and that we should be facing.

Oh, say some, no, no. The fundamental question is whether or not there were weapons of mass destruction. And, since there were not, the real question is, Did the President lie?

Well, let us look at the situation we are facing now with respect to weapons of mass destruction. The question is not are there weapons of mass destruction in Iraq and did the President lie? The question is, What happened to the weapons that everybody knew were in Iraq, and has the President taken proper steps to protect us from them?

When I say the weapons that everybody knew were in Iraq, whom do I include in that? The first person to convince me there were weapons of mass destruction in Iraq was Madeleine Albright, Secretary of State to President Clinton. She met with us here in the secure room of the Capitol; the room where we get top secret briefings from the highest possible level. It was in that room that Madeleine Albright sat down with the Members of the Senate and laid out the irrefutable evidence that Saddam Hussein had weapons of mass destruction and justified to

us the Clinton administration's determination that they would go to war, and they did.

Bombing another country is an act of war, and the Clinton administration, in 1998, in response to the irrefutable evidence that Saddam Hussein had weapons of mass destruction, took the United States to war. We did not invade Iraq with troops, but certainly dropping bombs in the quantity and regularity with which we dropped them in 1998 is an act of war. We did it unilaterally. We did it without consulting the United Nations. We did it without talking to the French or the Germans in the way that some of the President's critics say we must. We did it because we knew Saddam Hussein had weapons of mass destruction.

David Kay and his inspectors have been to Iraq, and they say they cannot find warehouses full of weapons of mass destruction, which raises the fundamental question that most people are not addressing. What happened to them? Where are they? We know he had them. We went to war to deal with them. What happened to them?

I think there are four possible answers to that question.

First, one that has been raised by President Clinton himself, we got them all in the bombing. President Clinton said we didn't know how many we got. We could have gotten all of them. We could have gotten none. But we did our best to try to destroy them.

One answer to the question of why David Kay was unable to find weapons of mass destruction when he got into Iraq with his inspectors is the possibility that we got them all in the bombing and had no way of knowing that.

No. 2, the second possibility raised by David Kay and others is that they were trucked out of the country. They went off the border to Syria or someplace else. They are still in existence. They just aren't still in Iraq. We don't know the answer to that. But that is a possibility.

Possibility No. 3, they were destroyed by Saddam Hussein himself. Someone would ask why would he want to do that. Look at the man. Look at what he did. Look at his record. He believed that the United States would, in fact, not invade. We had bombed in the first gulf war. We had bombed in 1998. He believed we would bomb again but that we would not invade, or, if we did invade, we would not topple him. After all, we didn't topple him last time.

Pressure from the French, pressure from the Germans, said don't go ahead with this. He could very well have believed that the international community would put enough pressure on President Bush that the United States ultimately would stop short of removing him, particularly if inspectors from the U.N. got into Iraq and discovered there were no weapons of mass destruction. Therefore, he could have destroyed them himself on the assumption that he would stay in power and then, as soon as the inspectors were gone, he could reconstruct his weapons program, reestablish weapons of mass destruction, and be right back where he was before we took the action in 1998. That is the third possibility.

The fourth possibility is that they are still there. There is the possibility that we haven't been able to find them but they are still there. That is a very serious question, one that is being ignored by everybody who is debating the question of whether Bush went to the United Nations the right way, or whether he said the right things, or whether he read the right intelligence. Those questions are minor compared to the consequences of answering this question.

Let me pose it again and go through the four possibilities and give you my answer.

What happened to the weapons of mass destruction that everybody in the world knew he had? We destroyed them in the bombing, or they were taken over the border to someplace else, or Saddam Hussein himself destroyed them in order to fool the inspectors, or they are still there.

My answer is I believe all four. I believe we destroyed some in the bombing. I believe some got over the border. I believe he dismantled some of his programs, and I believe there are some still to be found.

That means, if I am right, there is work to be done to help make the world safer that is not being done while we are being distracted by an irrelevant debate that is best left to historians.

There is possibly still a threat out there that we are not addressing because we are paying so much attention to the questions of what kind of intelligence did he read and did he have the right 16 words in the State of the Union Message. We waste our time on that when we are facing this far more serious and obvious question.

What happened to the weapons that we knew he had? We should not rest easy until we have an answer to that question.

Which of the four or combination of the four possibilities really applies? The real question we are facing as we look ahead to November—and make no mistake, this debate is all about looking ahead to November—is what will the United States do after the Presidential election is over?

How will we proceed in Iraq once the determination has been made as to who will control our foreign policy for the next 4 years? That is the fundamental question the American voters need to be debating. That is the question they need to pay attention to as they make up their minds as to whom they will support in this election.

The choice is fairly clear. We can only guess about the future, but the best indication of the future lies in the actions of the past. President Bush has made it pretty clear what the future would be with respect to Iraq if he prevails in November. President Bush has made it clear if he prevails in November, we will stay the course in Iraq. We will stay in Iraq until we have succeeded in our goal, which is to plant in Iraq a self-governing, westward-looking, open society where private property rights are respected, where the rights of individuals to vote and control their destiny are preserved, and where free market principles will prevail; an Iraq that will stand as an example to the rest of the Middle East that freedom, democracy and capitalism can indeed thrive there. President Bush is an optimist who believes those things are so fundamental in the human spirit that they can survive in an Islamic background.

There are pessimists around who say no, the Muslims can never live in democracy. The Muslims can never live in freedom. President Bush is an optimist who says, I don't believe that—without trying to change their religion or attack their culture. I believe they will respond to freedom and the Americans will stay there until we have achieved the goal of planting freedom there.

That is the answer to the question of what will happen in Iraq if George W. Bush wins this election. That is an easy answer to give because his past resolve and his past determination have been very clear.

The second question, of course, is what will happen in Iraq if President Bush loses the election and we get a new steward in charge of our foreign affairs. That question is a little harder to answer because we do not have as clear a track record. On the assumption that the junior Senator from Massachusetts will become the President if President Bush loses the election, we do have the signposts indicating what he would do if he inherited the situation we now have. He said on ''Face the Nation,'' the first thing he would do is go to the United Nations and apologize. I am not quite sure for what he would apologize, but he has indicated the first thing he would do is to go to the United Nations and apologize.

If I may quote the columnist for the New York Times, Tom Friedman, who spoke to a group in Europe. They turned to him after the weapons of mass destruction question arose and asked, Are you now prepared to apologize for your defense of Bush and your support for this war? He said something like this: Well, let me see. We have removed Saddam Hussein, one of the most brutal dictators of the world, found in the process that he had slaughtered at least 300,000 of his own people whom he had buried in mass graves. We know he is responsible for a million more deaths in the two wars he started with his neighbors over the last 12 years. We know he supported terrorism, down to the detail of paying $25,000 to anyone who would wrap himself in dynamite and blow himself up just so long as he could take another human being with him, and that he

kept his people in absolute degradation and subjugation for 38 years. Now he is gone with his torture chambers and his secret police and his brutality, and I am supposed to apologize for that?

I am not quite sure what Senator KERRY might say to the U.N. when he goes to apologize, but apparently what he will say, as I try to gather from the speeches he has given, is the United States should no longer act unilaterally, that we should get international support before we go forward in an event like this, and presumably he would then say to the U.N. we are where we are, the responsibility now of building the kind of Iraq George W. Bush envisioned—I give Senator KERRY the credit of assuming he is in favor of that kind of Iraq—the responsibility for building that kind of Iraq now lies with you, United Nations. We in America are going to show a little humility—that is another word he used—show a little humility on this issue and turn it over to you and let you take over the responsibility of producing the results we all want in Iraq.

If that is, indeed, his program—and I assume we will find that out as the election goes forward—I make these observations. Number one, the United Nations has no force with which it can provide security to the Iraqis. There is no United Nations army. There is no United Nations police force. There are no United Nations federal marshals or any other kind of enforcement facility you might think of. The only force the United Nations can ever use is the force that would be provided to it by its member states. The United Nations can pass resolutions, the United Nations can threaten people, but the threats carry no force unless the member states of the United Nations respond to the U.N. resolutions and can go forward.

That is the point President Bush made when he spoke to the United Nations and said to them, if you won't enforce your resolutions, we will. I don't think we need to apologize to the United Nations for enforcing their resolution 1441 that passed by a unanimous vote in the Security Council and which David Kay has now said Saddam Hussein was in complete violation of. That is something we should remember as we have this debate.

The history is not all that comforting to me. Koffi Annan sent a group of U.N. folk into Iraq to help with the nation building and here is the series of events that occurred. The head of the U.N. mission showed up and took possession of a building where he was going to operate. The Americans showed up and put their armored vehicles around the building. He came out and said, No, that is too militaristic. You Americans are too quick to show force. We are the United Nations. We come in peace. Get rid of the armored vehicles.

The American commander, after arguing with this fellow, said all right, and he got rid of the armored vehicles, but he spread concertina wire through the courtyard, and the U.N. head of the group came out and said, get rid of that. You are too militaristic. We are the United Nations. We are not the United States. We are not here to show military force. We are here to help build the country.

Finally, the Americans took away the concertina wire and the next day a truck bomb drove across the courtyard, blew up the building and killed the man who had said, I don't need this kind of protection. After this, Koffi Annan said, get them out of there. We can't provide their security. We can't keep them safe.

I welcome the United Nations involvement. I hope we get the United Nations involvement, but I don't think that track record speaks very well for the idea that the first thing we should do about dealing with the problem in Iraq is to go to the United Nations and show some humility and apologize. The number one civil right which all of us desire more than anything else and that is most essential in Iraq is the right to walk down the street without being shot, the right to walk out in public without being beaten over the head. To establish security is the first responsibility of civilization. Security in Iraq is being provided by the American military and its allies in the Iraqi forces.

George W. Bush, for all of the mistakes that have been made, and all of the difficulties that have been encountered, has demonstrated America's resolve to provide this civil right to Iraqis. The United Nations has fallen short in this category.

This is the fundamental question all of us should look at: Instead of debating whether the President looked at the right piece of intelligence, whether the committees had the right information, whether this or that or the other was looked at and was not, the real question is, where do we go from here. We are where we are, regardless of how we got here. Where do we go from here—the question the American people will decide in November.

I close with this anecdote or comment from Bernard Lewis. Bernard Lewis probably knows more about this region than any other academic in America. He has spent more time studying it, and has written books on it. He spoke to a group of us, and he was an optimist. He agreed with President Bush that democracy could be planted in the region and we should stay the course until we do it. He made this comment. He said: Listen to the jokes. In the Middle East, the only form of expression that is not censored is the jokes. And this is the joke that is going around in Iran, right next to Iraq. Two Iranians are talking. The first Iranian is complaining about how bad the government is, how bad things are. The second Iranian says: Yeah. They go back and forth, saying: What are we going to do? Where are we going to turn? Finally, the second Iranian says: I know. What we need is an Osama bin Laden. The first Iranian says: Are you crazy? That would make things that much worse, and the second Iranian says: Nope. If we had an Osama bin Laden, then the Americans would come and save us.

There are hundreds of thousands, if not millions, of people in the Middle East who are watching what we are doing in Iraq in the hope that, in the words of the joke, the Americans will ''come and save us.''

We have set our hand to the plow to that particular assignment. We should not turn back now. We should back our President and his resolve to see this through until freedom, prosperity, and self-determination are established in Iraq, from which it will then spread, change the Middle East, and ultimately transform the world.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Utah for an incredibly fine speech. I appreciate the remarks he gave tonight very much, and I am sure the President does, as well.

At this time, I yield to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank the Senator from Arizona for yielding, as well as for his leadership on this issue. He has provided strong and forceful leadership in support of the war on terrorism. It is vitally important that all of us, not just as Members of the Senate, but as Americans, support this administration and support our troops in making sure we win this war on terrorism.

I would like to start by saying I have spent the last 3 years working on intelligence issues, first in the House and now in the Senate Intelligence Committees, and have learned some things that are very relevant to this discussion.

First, many across the aisle supported massive cuts to the intelligence community budget throughout the 1990s. Between 1992 and 1998, in fact, the Central Intelligence Agency closed one-third of its overseas field stations, lost one-quarter of its clandestine service case officers, lost 40 percent of its recruited spies, and CIA intelligence reports declined by nearly one-half.

The Clinton administration, supported by many Democrats in this Chamber today, decided from the outset that the end of the cold war meant we no longer needed intelligence on national security threats. The end of the cold war divide in actual fact made the world a much more complex place, with a host of new, unconventional, and asymmetric threats to our security we were not well prepared to address. Instead of dismantling our intelligence apparatus in the 1990s, recent history has proved beyond a shadow of doubt we should have been expanding and enhancing the quality of those capabilities so we could better understand and

counter the new nature of the threat. The record will show many on our side of the aisle were making this very point throughout the 1990s.

It is absurd to argue, as some in the other party appear to have suggested over the years, that by emasculating the CIA and our other intelligence agencies, our Nation's security would not be affected, or even would be enhanced.

I would just add that penetrating terrorist groups and rogue states, so-called hard targets, is a difficult and dangerous business. It requires a robust overseas intelligence presence, adequate and sustained resources, a wide-ranging stable of recruited and vetted spies, strong bipartisan support from Congress and the White House, and a willingness to take calculated risks. I submit the facts of the 1990s strongly suggest we had none of these.

In addition, it is apparent to me the intelligence community during the 1990s was skewed far too heavily in favor of technical collection of intelligence over what is the cornerstone of the business: human intelligence gathering or HUMINT, i.e., using spies to acquire information on the plans and intentions of our adversaries.

When my House Intelligence Subcommittee on Terrorism and Homeland Security took a hard look at the erosion of our intelligence capabilities in the 1990s, right after 9/11, it became clear to me our human spies were almost considered to be obsolete by the Clinton administration and its appointed intelligence community leadership.

When David Kay spoke about his experiences searching for WMD in Iraq on the ''Jim Lehrer News Hour'' last month, he said:

> We are not very good as a nation in our intelligence capability at reading the most fundamental secrets of a society, what are its capabilities, what are its intentions? We can't photograph those. You need Americans on the ground penetrating those societies and people who are speaking their languages.

I fully agree with Dr. Kay, and would just note it takes a long time and a great deal of effort to build such human espionage capabilities. Yet our colleagues across the aisle proved in the 1990s that such capabilities, however imperfect, could be torn down quickly and with ease.

In July of 1997, Congresswoman MAXINE WATERS, over in the House, said:

> I think the day for the CIA has come and gone.

I cite the CONGRESSIONAL RECORD, dated July 9, 1997. In that same debate, then-Congressman David Bonior commented:

> [W]e are spending, according to the New York Times, over $30 billion on intelligence, and the cold war is what? Nine years, seven years, eight years over with?

I cite again the CONGRESSIONAL RECORD, dated July 9, 1997. That same year, here in the Senate, the junior Senator from Massachusetts questioned: ''Why is it that our vast intelligence apparatus continues to grow . . .'' now that the cold war struggle is over?

I cite the CONGRESSIONAL RECORD, dated May 1, 1997. Two years before that, the same Senator proposed we cut the intelligence budget by $1.5 billion, not for specific programs but across the board. In 1994, that same Senator wanted to cut the intelligence budget by $1 billion and to freeze intelligence spending. That is the record.

Now, it is going to be awfully hard for certain individuals in the other party to justify their actions on national security matters during the near decade-long period of neglect and erosion of our intelligence capabilities of which they were directly complicit. It is stunning—although not surprising—that such individuals are now seeking to rewrite their own history.

I add that the junior Senator from Massachusetts in 1995 proposed to cut $1.5 billion from the intelligence community. That bill he introduced would have exacted cuts of $300 million in each of the fiscal years 1996, 1997, 1998, 1999, and again in the year 2000. The proposal was so out of line with reality that there were no cosponsors on the bill and, thank goodness, it never made it to the floor.

I ask the question, Why is it that an atmosphere of extreme risk aversion pervaded the intelligence community during the 1990s and lasts even to the present day in some respects?

There are two particular events that bother me. First, when I chaired the House Intelligence Subcommittee on Terrorism and Homeland Security in 2001 and 2002, I was particularly struck by the internal CIA guidelines promulgated in 1995 by then-Director of CIA, John Deutch, that severely limited the ability of CIA case officers to meet with, develop, and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands.

We found, through extensive oversight work and dialog with CIA field officers, that these so-called Deutch guidelines had a significant chilling effect on our ability to operate against terrorist and rogue state ''hard targets.'' After all, how can one penetrate a terrorist organization or Saddam's brutal regime, for that matter, without dealing with unsavory people?

The guidelines were, in my view, a primary cause of the risk aversion to which I refer in my question, and they actually stayed in effect through July of 2002, when we finally succeeded after many efforts to compel the DCI to repeal them.

The second event concerns Mr. Deutch's decision during his mercifully short tenure as DCI to conduct a CIA-wide ''asset scrub,'' which applied an inflexible reporting standard to all CIA spies that, if not met, resulted in their automatic firing.

The fact is, the spying business is a lot different than a simple calculation of profit and loss. Spies are human beings who put their lives on the line to spy for us. We have a special responsibility to them and their families. Just because a spy's access may have dried up for a time, that doesn't mean they won't prove useful later on on other issues. Moreover, since we have had many gaps in our clandestine coverage of key issues at the time of the scrub, termination of spies was done without regard to how we might otherwise cover a subject by other means. Thus, our gaps were further exacerbated.

In my opinion, the Deutch guidelines and Deutch asset scrub are two of the major driving forces behind the risk aversion to which I referred in my question.

Mr. President, that is a direct byproduct of those years of neglect and resource starvation during the previous administration.

I want to first make it clear that it has been my experience that the stifling problem of risk aversion went from Washington to the field, and not vice versa. I know that the young, often idealistic, aggressive CIA case officers out on the front lines are not the problem.

Risk aversion starts when elected officials, on whose support CIA depends in the face of failure as well as success, abandons the discipline. The ''end of the cold war'' and ''peace dividend'' type arguments of those in the other party during the 1990s clearly manifested themselves in the form of political abandonment of our intelligence community.

During those years of Democratic control of Congress, Hill support for the intelligence mission was also questionable. I refer back to my previous remarks about what the junior Senator from Massachusetts and others tried to do to further reduce the intelligence community during the 1990s as a case in point.

Moreover, the record will clearly show that during the periods of Republican control of the House and Senate, significant efforts were made to increase the top line of President Clinton's annual intelligence budget requests. Some of these Republican efforts were successful; others were not. But for the most part, we brought the previous administration along kicking and screaming.

It should not be surprising that when the politicians turn their back on the intelligence community, politically appointed intelligence seniors start to become more reluctant to approve operations that might result in some sort of political flap because they know they won't be supported.

When such intelligence seniors start to become overly conservative, the managers below them follow suit. After a while, bureaucratic obstacles, and other hoops through which field officers must jump before getting operations approved, start to appear. That is where you get the Deutch guidelines and the Deutch asset scrub.

Now we have to figure out how to undo the bureaucratic risk averse mindset that has taken a decade to spread across the intelligence community like a cancer and, like a cancer, radical treatment with often painful side effects may very well be required.

That is what happens when national security becomes relegated to the bottom of our Nation's priorities. Fortunately, we have a President now who is anything but risk averse and who puts the long-term security interests and safety of all Americans at the top of his list of priorities.

On the issue of terrorism and homeland security, Americans deserve strong leadership, not political games. Our President is providing the positive leadership that will ensure the safety of our citizens.

I yield back to the Senator from Arizona.

Mr. KYL. Mr. President, I very much appreciate those remarks coming from a member of the Select Committee on Intelligence.

I now will yield to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Arizona for his leadership on this important matter. I feel very strongly that our country is not fully aware—at least the public debate on the television and so forth have not shown a full awareness of the leadership that President Bush has given this country to help us deal with the challenges facing us.

I thank Senator CHAMBLISS for his comments about the intelligence-gathering functions. I wish to share some of my insights into where we are and where we can expect to be going.

After 9/11, the President of the United States was a challenged leader. He faced difficult times. We lost 3,000 people. Some decisions had to be made. He decided that business as usual would not continue and the United States was going to have to take a leadership role against terrorism.

About that time, former Secretary of Defense and former Secretary of Energy, James Schlesinger, who served in President Carter's Cabinet, testified before our Armed Services Committee, of which the Chair is a member. Mr. Schlesinger talked about the U.N. and its inability to make decisions and take action. He referred, quoting another writer, to the UN as being ''an institution given only to talk.''

Well, in the last decade, before President Bush took office, during the 8 years under President Clinton's leadership, we did a lot of talking about the problems facing the world. We did a lot of talking about Iraq. We passed a resolution in this body that declared it to be the policy of the United States to effect a regime change in Iraq. President Clinton signed it but we didn't do anything. We talked but we didn't do anything.

We now have a President who decided that we need to show some courage and leadership, and he did that. One of the first things he did, and I ask the American people to recall, was that he confronted a great country, Pakistan. Pakistan's intelligence agencies, Senator KYL knows as a senior member of the Intelligence Committee, were collaborating with the Taliban government in Afghanistan. Everybody knew that and that there was a lot of partnership there. We now know they were participating in the proliferation of nuclear weapons. President Bush challenged them and he said: President Musharraf, you have to choose. This is very serious. Are you going to allow Pakistan to be a country associated with the Taliban and terrorism, or are you going to stand your country in the future against that kind of activity?

To his credit, President Musharraf made a decision. It was not academic. It was not talk. It was: Mr. Musharraf, you must make a decision.

Since that time, he has been helpful to us in many ways, at risk of his own life. His opponents have attempted to assassinate him. Would anybody suggest that had our President been weak and waffling and vacillating, that the President of Pakistan would have made that decision, would he have put his very life on the line against terrorism?

Then he made the same challenge to Mullah Omar in Afghanistan where, as you remember, Bin Laden was training his terrorist soldiers. He said: You must reject that; you must turn against the al-Qaida; you must turn to your country; and you must choose. Mullah Omar chose. He chose to remain friends with Bin Laden and al-Qaida terrorist groups. He chose not to side with the nations who turned against terrorism.

Mullah Omar, I suppose, is hiding in some cave somewhere in Afghanistan. His government is completely gone. Yes, Bin Laden, who was in his country, attacked and damaged our Pentagon, and killed our soldiers right out here at the Pentagon. But his pentagon no longer exists. It is rubble. And there is a new government with a new constitution in the works to preside over a new Afghanistan where women have a chance to have freedom and prosperity; when I was there I saw that the people are re-building all over that country. Houses that had been destroyed are being refurbished, and people seemed to be making real progress there. That is such a tremendous step forward for the world.

Then the challenge was placed before Saddam Hussein. We had the U.N. try to find these weapons. We know he used these kinds of weapons. We know he was not complying with the U.N. resolutions. The U.N. found him in violation of those resolutions and voted in 1441 that he was in violation of the resolutions. We gave him every chance to renounce weapons of mass destruction, and to demonstrate that he had complied with multiple U.N resolutions. Because he lost the first gulf war he made a commitment to eliminate these kinds of weapons and to comply with U.N. resolutions, but he refused to do so. And President Bush acted.

Saddam Hussein was dug out of a hole in the ground and is now in the Bastille where he used to put his people and kill them. But he is not going to be killed. He will be given a fair trial.

The people of Iraq are forming a new government. Production is up. Electricity production is up. I know the chief of police there, and there are 70,000 new police officers, some of them being killed this day, but they are standing firmly for freedom in a new Iraq.

Lo and behold, after we dug Saddam Hussein out of the ground, Muammar Qadhafi of Libya, known as one of the world's most significant terrorists in the past, renounced his terrorism and called for the United States and Great Britain—he did not talk to the U.N., but he wanted us to be involved in his renunciation of terrorism and he has allowed inspections.

During the former administration—and I am not criticizing, but I was frustrated—when President Clinton was in office, we talked all the time about nuclear proliferation but accomplished little. But only recently, we had Abdul Khan, the chief nuclear scientist in Pakistan come forward. What did he say? He said he was proliferating weapons from Pakistan to North Korea to Iraq to Libya and to Iraq. That had been going on but it is not going on now because he has renounced it and told all that he had done to the world.

Iran is now allowing the United Nations to come in and inspect their nuclear program. The nations in the East—China, Japan, and South Korea—are confronting North Korea. We are not going to keep rewarding North Korea for bad activity, as has been done in the past. We are going to insist they step up like these other nations and assume a place among the decent nations in the world, or they are not going to get any benefits from us. We are going to keep the pressure on, and that is exactly the right thing for us to do.

These events have occurred for one reason and one reason only: We have a President of the United States who loves this country, who believes in our values. He believes in freedom. He believes in democracy. He wants to see the world be a better place. He does not want to just preside over the office of President. He wants to do something good for this world, and he is doing it.

As a direct result of his leadership, we made extraordinary progress in just 2 years, progress not seen in decades.

It has been tough. Our soldiers are at risk, and they are putting their lives at risk every day to effect a policy that those of us in this Senate voted for by an overwhelming vote. Some of them voted for it and then turned around and voted not to support our troops. But most of the Senators here, Republicans and Democrats, have stayed. Yes, we have had complaints, but when has there ever been a war when everything has gone perfectly smoothly?

I urge the Members of this body, my Senate colleagues, to look at what has occurred, to recognize that we are seeing the benefits of extraordinary and courageous leadership. When they do so, we shall hear less carping, less complaining, less whining, and less second-guessing than we have heard. We are making progress. We are going to continue to make progress. We are going to make this world a better place and safer place for the people of the United States.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Arizona.

Mr. KYL. Mr. President, let me summarize what I think has been established during the last couple of hours. The reason we took to the floor is because there has been a lot of criticism of the President of the United States and the administration for its actions in finally deciding that enough was enough with Saddam Hussein, that his continual violation of the U.N. resolutions had to be enforced by someone, and that before there was an imminent threat posed by his dangerous regime, it was important for the United States and a coalition of other countries to take action to remove him.

The criticism has come both from potential Democratic nominees for President, Members of this body, news organizations, and others outside the body, but we sought to try to put into perspective some of these criticisms and to point out that at the end of the day, there should be no question that President Bush did the right thing.

The three key points were, first, that an intelligence failure is not the same thing as intelligence misuse or misleading, and if there was a failure because the intelligence agencies were wrong about the stockpiles of weapons of mass destruction that they thought existed and which we have not been able to find, it is not the same thing as saying that the President misled anyone or that anyone else with access to intelligence misled anyone.

The second point was that whatever the state of intelligence, the case for removing Saddam Hussein is still very strong, a point which several of our colleagues have made repeatedly on both sides of the aisle, as well as President Clinton and other members of his administration prior to the Bush administration.

And, third, that the question regarding the weapons of mass destruction, the stockpiles of biological and chemical weapons is not a matter of whether they existed but what happened to them; that everyone who had access to the intelligence was convinced they existed.

In fact, we know they existed at least one time because they were used against the Kurds and against the Iranians. Saddam Hussein himself, in submitting documents to the United Nations, admitted they existed. This was, I believe, either 1996 or 1998 and then again in the year 2002. So we had his admission that they existed. As Senator BENNETT said a while ago, nobody knows whether they were destroyed, shipped someplace else, or whether we destroyed them, but eventually we will find out the answers to those questions.

The fact we cannot find those weapons of mass destruction stockpiles—primarily artillery shells with chemical munitions—does not detract at all from the case against Saddam Hussein or make the case that somehow or another the American people were somehow misled by the President.

In closing, I will quote from the chairman of the Senate Intelligence Committee and the ranking member of the Senate Intelligence Committee. What the current ranking member of the Senate Intelligence Committee had to say is: 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. I do believe that Iraq poses an imminent threat, but I also believe after September 11 that question is increasingly outdated. It is in the nature of these weapons 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 would put some of our fellow Americans at risk. Can we afford to take that chance? We cannot.

The ranking member of the Senate Intelligence Committee is the junior Senator from West Virginia, Mr. ROCKEFELLER. These were his comments on October 10, 2002. Yet today we find some saying the President contended there was an imminent threat, when he did not, and that we should not have acted unless, in fact, there was an imminent threat.

I think Senator ROCKEFELLER was correct, and I know he has access to all of the intelligence because, of course, he is the ranking member of the Intelligence Committee.

Now I will read from the chairman of the Intelligence Committee: I have seen enough evidence. I do not know if I have seen all the evidence, but I have seen enough to be satisfied that there has been a continuing effort by Saddam Hussein, since the end of the gulf war, particularly since 1998, to reestablish and enhance Iraq's capacity of weapons of mass destruction, chemical, biological, and nuclear.

That was the immediate past chairman of the Senate Intelligence Committee, the senior Senator from Florida, Mr. GRAHAM. He, too, had access to all of the intelligence.

My point in quoting my two colleagues is that in the Senate, those of us on the Intelligence Committee had access to the same intelligence the President did, at least similar intelligence to what other countries in the world had, and all of us, including the United States, believed these things. We had the same intelligence that was given to the President.

We were not misleading anyone. The President obviously was not misleading anyone. The fact that it turns out some of the intelligence turned out not to be totally correct is not the same thing as saying somebody misused the intelligence. I hope my colleagues on the other side do not cross that line of accusing the President of intentionally misleading the American people because to do so, in effect, would be also to accuse our own colleagues of that very same thing. I do not believe, based upon what I know of my colleagues, that that could be said of any one of them. So I hope we can get over this notion that just because not all the intelligence was correct, therefore, it must mean somebody was misleading someone else. I think we have established that is not true and that it would be very wrong to try to pursue that line of attack against President Bush simply because we happen to be in an election year.

We will have more to say on this subject in the future, but I want my colleagues to understand that if there are charges made against the President or against this administration relating to the use of intelligence with respect to the war in Iraq, those charges will be rebutted. I appreciate very much the attention of my colleagues to this matter this evening.

THAI POLICY TOWARD BURMA: PRINCIPLED OR FOR PROFIT?

Mr. MCCONNELL. Mr. President, as my colleagues know, freedom in Burma has long been under siege by a military junta calling itself the State Peace and Department Council (SPDC). In response to last year's brutal assault against the supporters of the National League for Democracy NLD, and its leader Daw Aung San Suu Kyi, Congress quickly passed—and the President signed into law—the Burmese Freedom and Democracy Act of 2003.

This was an appropriate response to an act of Terrorism orchestrated and carried out buy the SPDC and its affiliated organizations.

Last week, the State Department issued its annual human rights report, and the section on Burma evidences egregious and systematic human rights abuses. Let me read one excerpt from that report:

> [the SPDC's] extremely poor human rights record worsened, and it continued to commit numerous serious abuses. Citizens still did not have the right to change their government. Security forces continued to commit extrajudical killings and rape, forcibly relocate persons, use forced labor, conscript child soldiers, and reestablished forced conscription of the civilian population into militia units.

Murder, rape, forced labor, child soldiers . . . this is a sobering reminder of how egregious and extreme human rights violations are in Burma.

While many in Burma's neighborhood raised concerns with the situation in that country, including Malaysia and

Indonesia, Thailand—led by Prime Minister Thaksin Shinawatra—seemed keen on letting the wind out of sanction sails at every opportunity. This strikes me as odd behavior given Thailand's processed commitment to democracy and human rights.

Where others speak out to demand concrete actions from the SPDC, including the unconditional and immediate release of Suu Kyi and her compatriots, Thaksin has repeatedly risen to defend those who Secretary Powell referred to as ''murderous thugs''.

Last year, he initiated an international forum on Burma self-dubbed the ''Bangkok Process'' that did not include the NLD, the United States, or other proven champions of freedom. However, it did include the SPDC, and was described the Thaksin as a meeting of the ''like minded.'' The ''Bangkok Process'' is fundamentally flawed by the very absence of Suu Kyi and her supporters at the table. Tellingly, they remain under arrest and detention in Burma.

I agree with Norwegian Foreign Minister Jan Petersen that ''all voices in the country had to be heard and opposition leader Aung San Suu Kyi must be released.'' In stark contrast, Thaksin recently stated, ''Burma is on the right track. . . . If they follow our recommendations, they will be okay and get everything done.''

With narcotics, HIV/AIDS and other undesirable exports pouring across Burma's borders into Thailand, it is only fair to question Thaksin's motivations in his cozy relationship with the SPDC. Some suspect that the raison d'etre can be summed up in a single word: iPSTAR.

iPSTAR is a $350 million broadband satellite owned by Shin Satellite, Sattel, and Shin Corporation, a holding company created by the Prime Minister that owns 53 percent of Sattel. If successfully launched and operational, the satellite will beam its signal across Asia.

To convince doubting Thomases who suspect that Thailand's approach to Burma may be based on selfish profit—not principle—Thaksin should answer the following single question:

What investments, including projects and activities related to iPSTAR, do Shin Satellite and Shin Corporation have in Burma, and/or have planned for Burma?

I intend to pose this same question to Secretary of State Colin Powell when he appears before the Foreign Operations Subcommittee next month.

Let me close by saying that many of us remain concerned with the continued deterioration of democratic institutions in Thailand—including a free and independent press. We are alarmed and distressed by continued reports of the deportation of as many as 10,000 Burmese refugees, exiles, and migrant workers from Thailand to Burma each month. My colleagues can find additional information on this matter in a February 25th article by Ellen Nakashima in the Washington Post and through Human Rights Watch's report ''Out of Sight, Out of Mind: Thai Policy Toward Burmese Refugees and Migrants.''

With rising tensions in the south, it is more important that ever that Thailand stay the course in its political and legal development.

I am sure my colleagues will agree that accountability and transparency must be maintained in Thailand, be it a crackdown on drugs or business with Burma. As the last few weeks have clearly demonstrated, Thai politicians are quick to promise a chicken in every pot—but sometimes chickens get the flu. I say this only to illustrate my hopes that Prime Minister Thaksin has prepared an alternative approach toward Burma and the SPDC that includes the full participation and input of Suu Kyi and the NLD as well as all ethnic nationalities.

I ask unanimous consent that following my remarks an article from Thailand's English language newspaper The Nation be printed in the RECORD. Thaksin has it wrong—the United States is not a ''useless friend'' to Thailand. On the contrary, America is a strong advocate of democracy and human rights throughout the region.

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

[From The Nation, Feb. 28, 2004]

REACTION TO US RIGHTS REPORT: ''YOU'RE A USELESS FRIEND''

Prime Minister Thaksin Shinawatra yesterday slammed the United States as a ''useless friend'' for issuing a damning report on the deterioration of human rights here. ''It's unacceptable to me the way the US came out with the report by citing media reports. What kind of friend are they?'' a fuming Thaksin said. ''Once every year, the US comes out and damages the reputation of its friend. What would they do if Thailand issued the same [kind of] report?'' Thaksin told reporters that although Thailand has been in discussions with the US on the human rights situation here the US produced a report that differed from the information Thailand supplied.

The US State Department yesterday released its annual country-by-country review of human rights. Thailand's record ''worsened'' last year as a result of the extra-judicial killings and arbitrary arrests during the first round of the war on drugs, from February to April, the report said. ''I have to say bluntly that it [the US report] really annoyed me. I have asked the Foreign Ministry to issue a statement,'' Thaksin said.

The Foreign Ministry ''invited'' US Ambassador Darryl Johnson to receive an official complaint. Foreign Minister Surakiart Sathirathai said: ''It has been like this for at least three times during my time [as foreign minister]. We feel that it is something that is not healthy for close allies like the US and Thailand.'' In what appeared to be an attempt by the ministry to maximize media coverage of the summoning of Johnson, photographers were asked to position themselves in what is usually an off-limits area. The ministry issued a statement on Thursday expressing its ''deep disappointment'' over the report, saying it contained ''serious inaccuracies''—particularly on the government's anti-drugs campaign—and overstated the toll from summary killings.

''The report does not provide a balanced account of the facts, even though the Thai government has gone to great lengths to provide all the information to the US side,'' the statement read. This was also the case for the reports in 2002 and 2001, when Thailand had to pinpoint various factual errors and the US apologized and admitted that the reports were done in haste, Surakiart claimed. Such a report is ''useless'' for the governments as well as the public and it needs to be corrected, he added. Johnson, who met with Deputy Foreign Permanent Secretary Veerasak Futrakul, declined to make any statement.

Ministry spokesman Sihasak Phuangketkeow, however, quoted Johnson as saying: ''The US generally views Thailand's human rights record in a positive light, whether it is about economic or political freedom.'' Sihasak submitted a memo to Johnson claiming that only 46 cases of extra-judicial killings were recorded and the 1,386 drug-related deaths cited in the US report were not extra-judicial executions. He also dismissed the allegation that the government would not allow the United Nations High Commissioner for Human Rights to make a visit to look into the matter. ''A request has never been made,'' he said. According to National Police figures released in December, only nine cases out of 1,176 drug-related deaths have been prosecuted.

The drug killings sparked an outcry from local and international human rights organizations. Foreign governments and the UN Human Rights Commissioner expressed grave concern about the murders, while His Majesty the King called on the government to give a detailed accounting for all the deaths. The Thai government had ''failed to investigate and prosecute vigorously those who committed such abuses, contributing to a climate of impunity,'' the US report said.

After Thaksin's visit to Washington last June, bilateral relations strengthened as Thailand agreed to dispatch troops to Iraq and offered Americans immunity from the International Criminal Court. Thailand signed the ICC treaty but has not yet ratified it. Last December, US President George W. Bush officially designate Thailand a major non-Nato ally, a move that boosted security cooperation between the two countries.

YELLOWSTONE NATIONAL PARK'S 132ND ANNIVERSARY

Mr. REID. Mr. President, it gives me great pleasure to note that as of yesterday, the priceless treasure we call Yellowstone National Park has been preserved and protected for 132 years.

Yellowstone was our first national park, and one visit there explains why.

It is home to majestic wildlife including bison, elk, wolves and grizzly bears.

It is the site of most of the world's geysers, including the famous Old Faithful.

And Yellowstone National Park offers breathtaking vistas at every turn, from raging rivers to soaring mountain peaks.

Before Yellowstone became a national park, the story of its discovery was scattered with myths and truths throughout the 19th century.

Explorers and trappers stumbled upon Yellowstone's incredible beauty, and returned home with descriptions that sounded like fiction to the American public.

It took nearly 80 years, and an official expedition sanctioned by the government in 1870, to sort out the myth about Yellowstone from the striking reality.

Shortly thereafter, President Ulysses S. Grant signed the law in 1872 establishing Yellowstone National Park ''as a public park or pleasuring ground for the benefit and enjoyment of the people.''

President Theodore Roosevelt, a great protector of the environment and treasures like Yellowstone, visited the park in 1903.

One hundred years ago this spring, he laid the cornerstone for the official gateway to the park. The gateway is still known as the Roosevelt Arch.

The American people's love of Yellowstone helped lead to the establishment of our National Park Service. Today the Park Service protects and preserves 83 million acres of natural treasures across our country.

The Park Service employees at Yellowstone have done a wonderful job of protecting the park's natural beauty, while providing opportunities for people to enjoy it.

For example, all of the large mammal species known to exist in Yellowstone before European Americans arrived have been restored to their natural habitats.

I recently had the good fortune, after many years, to once again visit Yellowstone National Park. I was only able to spend a couple of hours there, but it was a great experience.

I first went there shortly after my wife and I returned from law school in Washington. We traveled from Las Vegas on one of the first vacations we ever took.

I still look back with great awe at Old Faithful and the many other things we were able to see, the buffalos and other animals. So when I returned there, even though it was only for a few hours, the place I wanted to go visit again was Old Faithful.

Old Faithful spewed a few times during the time I was there. We took a walk through Geyser Park. We saw buffalo lying right near the geysers. The reason these great animals come and lie down near these spewing geysers is that, to a great extent, they keep the pests off themselves by doing so.

Even though I was there just a short time, it was wonderful again, after 25 years, to reflect back on my little children when they were tiny going there and visiting that park.

I am sure that millions of Americans also keep a special place in their hearts for Yellowstone and the memories it holds for them.

I hope our grandchildren's grandchildren's grandchildren will be able to enjoy the wonders of Yellowstone National Park, the way we do today.

HONORING OUR ARMED FORCES

SGT CORY R. MRACEK

Mr. NELSON of Nebraska. Mr. President, SGT Cory R. Mracek was a dedicated and distinguished soldier who loved the military and was excited to go to Iraq. He attended Chadron State College for one semester before joining the National Guard and then later, the U.S. Army.

He spent his first year in Korea, where he was awarded several medals. He was chosen to be a United Nations Command Honor Guard for 6 weeks, an honor for which only the best soldiers were chosen. He came home 4 years later and worked as a night stocker at Wal-Mart. However, army life was calling him and he missed it more than he thought. He re-enlisted and was again stationed in Korea for 12 months. Because of the war in Iraq, his tour was extended to 15 months. He returned to the States in October 2003 and proceeded to Ft. Benning, GA, where he trained to be a paratrooper. He loved the thrill the first time he jumped from the plane and it had been his dream to be a part of the 82nd Airborne Unit in Fort Bragg, NC. He had been in Iraq just 8 days when a roadside bomb exploded west of Baghdad and killed him and two other soldiers.

SGT Cory Mracek's sacrifice will forever remind this Nation of the danger that comes with the duty to protect our Nation's interests and the freedoms of other arounds the world. As a nation we are grateful to soldiers like Cory Mracek who make the ultimate sacrifice so that all Americans can live in freedom.

SGT DENNIS A. CORRAL

Mr. NELSON of Nebraska. Mr. President, SGT Dennis Corral served our Nation bravely and honorably. He entered the Army in 1989 and later left the service to pursue other interests. In 1997 he re-entered the Army and was sent to Iraq in December of 2003. Corral was not scheduled for deployment to Iraq until January 2004, but he volunteered to go earlier in place of another soldier who was married and had children. Sergeant Corral was not one to complain, and readily accepted every task that was asked of him. His arrival was greatly anticipated by his company, as they had been without a supply sergeant, and were greatly in need of his skills. Immediately upon his arrival, he set to work improving the company supply system—organizing, filing, and issuing out equipment. In all that he did he showed his dedication and his love for serving his country. Sergeant Corral was the first American soldier to die in Iraq in 2004. SGT Dennis A. Corral will always be remembered as a soldier who fought for freedom and made the ultimate sacrifice on behalf of his country.

THE SUPREME COURT'S REVIEW OF THE EXECUTION OF CHILD OFFENDERS

Mr. FEINGOLD. Mr. President I want to speak today on the Supreme Court's recent decision to review whether the execution of child offenders—those under 18 at the time the crime was committed—is constitutional. The Court will soon hear the case of Christopher Simmons, a Missouri man who was sentenced to die for a crime he committed at the age of 17. The case is called Roper v. Simmons.

In the past few years, our Nation has taken important strides toward fairness and justice in the administration of the death penalty. In 2000, former Illinois Gov. George Ryan took the courageous step of halting executions in his State pending a top-to-bottom study of the use of capital punishment in Illinois. Following an exhaustive review of his State's system, Gov. Ryan commuted the death sentences of all death row inmates in Illinois in December 2002. Former Maryland Gov. Parris Glendening suspended executions in his State in the face of glaring racial and geographic disparities in the Maryland death penalty system. Current Maryland Gov. Robert Ehrlich has since lifted the State's moratorium, but an execution has not taken place in Maryland since 1998.

A number of State legislatures have inched closer and closer to abolishing the death penalty or instituting moratoria in their jurisdictions. And in 2002, in a significant turning point for our Nation, the Supreme Court ruled unconstitutional the execution of the mentally retarded. That decision, in the case of Atkins v. Virginia, confirmed that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing.

While these events are steps toward fairness and indications of progress, they also serve as reminders that our system is seriously flawed. The statistics and stories of innocent people wrongly convicted are shocking. In the modern death penalty era, 113 individuals in 25 different States have been exonerated after being convicted and put on death row. The most recent exoneration occurred just last week in a case from North Carolina. This should be disturbing to all Americans who believe in the founding principles of our Nation, liberty and justice for all.

As Supreme Court Justice John Paul Stevens wrote in a 2002 dissent, after the Court refused to consider another case involving child offenders, the practice of executing child offenders is ''inconsistent with evolving standards of decency in a civilized society.'' In my view, Justice Stevens is right. Executions of child offenders have occurred in only eight countries since 1990: China, the Democratic Republic of the Congo, Iran, Nigeria, Pakistan, Saudia Arabia, Yemen, and the United States of America. Most of these countries, however, have since banned executions of child offenders, leaving the United States as the only country that acknowledges its use of capital punishment for child offenders.

According to Amnesty International, there have been 34 executions of child offenders since 1990—19 of them in the United States. And there are currently

child offenders on death row in America who are scheduled to be executed this year. In fact, incredibly, Texas has scheduled the execution of four child offenders between March and June of this year, despite the Supreme Court's announcement that it will consider the constitutionality of such executions in the Simmons case this term.

Currently, 38 States authorize the use of the death penalty. Nineteen of those States have decided that they will only execute defendants who were 18 or older at the time of the crime. But 5 States use 17 as the minimum age, and the other 16 States permit the execution of defendants who were as young as 16 when they committed the crime.

The State Department has said: ''Because the promotion of human rights is an important national interest, the United States seeks to hold governments accountable to their obligations under universal human rights norms and international human rights instruments.'' But we can only call ourselves protectors of human rights if we practice what we preach. Here at home, we continue to apply capital punishment to those who were convicted of crimes committed before legally becoming adults. Spreading decency and humanity must begin here at home. As long as America executes child offenders, our reputation as a shining example of respect for human rights is tarnished.

At the beginning of the 108th Congress, I introduced the National Death Penalty Moratorium Act, which would suspend Federal executions while we conduct a thorough study of the administration of the Federal death penalty at the State and Federal levels. My bill would specifically require a commission to review all aspects of the system, including the practice of sentencing child offenders to death. I urge my colleagues to cosponsor and support the National Death Penalty Moratorium Act, and I look forward to the Supreme Court's review of this important issue. I am hopeful that the Court will build upon the progress it made two years ago when it ended the execution of the mentally retarded. Banning the execution of child offenders is the right thing to do. Congress should act if the Court doesn't.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003

MEDICAL MALPRACTICE

Mr. KYL. Mr. President, last year, the Senate considered legislation to try to mitigate healthcare cost increases by reforming the medical malpractice system. The bill we took up was S. 11, ''The Patients First Act of 2003,'' which I had co-sponsored. Unfortunately, gridlock prevailed when a cloture motion was defeated. While I was disappointed that the Senate could not address healthcare liability reform on a comprehensive basis, we now have the opportunity to address the obstetrics and gynecological specialty with S. 2061, ''The Healthy Mothers and Healthy Babies Access to Care Act.''

There is a reason that the OB/GYN specialty should be one of the first areas addressed by medical malpractice. It is one of three specialties subject to the highest liability insurance premiums. Nationally, the dramatic increases in premiums—more than 160 percent over 16 years, 1982 to 1998—have greatly outpaced the rate of inflation, and many physicians and hospitals have been unable to keep up with these escalating costs. In Arizona, OB/GYN practices face premiums averaging $67,000—up 16 percent in just one year's time.

There are only a few ways doctors and hospitals can bear these costs. They can pass a portion of them on to patients or they can alter their practice patterns. Some physicians have cut the salaries of their hard-working, professionally trained medical staff or reduced headcount in their practices. Those who are still employed after the cutbacks are overworked, stretched thin with added responsibilities. Other doctors have reduced or completely eliminated some gynecological, surgical or high-risk obstetric procedures. Perhaps most disturbing are the instances of physicians retiring early, relocating their practices to states with friendly laws, or dropping obstetrics altogether.

The result is that women's access to prenatal and delivery care is compromised. There are fewer physicians in practice to tend to women; patients have less time with their doctor. I am concerned that women seeking prenatal care and delivering their babies in Arizona may have to travel long distances, passing by hospitals along the way, just to find a facility that can accommodate their needs. While Arizona is not deemed a medical liability ''crisis state'' by the American Medical Association—I am working to make sure that does not become the case—instances of facilities having to close are too frequent. For instance, Copper Queen Community Hospital in Bisbee, AZ, closed its maternity ward after physicians there, who were able to deliver babies, lost their liability insurance coverage. Imagine a community hospital that cannot meet one of the primary needs of its residents because of escalating medical liability costs.

The problem lies with a tremendous backlog in our courts and excessive jury awards that average $3.9 million. With more than 50 percent of jury awards totaling over $1 million, and the number of cases presented steadily on the rise, medical malpractice insurance carriers incur a great expense for defending suits, even those that are dismissed with no indemnity payment. Physicians Insurers Association of America claims that it costs physicians more than $75,000 to defend themselves in cases that they win—of course, even more in cases where they are found liable. Most notable may be the number of cases that are settled out of court without an admission or determination of guilt, just to avert the possibility of a ''mega award'' that could bankrupt a practice.

Looking ahead, I am troubled by the number of medical students and residents who are feeling medical liability's sting. Almost 50 percent of America's medical students say they factor the medical liability crisis in their choice of specialty. Can we afford to have some of the best and brightest physicians of tomorrow dissuaded from specialties because we did not do what was right and fix the system today?

The Healthy Mothers and Healthy Babies Access to Care Act only addresses obstetrical and gynecological care. It would establish parameters to maximize returns to the patients instead of trial lawyers. It would hold physicians and insurers accountable for medical expenses in instances where they are clearly wrong. The legislation would establish a period of 3 years from the date of injury for a person to bring forth a claim, making exceptions to this statute of limitations in cases involving minors. S. 2061 would allow for unlimited awards of economic damages, while placing reasonable caps on non-economic damages—pain and suffering. This is an important distinction that I want to take a moment to address.

Economic damages are for the payment of medical expenses—both past and future—the loss of earnings—both past and future—as well as the cost of having services in the home to assist someone who has been injured or incapacitated from a negligent act. There is no limit on these awards. It is important to me to preserve a patient's access to full medical care when a party has been found negligent. This legislation does that.

Non-economic damages meant to compensate for physical and emotional pain and suffering are not easily quantified. For these damages, awards would be capped at $250,000 and would be in addition to economic damages awarded. Very often, juries have awarded individuals millions of dollars to punish a defendant, not necessarily to compensate for what is an intangible loss.

Under S. 2061, contingency fees would be set to make sure that patients with valid claims do not see their awards siphoned away by lawyers. The bill would allow lawyers to recoup fees and make a profit, but not at the unfair expense of the plaintiff.

We have been down this road before and I am hopeful that my colleagues on both sides of the aisle will join me in support of medical malpractice reform. This legislation will deliver on the promise made to our constituents to fix the healthcare system in this country and rein in excessive and frivolous lawsuits.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

Mr. DORGAN. Mr. President, I rise today to discuss S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

The transportation bill is a needed investment for America's infrastructure. Our Nation's roads, bridges and transit systems need help now. Thirty-eight percent of our Nation's major roads are in poor or fair condition, and 28 percent of our bridges are structurally deficient and unsafe for travel.

This bill is important for the economy as well. Transportation surpasses education and recreation and nearly equals health care and food as a contributor to economic growth, and the transportation sector is critical to jobs, employing millions of workers. A 6-year, $311 billion transportation bill will create more than 830,000 jobs across the United States.

I want to specifically mention how important transportation funding is to North Dakota. North Dakota has only 17 people per lane mile of Federal-aid highway; the national average is 124. As a result, there is a huge per capita investment by North Dakota citizens to support a national transportation system.

That means that Federal aid is critical for ensuring the development, safety and reliability of transportation infrastructure, as it simply does not have the population to support its needs. The $1.463 billion that North Dakota is projected to receive over the next 6 years will benefit the infrastructure, economy, and citizens of North Dakota, and the many others who use North Dakota's roadways for interstate commerce and tourism.

Chairman INHOFE and Ranking Member JEFFORDS worked hard to ensure that rural States would receive adequate funding in this bill, and I thank them for their efforts. I emphasize that we must continue to work to preserve this funding as this bill proceeds. I also thank them for their work to include two of my amendments in S. 1072.

My first amendment will ease the burdens of cumbersome hazardous materials regulations on small farmers. Farmers driving their pickup trucks with a 120-gallon tank of fuel in the back should not have to file security plans. These farmers are not a threat to our Nation's security, and my amendment exempts them from these unnecessary rules.

My second amendment will ensure that States prohibit open containers of alcoholic beverages in vehicles. In this day and age, it is unbelievable that someone can still drive with one hand on the wheel and one hand holding an open bottle of Jack Daniels, and my amendment takes action so that States crack down on this violation.

Lastly, I want to say that it is unfortunate that we were not able take up amendments that Senator BURNS, Senator ROCKEFELLER and I submitted to address current problems with rail policy in this Nation.

While more than 40 major railroads existed in 1980, these have now consolidated to seven, with four major railroads generating over 90 percent of the total annual rail revenue. The previous Interstate Commerce Commission, and the current Surface Transportation Board, STB, have failed to implement captive customer protections, and in fact have interpreted the deregulation act to allow railroads to deny rail customer access to rail competition. As a result, today we have a national rail industry that is both deregulated and retains almost unchecked monopoly power over at least 30 percent of its customers.

This issue hits home for my constituents and me. Grain production is a major industry in my State. Unfortunately, our grain producers are captive to a single railroad. That railroad consistently charges rates that are so outrageously high that our grain loses access to both U.S. and foreign markets. When we do move our grain at these high rail rates, every dollar for rail transportation comes out of the pockets of our grain farmers in the form of reduced net-backs from their grain sales.

It is unfortunate that our rail amendments could not be offered for a full debate and vote. They would have begun to introduce the competition in the national rail system that should have resulted from deregulation 23 years ago. These amendments would have provided some much needed relief to our farmers, manufacturers and electric ratepayers and would help save American jobs for Americans. I will continue to work for a chance to take action on these amendments and move our rail system toward the efficient, procompetitive system this Nation needs and deserves.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 3, 1999, in Philadelphia, PA, a 59-year-old gay man was found beaten to death in his apartment. The bodies of two other gay men from the Philadelphia area were found in the Schuylkill River the previous month.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LTC COLONEL FRANK LOUIS BOSCH: IN MEMORIAM

Mrs. BOXER. Mr. President, I rise to share with my colleagues the memory of retired Air Force LTC Frank Louis Bosch. COL Bosch was a dedicated member of the armed services and a dedicated community volunteer. His life is truly an example of selflessness and service to others.

COL Bosch was born in New Orleans and raised in Brooklyn, NY. Throughout his commendable service in the Army Air Forces, he flew night missions in World War II, commanded a fighter group in the Korean War, and received the Distinguished Flying Cross for his participation in the Battle of Khe Sanh in Vietnam.

Upon retiring, COL Bosch refused to believe that his service to others must end. After earning a bachelor's and master's degree in physical education from George Mason University, he created and led exercise programs for seniors at the Fairfax County recreation department. He also organized softball leagues, ice skating groups, and the Northern Virginia Senior Olympics. He worked as a docent and guide at the Vietnam Veterans Memorial and assisted the priests of Fort Meyers with burials of veterans at Arlington National Cemetery. He served as an election officer in Fairfax, Eucharistic minister and usher at St. Michael's church in Annandale, was a former vice president of the WWII Night Fighters Association and a member of the Knights of Columbus.

Although he never looked to be rewarded for his service to both country and community, honors were frequently bestowed upon him. Along with the Distinguished Flying Cross, he was awarded the Virginia Governors Award for volunteering and the National Park Service's volunteer-of-the-year.

COL Bosch's life serves as an inspiration to all who knew him or have heard his story. When his son Paul called my office today, he mentioned that at the colonel's funeral at Arlington, ''the sun came out just long enough for us to have a very warm feeling.'' I know that the example of COL Bosch's life will be a warm feeling for all of us as we remember his bravery, generosity and compassion.

I extend my deepest sympathies to his wife, Mardy, his sons and daughters, his grandchildren, and great-grandchildren. I am confident that COL Bosch's spirit will live on in them for years to come.

ADDITIONAL STATEMENTS

IN RECOGNITION OF ERNEST C. LEVISTER

● Mrs. BOXER. Mr. President, I rise today to recognize the philanthropic works of Ernest C. Levister, Jr., M.D. For his longstanding commitment to the health of residents of the Inland

Empire, he has been honored by the California Medical Association Foundation with the Robert D. Sparks, M.D. Leadership Award.

The Robert D. Sparks, M.D. Leadership Award recognizes individuals or organizations for outstanding community health achievements. Dr. Levister's accomplishments have not only met this criterion, but led to programs and policy that will continue to facilitate medical advances for years to come.

For the past 30 years, Dr. Levister has used his expertise to educate others, empowering his community with knowledge. He has been honored for addressing the medical concerns and questions of the Inland Empire's African-American community through his ''Our Bodies'' column in the Black Voice News since 1986. His founding role in the Technology Access Partnership Foundation, a foundation that endeavors to increase accessibility to informational technologies, is also testament to his commitment to ensuring that traditionally underrepresented groups have the tools they need to live happy, healthy lives.

As president of the J.W. Vines Medical Society from 1994 to 2001, Dr. Levister strove to make educational opportunities available to students of all backgrounds, encourage African Americans' entrance into and continued progress in the medical field, and improve overall patient care. He is a cofounder of the Vines Foundation, which works to create educational opportunities for African-American students pursuing health and science-related careers.

Dr. Levister is credited as a major influence in changes that the University of California, Riverside made to its Bio Medical Science Program, which now offers more opportunities to disadvantaged students and pre-med faculty positions to those who are traditionally underrepresented. Other recognitions include the Silver Scalpel Award from the California Society of Industrial Medicine and Surgery for his work to protect the rights of injured workers and their physicians, the 2000 Black Rose and Humanitarian of the Year Award given to Dr. and Mrs. Levister for their service to their community, and the San Bernardino County Medical Society's 2003 Award for Outstanding Contribution to the Community.

Dr. Levister's fine leadership has paved the way for the continued propagation of a diverse medical community to address the complex and varied health care needs of the Inland Empire Community. It is with great pleasure that I congratulate Dr. Levister on his receipt of the prestigious Robert D. Sparks Leadership Award.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING SHARON STROSCHEIN, 2003 WINNER OF THE ATHENA AWARD

● Mr. JOHNSON. Mr. President, I rise today to publicly recognize and honor Sharon Stroschein of my Aberdeen, SD staff, who recently was presented with the Athena Award, an honor that is cosponsored by the Aberdeen Chamber of Commerce and Johnsons Motors of Aberdeen.

The Athena Award is annually presented to an individual who actively assists women in realizing their full leadership potential. The individual must demonstrate excellence, creativity, and initiative in their business or profession. The individual provides a valuable service by contributing time and energy toward improving the quality of life for others in the community.

I know first hand that Sharon has done a great deal to improve northeastern South Dakota. She is a tremendously talented woman with a great deal of energy and ambition.

Sharon is not only a great friend, she is also the northeast area director for my State office in Aberdeen. She has earned the respect and admiration of all those who have had the opportunity to work with her. Her passion and love for her work have improved the lives of countless South Dakotans.

Sharon's friendly demeanor and wealth of knowledge have helped her develop close relationships with her colleagues and with community leaders throughout our State. This friendly attitude has led to numerous elected posts and honors. Among those, she was elected South Dakota's National Committeewoman to the Democratic National Committee. She was also the McGovern Grassroots Award recipient, and Woman of the Year by the South Dakota Federation of Democratic Women.

I congratulate Sharon Stroschein for being selected to receive this prestigious award. It is with great honor that I share her impressive accomplishments with my colleagues.●

CONGRATULATING MRS. CORNELIA MCREYNOLDS

● Mr. BUNNING. Mr. President, I would like to take a moment today to congratulate Mrs. Cornelia McReynolds of Pembroke, KY, for receiving the Modernette Civic Club's Woman of the Year Award.

Mrs. McReynolds is best known in the Hopkinsville community as a devoted mother of seven children. But her influence stretches far beyond the boundaries of her home and her family.

She is an active member of the Eastern Star and helped to organize the Community Choir of Hopkinsville. She is also director of the junior choir and president of the usher board at the St. Bethlehem Baptist Church. The children of the church are so fond of Mrs. McReynolds, they call her ''Granny.''

Six of her seven children were with her when she received the award at the Modernette Club's 10th annual African-American Heritage Breakfast. They traveled from as far away as Chicago and Florida to be with their mother—and of course her seventh child called by cell phone from Florida after she received the award. Even her seven-month-old great granddaughter attended the Saturday morning breakfast in her honor at the Pioneer Memorial Complex. It was family dedication like this and her amazing work in the community that likely prompted this special award.

Congratulations again, Mrs. McReynolds, on receiving the 2004 Modernette Civil Club's Woman of the Year award. You are truly an inspiration for all of us throughout the Commonwealth of Kentucky.●

SALUTE TO THE AIR FORCE ACADEMY FALCONS BASKETBALL TEAM

● Mr. ALLARD. Mr. President, I rise to salute the U.S. Air Force Academy Falcons basketball team. It gives me a great deal of pleasure as a member of the U.S. Air Force Academy Board of Visitors to congratulate the high flying Air Force Academy men's basketball team on winning the 2003–2004 regular season Mountain West Conference Basketball Championship.

On March 1, the Falcons clinched the championship with a 61–49 victory over San Diego State University. This is the first conference championship the Air Force Academy has achieved in basketball. Their improbable championship is even more impressive when you realize that this is the first winning basketball season at the Air Force Academy since the 1977–1978 season.

Coach Joe Scott, my candidate for coach of the year, has done an incredible job guiding his team to upset victories over the University of California, Brigham Young University and two victories against the University of Utah on the way to an overall 21–5 record.

I wish them well in the coming weeks as they represent my home State and the Air Force in the upcoming NCAA tournament. If my colleagues are looking for a real-life Cinderella story in this year's basketball tournament, I have found one in Colorado Springs, CO: the U.S. Air Force Academy.●

CELEBRATING THE CENTENNIAL OF CONGREGATION SHERITH ISRAEL'S HISTORIC SANCTUARY BUILDING

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the 100th Anniversary of Congregation Sherith Israel's historic sanctuary building in the City of San Francisco in my home State of California.

Congregation Sherith Israel, established in 1849, is one of the oldest Reform congregations in the West. Reform Judaism spread throughout North America more than 130 years ago and is

now the largest Jewish movement in North America, with more than 900 congregations and 1.5 million people.

Congregation Sherith Israel's synagogue building is located at the corner of California and Webster Streets in San Francisco. This year marks the centennial of this historic building, whose cornerstone was laid on February 22, 1904. The building was designed by renowned Bay Area architect Albert Pissis, who was an important figure in the rebuilding of downtown San Francisco after the city's most famous disaster, the Great Earthquake and Fire of 1906.

The 1906 Earthquake and Fire left the city in smoking ruins and destroyed many public structures. Congregation Sherith Israel's synagogue withstood this disaster and was able to house many important events following the destruction. The building served as the city's Superior Court for more than 2 years and, in 1945, hosted one of the organizing sessions of the United Nations.

Today, this unique building has an austere exterior which hides a lavish and ornamental interior, complete with the finest stained glass, pews of rare Honduran mahogany, polished marble floors and beautifully detailed painted walls and ceilings. The synagogue is home to a working original Murray M. Harris Company organ. Harris was the pioneer Los Angeles organ builder who is generally regarded as ''the Father of Organbuilding in the West.'' The chapel also contains Congregation Sherith Israel's original Holy Ark, built in 1970.

The blue-grey dome of the synagogue, taller than the dome of San Francisco City Hall, is touted as one of the highest in the city. The dome, visible from many vistas around San Francisco, is a wonderful reminder of this building's history and importance to San Francisco. Congregation Sherith Israel's sanctuary building also continues to represent the spiritual strength, diversity and pioneer spirit of San Francisco's Jewish community. A hallmark of Reform Judaism is ''tikkun olam,'' or repairing the world, a desire to bring peace, freedom, and justice to all people. Congregation Sherith Israel is a wonderful example of tikkun olam in the San Francisco Bay Area.

I am very pleased to recognize this beautiful and historic building. I hope the people of San Francisco and the members of Congregation Sherith Israel continue to enjoy this building for many more years.●

IN HONOR OF DR. FELIX G. SHEEHAN

● Mr. DODD. Mr. President, I rise to speak in honor of Dr. Felix G. Sheehan, of Middletown, CT. Next week, on March 13, 2004, Dr. Sheehan will be receiving the ''Irish Person of the Year'' award from the Middletown division of the Ancient Order of Hibernians, the oldest and largest Irish Catholic society in the United States.

Dr. Sheehan retired 2 years ago after 47 years in the medical practice. As a doctor, he was, in so many ways, a treasure from a bygone era. Even as health care became more and more of a business, and even as Americans increasingly dealt with the complicated world of copayments, referrals, and coverage networks, Dr. Sheehan was a doctor who built lifelong relationships with his patients and made house calls at all hours of the day and night.

His tremendous dedication, warmth, and kind spirit are legendary in Middletown, where many of his patients became just as devoted to him as he was to them. One of those patients described him as ''the best doctor in the world.''

Dr. Sheehan was born in Belfast and came to America with his family at the age of 6. He served his new country in the Pacific during World War II. During his service, he had an experience that would change his life—and the lives of many others. While stationed aboard the USS *Wasp*, he was asked one day to help out a nurse who was having trouble treating a patient. It was then that he first realized that medicine would be his calling.

After attending college at St. John's University in New York, Felix Sheehan spent the next 5 years in his native Belfast earning his medical degree from Queen's University. It was happenstance, he says, that he found Connecticut. But after seeing the slogan on Middlesex Hospital that read, ''Caring and Kindness Always, All Ways,'' he knew that Middletown would be his home. Because although that motto belonged to the hospital, it could have easily been written to describe Felix Sheehan.

To Felix Sheehan, being a doctor meant so much more than examining patients and prescribing medicines. He offered complimentary medical services to local parochial schools. He took on needy patients free of charge. He hosted a wedding for one of his employees who couldn't afford it. He retained legal counsel for the child of one of his patients. And as his own career drew to a close, he served as a mentor and role model to young doctors entering the profession.

From the day he took up his practice until the day he retired, Dr. Sheehan gave so much of himself to so many people. In the words of his daughter Laureen, ''in a very real and special sense, he was more than a physician—he was and is a healer.''

From one Irishman to another, I offer my warmest congratulations to Dr. Sheehan on the honor he will receive next week. I wish him, his wife Marie, and their children many more happy years together.●

HONORING THE JOHN EHRET HIGH SCHOOL

● Ms. LANDRIEU. Mr. President, from May 1–3, 2004 more than 1,200 students from across the United States will visit Washington, D.C. to take part in the national finals of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed specifically to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from John Ehret High School from Marrero will represent the State of Louisiana in this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

The 3-day We the People National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of adult judges while they evaluate and defend positions on relevant historical and contemporary issues. Their testimony is followed by questions designed to probe the students' depth of understanding and ability to apply their constitutional knowledge. Columnist David Broder once described this annual competition as ''the place to come to have your faith in the younger generation restored.''

Most recently, the We the People program was highlighted at two national conferences held in 2003: the White House Forum on American History, Civics, and Service, and the first annual Congressional Conference on Civic Education. Evaluations and independent studies have validated the effectiveness of the We the People program on students' civic knowledge and attitudes. This innovative civic education program continues to be one of the best antidotes to apathy and cynicism in our Nation.

I wish these students the best of luck at the We the People national finals and applaud their achievement. We should all be proud that they are learning and advocating the fundamental ideals that identify us as a people and bind us together as a Nation.●

CELEBRATING THE 25TH ANNIVERSARY OF THE MARIN COUNTY CIVIC CENTER VOLUNTEERS PROGRAM

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the 25th anniversary of the Marin County Civic Center Volunteers program.

In 1979, the Civic Center Volunteers program (CCV) was established to help Marin County maintain its excellent public services by providing local government agencies with volunteers from the community.

During CCV's 25 years of service, over 10,000 volunteers have contributed countless hours of their time. Their

work translates into the equivalent of providing over $60 million in services to Marin County's local government agencies. CCV provides a unique service by bringing energetic volunteers with a community perspective into almost all aspects of Marin's county government. By involving the local community, the county is able to run its programs more efficiently and with broader community involvement.

CCV has succeeded in enhancing civic participation by Marin County residents in their local government. Civic Center volunteers become advocates for the community by becoming a part of the governmental process. Over the years, programs that were initially started by volunteers, such as the Consumer Mediation Unit and Job Coach, have become a part of the county's regular services.

As one of the Nation's first centralized county volunteer programs, CCV has received numerous awards and accolades, including the United States Congress Achievement Award and the National Association of Counties' ''Acts of Caring'' Award for Public Education and Information. The CCV program has been successfully used as a model for volunteerism in local governments, both nationally and internationally.

For 25 years, the Marin County Civic Center Volunteers program has served as a national model for civic leadership. CCV's dedication to the community is inspiring and impressive. I congratulate the Marin County Civic Center Volunteers on their 25th anniversary and wish them another 25 years of success.●

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.)

REPORT RELATIVE TO MODIFYING DUTY-FREE TREATMENT UNDER THE GENERALIZED SYSTEM OF PREFERENCES—PM 68

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Consistent with section 502(f) of the Trade act of 1974, as amended (the ''Act''), I am writing to inform you of my intent to designate Algeria as a beneficiary developing country and to terminate the designation of Antigua and Barbuda, Barbados, Behrain, the Czech Republic, Estonia, Hungary, Lativia, Lithuania, Poland, and Slovakia as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

I have considered the criteria set forth in sections 501 and 502 of the Act. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Algeria. I have also determined that Antigua and Barbuda, Barbados, and Bahrain have become ''high income'' countries, and I therefore terminate their designation as beneficiary developing countries effective January 1, 2006. Furthermore, consistent with the Act's prohibition on designation of European Union member states as beneficiary developing countries, I am terminating such designation for the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia when they become European Union member states.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 1, 2004.*

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. MILLER (for himself, Mr. CHAMBLISS, and Mr. DEWINE):

S. 2152. A bill to amend title 10, United States Code, to provide eligibility for reduced non-regular service military retired pay before age 60, and for other purposes; to the Committee on Armed Services.

By Mr. EDWARDS:

S. 2153. A bill to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, and Mr. CONRAD):

S. 2154. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 2155. A bill to amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 2156. A bill to amend title II of the Higher Education Act of 1965 to enhance teacher training programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS (for himself, Mr. COLEMAN, Ms. CANTWELL, Mr. WYDEN, Mr. ROCKEFELLER, Mr. BREAUX, Mr. INOUYE, Mr. CARPER, Mr. BINGAMAN, Mr. CORZINE, Mr. BAYH, Mrs. CLINTON, Ms. LANDRIEU, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mrs. BOXER, and Mr. REID):

S. 2157. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. WARNER, Mr. BINGAMAN, Mr. ALLEN, Mr. FEINGOLD, Mr. COCHRAN, Mr. LAUTENBERG, Mr. HAGEL, Mr. REED, Mr. SMITH, Mr. ENSIGN, and Mr. DEWINE):

S. 2158. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. EDWARDS:

S. Res. 307. A resolution honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. BREAUX, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 412

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 412, a bill to amend the Balanced Budge Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

S. 491

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 595

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S . 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 633

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 633, a bill to modify

the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 683

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse , son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 750

At the request of Mr. MCCAIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 750, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 822

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 822, a bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans.

S. 846

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 1020

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1020, a bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

S. 1021

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1021, a bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1138

At the request of Mr. COLEMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1138, a bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

S. 1143

At the request of Mrs. HUTCHISON, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1255

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1255, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1523

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1523, a bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental impairment or an adult dependent for care with a physical or mental impairment.

S. 1554

At the request of Mrs. MURRAY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1554, a bill to provide for secondary school reform, and for other purposes.

S. 1595

At the request of Mr. KERRY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 2076

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2090

At the request of Mr. DASCHLE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S. 2127

At the request of Mr. LUGAR, the name of the Senator from Nebraska

(Mr. HAGEL) was added as a cosponsor of S. 2127, a bill to build operational readiness in civilian agencies, and for other purposes.

S. 2143

At the request of Mr. DURBIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2143, a bill to extend trade adjustment assistance to service workers.

S. 2146

At the request of Ms. LANDRIEU, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2146, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 1 , a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, and Mr. CONRAD):

S. 2154. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

Mr. DORGAN. Mr. President, I rise today to offer a bipartisan piece of legislation. As I will describe, this bill seeks to fill a gaping hole in our criminal justice system, made tragically evident by a recent tragedy in North Dakota.

Last November, Dru Sjodin, a student at the University of North Dakota, was abducted in the parking lot of a Grand Forks shopping mall. A suspect has been arrested, and there is significant evidence that he was responsible for Dru's abduction. Dru has not been found.

The tragedy of Dru's abduction is compounded by the fact that her alleged assailant, Alfonso Rodriguez, Jr., had been released from prison only six months earlier, having served a 23-year sentence for rape in Minnesota. And what's more, Minnesota authorities had known that he was at high risk of committing another sexual assault if released.

The Minnesota Department of Corrections had rated Rodriguez as a ''type 3'' offender—meaning that he was at the highest risk for reoffending. In an evaluation conducted in January 2003, a prison psychiatrist wrote that Rodriguez had demonstrated ''a willingness to use substantial force, including the use of a weapon, in order to gain compliance from his victims.''

Despite this determination, the Minnesota Department of Corrections released Rodriguez in May 2003, and essentially washed its hands of the case. Since Rodriguez had served the full term of his sentence, the Department of Corrections imposed no further supervision on him at all.

Now, the Minnesota Department of Corrections could have recommended that the State Attorney General seek what is known as a ''civil commitment.'' Under this procedure, a State court would have required Rodriguez to be confined as long as he posed a sufficient threat to the public, even if he had served his original sentence. But the State Attorney General was never notified that Rodriguez was getting out, and there was no chance for the Minnesota courts to consider the case.

So upon his release, Mr. Rodriguez went to live in Crookston, MN, completely unsupervised, a short distance from the Grand Forks shopping mall where Dru Sjodin was abducted.

To make matters worse, the North Dakota public had no way of knowing that Rodriguez had been released. There is currently no national sex offender registry. Each State has its own sex offender registry, which tracks only its own residents. So although Minnesota listed Rodriguez in its sex offender registry, residents of North Dakota checking their own State's sex offender registry would have no way of knowing this.

For all intents and purposes, Rodriguez was free to prey on nearby communities in North Dakota, without fear of recognition.

This situation is unacceptable. We must do better. A recent study found that 72 percent of ''highest risk'' sexual offenders reoffend within 6 years of being released. And the Bureau of Justice Statistics has determined that sex offenders released from prison are over ten times more likely to be arrested for a sexual crime than individuals who have no record of sexual assault. We cannot just release such individuals with no supervision whatsoever, and let them prey upon an unsuspecting public.

Today, I am offering legislation to that will hopefully ensure that these breakdowns in our criminal justice system do not reoccur, and that will give our citizens the tools to better protect themselves from sexual offenders.

This bill, which is co-sponsored by Senators DAYTON, COLEMAN, and CONRAD, does the following three things: First, it directs the Department of Justice to create and manage a national sex offender registry, which would be accessible to the general public through the Internet. This database would allow users of the registry to specify a search radius across State lines. This will give residents in the many states that have large population centers close to State lines, like North Dakota and Minnesota, a much more meaningful report on nearby sexual offenders.

Second, to try to ensure that the highest risk sex offenders are not released at all, the bill requires that States provide automatic and timely notification to their States attorneys of the planned release of any ''high-risk'' sex offender, so that states attorneys can have a chance to determine whether to seek a civil commitment of that offender.

And third, the bill requires intensive State supervision of ''high-risk'' sex offenders released after serving their full sentence—that is, offenders who would otherwise go unsupervised—for a period of no less than one year.

The cost of these steps would be shared by the Federal Government and the States. The Federal Government would bear the cost of maintaining the national sex offender registry, and the States would bear the cost of supervising high risk offenders upon their release from prison.

To ensure compliance with these measures, the legislation would reduce Federal funding for prison construction by 25 percent for those states that did not comply, and would reallocate such funds to States that do comply with those provisions. This will be the ''stick'' that some States may need to ensure that they comply with these important protections.

Our thoughts and prayers go to Dru Sjodin's family. I cannot guarantee that that passage of the legislation we are introducing today will prevent such tragedies from ever occurring again. But I believe that it will be a significant step towards making our neighborhoods safer for our loved ones.

I look forward to working with my colleagues, on a bipartisan basis, to secure passage of this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2154

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 ''National Sex Offender Registry Act of 2004''.

SEC. 2. DEFINITION.

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term ''criminal offense against a victim who is a minor'' has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) MINIMALLY SUFFICIENT SEXUAL OFFENDER REGISTRATION PROGRAM.—The term ''minimally sufficient sexual offender registration program'' has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) SEXUALLY VIOLENT OFFENSE.—The term ''sexually violent offense'' has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) SEXUALLY VIOLENT PREDATOR.—The term ''sexually violent predator'' has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

SEC. 3. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Attorney General shall establish a National sex offender registry that—

(1) makes publicly available, via the Internet, all information required to be submitted by States to the Attorney General under subsection (b); and

(2) allows for users of the registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the registry, of the location indicated by the user of the registry.

(b) INFORMATION FROM STATES.—

(1) IN GENERAL.—If any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, is required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14017(b)), that State shall submit to the Attorney General—

(A) the name and any known aliases of the person;

(B) the date of birth of the person;

(C) the current address of the person and any subsequent changes of that address;

(D) a physical description and current photograph of the person;

(E) the nature of and date of commission of the offense by the person; and

(F) the date on which the person is released from prison, or placed on parole, supervised release, or probation.

(2) STATES WITHOUT REGISTRATION PROGRAM.—The Federal Bureau of Investigation shall collect from any person required to register under section 170102(c) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(b)) the information required under paragraph (1), and submit that information to the Attorney General for inclusion in the National sex offender registry established under section 2.

SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) CIVIL COMMITMENT PROCEEDINGS.—

(1) IN GENERAL.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) REVIEW.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) MONITORING OF RELEASED PERSONS.—

(1) IN GENERAL.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

SEC. 5. COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of sections 3 and 4.

(b) INELIGIBILITY FOR FUNDS.—A State that fails to submit the information required under section 3(b) to the Attorney General, or fails to implement the requirements of section 4, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(c) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with sections 3 and 4.

By Ms. SNOWE:

S. 2156. A bill to amend title II of the Higher Education Act of 1965 to enhance teacher training programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce legislation, the ''Community College Teacher Preparation Enhancement Act of 2004,'' which addresses two of the Nation's most pressing education needs: first, the projected demand for roughly 2.4 million new 'highly qualified' teachers over the next decade, due to teacher attrition, teacher retirement, and a growing student population, and second, the requirement under the No Child Left Behind Act that all teachers be 'highly qualified' by 2006. This is an enormous challenge for the Nation, but one that this legislation would take giant strides toward meeting.

Our Nation's colleges and universities have done a wonderful job graduating highly qualified teachers. There is no question about this, but given the coming teacher shortages, it is unlikely that our four-year colleges and universities, alone, will be sufficient to satisfy the rising demand for well-educated teachers. Certainly, and sadly, this will simply not be possible in the near term. Yet throughout the educational community, community colleges have come to be recognized for their potential to play a leading role in filling the looming teacher shortage. Community colleges are already a vital part of our higher education system, particularly in producing teachers. Nearly half of all of the country's undergraduates who enter post-secondary institutions began their studies at community colleges. Of the country's teachers, one in five began their education at a community college. Clearly, community colleges are already a great resource.

In addition to their current role, community colleges have access to a vast population of students who could potentially become teachers, if given encouragement, opportunity and training. The Nation's 1200 community colleges enroll more than 6 million students. Let me put that in perspective. That means that 44 percent of the Nation's undergraduates are enrolled in community colleges! It's not difficult to see that community colleges have the unique potential to assist the country in meeting its increased demand for high-quality teachers. Now let me tell you how this legislation would utilize this resource for the benefit of both our children and our future.

This bill seeks to build strong teacher training networks by allowing us to tap the extraordinary resources and student pool at all post-secondary levels to increase the number of teachers across the nation. This is accomplished through the establishment of a Department of Education grant program to award funding to applicants who will strengthen their teacher training systems.

Four-year institutions can offer the community college population access to their established and recognized curriculum of teacher training courses. Four-year institutions that have already established relationships with schools can offer practical learning to community college students who are seeking a teaching degree, and can receive federal money to help implement these programs.

Moreover, by promoting close collaboration between community colleges and four-year institutions, this legislation increases the opportunity for community college students to earn a baccalaureate degree in education. This would help the Nation keep pace with the demand for high-quality teachers that is due—in addition to the demographic changes I mentioned earlier—to requirements of the No Child Left Behind Act, most notably the mandate that all new teachers have at least a baccalaureate degree.

While this legislation aims to prevent a shortage of teachers nationwide, it prioritizes teacher preparation in areas of extreme shortage, typically rural and urban areas. Further, it targets specific academic areas that face even greater shortages, such as mathematics, science, and special education.

The Community College Teacher Preparation Enhancement Act also promotes teacher training and outreach to secondary schools to develop innovative approaches to attracting

high school students into the teaching profession.

Finally, recognizing that teacher shortage is not a regional problem, care will be taken to ensure that grants are distributed in a geographically diverse manner.

This legislation addresses a pressing issue. School districts across the nation are struggling to meet the requirements of No Child Left Behind, and delaying assistance would only compound the problem as shortages of qualified teachers increase. This was not the intent of No Child Left Behind, but idleness on this issue will surely leave a devastating shortage of quality educators for our children. It is time to act, and this legislation offers us a tremendous opportunity to send a clear and overdue signal to states that we intend to be true to this landmark legislation's title.

I look forward to working on this issue and urge my colleagues to join me in this effort.

By Mr. BAUCUS (for himself, Mr. COLEMAN, Ms. CANTWELL, Mr. WYDEN, Mr. ROCKEFELLER, Mr. BREAUX, Mr. INOUYE, Mr. CARPER, Mr. BINGAMAN, Mr. CORZINE, Mr. BAYH, Mrs. CLINTON, Ms. LANDRIEU, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mrs. BOXER, and Mr. REID):

S. 2157. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance Equity for Service Workers Act.

Since 1962, Trade Adjustment Assistance—what we call ''TAA''—has provided retraining, income support, and other benefits so that workers who lose their jobs due to trade can make a new start.

The rationale for TAA is simple. When our government pursues trade liberalization, we create benefits for the economy as a whole. But there is always some dislocation from trade.

As President Kennedy said, ''those injured by . . . trade competition should not be required to bear the full brunt of the impact.'' ''There is an obligation,'' he said, for the Federal Government ''to render assistance to those who suffer as a result of national trade policy.'' We meet that obligation through TAA.

The TAA program has not been static over time. Several times, Congress has revised the program to meet new economic realities. In 1993, for example, Congress created a new TAA program targeted specifically at workers who might suffer dislocation as a result of the North American Free Trade Agreement.

Most recently, in the Trade Act of 2002, Congress completed the most comprehensive overhaul and expansion of the TAA program since its inception.

We expanded the program to cover workers affected by shifts in production, secondary workers, and farmers, ranchers, and fishermen. We extended income support to permit workers to complete needed training.

We added wage insurance and other incentives to employers to promote on-the-job training. And we added a health insurance tax credit, so that workers don't need to choose between needed retraining and health care for their families.

I am very proud to have played a leading role in passing this landmark legislation. But I am also the first to admit that our work is not done. Economic realities continue to change, and TAA must continue to change with them.

One fundamental aspect of TAA that has remained unchanged since 1962 is its focus on manufacturing. We only give TAA benefits to workers who make things. That means that the 80 percent or more of American workers in the service sector cannot access this program.

Excluding service workers from TAA may have made sense in 1962, when most non-farm jobs were in manufacturing and most services were not traded across national borders.

But today, most U.S. jobs are in the service sector. And the market for many services is becoming just as global as the market for manufactured goods.

In 2001, the service sector accounted for 81 percent of U.S. private sector gross domestic product and a similar percentage of total U.S. employment. Although trade in goods continues to dominate, cross-border services trade rose to 21 percent of the total value of U.S. trade in 2001.

Trade in services is a net plus for the U.S. economy. In fact, the service sector generated a trade surplus of nearly $74 billion in 2001.

Just as we have seen with trade in manufactured goods, however, trade in services will inevitably cost some workers their jobs.

Indeed, there have been some well-publicized examples in the papers. Software design. Technical support. Accounting and tax preparation services. Just recently, a group of call center workers in Kalispell, Montana saw their jobs move to Canada.

Examples abound of service-sector jobs—even high tech service jobs—relocating overseas. Over the past three years, somewhere between a quarter and a half million service jobs have moved to other—mainly low-wage—countries.

The legislation that I am introducing today is a simple matter of equity. When a factory relocates to another country, those workers are eligible for TAA. When a call center moves to another country, those workers are not eligible for TAA. But they should be. And under this legislation they will.

This bill provides TAA benefits to three categories of trade-impacted service workers:

First, it covers workers who lose their jobs due to competition from imported services. For example, if a U.S. truck driver loses his job because his employer loses routes to a Mexican-domiciled trucking company, the U.S. driver would be eligible for TAA.

Second, it covers workers who lose their jobs when a service facility relocates overseas as, for example, in the case of a call center or software design operation.

These workers would be eligible if their employer opens an overseas facility, or—as is often the case—if the employer contracts out the jobs to a foreign service provider. This ''offshoring'' eligibility would apply to both private and public sector service workers whose jobs relocate overseas.

Third, the bill covers secondary service workers. Secondary workers are those who provide inputs to a primary firm where the workers are eligible for TAA.

Right now, workers who make parts for manufactured products are covered if they lose their jobs when the primary firm closes. But workers who supply services to a TAA-eligible firm do not. This bill corrects that inequity.

The benefits service workers will receive under this legislation would be exactly the same as those that trade-impacted manufacturing workers now receive. They include retraining, income support, job search and relocation allowances, and the health insurance tax credit.

The bill also expands the TAA for Firms program to cover services. The TAA for Firms program provides technical assistance to mostly small and medium-sized businesses that face layoffs due to import competition.

The program helps firms become more competitive so they can retain and expand employment. As with TAA for workers, there is no reason to exclude businesses that provide services from this program.

Hard-working American service workers deserve this safety net. Despite what some opponents of TAA suggest, no worker would choose to lose his job so he can qualify for TAA. These benefits will always be second best to a job. But they can really make a difference in helping workers make a new start.

It is also critical to note that TAA can make an important difference in public attitudes. Surveys show that most Americans feel a lot more comfortable with globalization and with trade agreements when they know they will get help if their jobs are threatened.

That's why 66 percent of Americans responding to a recent poll agreed with the following statement: ''I favor free trade, and I believe that it is necessary for the government to have programs to help workers who lose their jobs.''

The world is changing and TAA must keep up with the times. This bill will

help our government to keep its promise to the American people to make trade work for everyone.

I want to thank my colleagues who have joined me in co-sponsoring this important legislation, particularly Senator COLEMAN. I've also been working closely with Members in the House, including Representatives SMITH, HOLDEN, INSLEE, RANGEL, and LEVIN.

I know they share my interest in seeing this bill move quickly through the legislative process and I thank them for their support. I plan to work hard this year to move this legislation.

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. 2157

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 ''Trade Adjustment Assistance Equity For Service Workers Act of 2004''.

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided'';

(ii) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(iii) by adding after subparagraph (B) the following:

''(C)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, in provision of services, like or directly competitive with services which are provided by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(B) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, for articles or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(C)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 3. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive services exist if customers of the firm accounting for not less than 20 percent of the sales of the firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The subpoena power described in section 249 shall be extended to the Secretary of Commerce for purposes of carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

(c) TECHNICAL AMENDMENTS.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2321) is amended by striking ''subpena'' and inserting ''subpoena'' each place it appears in the heading and the text.

SEC. 4. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity for Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. WARNER, Mr. BINGAMAN, Mr. ALLEN, Mr. FEINGOLD, Mr. COCHRAN, Mr. LAUTENBERG, Mr. HAGEL, Mr. REED, Mr. SMITH, Mr. ENSIGN, and Mr. DEWINE):

S. 2158. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Washington, Senator PATTY MURRAY, in introducing the Pancreatic Islet Cell Transplantation Act of 2004, which will help to advance tremendously important research that holds the promise of a cure for the more than one million Americans with Type 1, or juvenile diabetes. The legislation is similar to the bipartisan bill, S. 518, which we introduced last year and which attracted 52 cosponsors.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families as they await a cure. The burden of juvenile diabetes is particularly heavy for children and young people. It is the second most common disease affecting children. Moreover, it is one that they never outgrow.

In individuals with juvenile diabetes, the body's own immune system attacks the pancreas and destroys the islet cells that produce insulin. As a consequence, people with juvenile diabetes require daily insulin injections for survival. While the discovery of insulin was a landmark breakthrough in the treatment of people with diabetes, it is not a cure. People with juvenile diabetes face the constant threat of developing devastating, life-threatening conditions such as kidney failure, blindness or amputation, as well as a dramatic reduction in their quality of life.

Thankfully, there is good news for people with diabetes. We have seen some tremendous breakthroughs in diabetes research in recent years, and I am convinced that diabetes is a disease that can be cured, and will be cured in the near future.

We were all encouraged by the development of the ''Edmonton Protocol,'' an experimental treatment developed at the University of Alberta involving the transplantation of insulin-producing pancreatic islet cells, which has been hailed as the most important advance in diabetes research since the discovery of insulin in 1920. Pancreatic islet cell transplantation has been performed on nearly 300 individuals to date, and the majority of them no longer need to take insulin to stay alive. Significant research questions, however, remain to be answered if we are to make certain that the procedure is appropriate for everyone who suffers from juvenile diabetes.

There are also non-scientific barriers to expanding islet cell transplantation, and the Pancreatic Islet Cell Transplantation Act of 2004 addresses some of them. We were extremely pleased that a key component of S. 518 was included in the Medicare reform bill signed into law last year. That provision authorized a Medicare demonstration project to test the efficacy of pancreatic islet cell transplants for individuals with juvenile diabetes who are eligible for Medicare because they have end-stage renal disease.

The legislation we are introducing today includes the remaining two provisions from last year's legislation that were not included in the Medicare bill. These two provisions are intended to increase the supply of pancreata for islet cell transplantation and to improve the coordination of federal efforts and information regarding islet cell transplantation.

There currently are only about 2,000 pancreases donated annually, and, of these only about 500 are available each year for islet cell transplants. Moreover, most patients require islet cells from two pancreases for the procedure to work effectively. To increase the supply of available pancreases, our legislation will direct the Centers for Medicare and Medicaid Services (CMS) to grant credit to organ procurement organizations (OPOs)—for the purposes of their certification—for pancreases harvested and used for islet cell transplantation and research. While CMS considers a pancreas to have been procured for transplantation if it is used for a whole organ transplant, the OPO receives no credit towards its certification if the pancreas is procured and used for islet cell transplantation or research. Our legislation will therefore give the OPOs an incentive to step up their efforts to increase the supply of pancreases donated for this purpose.

Finally, to provide a more focused effort in the are of islet cell transplantation, our legislation requires the Diabetes Mellitus Interagency Coordinating Committee at the National Institutes of Health to include in its annual report an assessment of the Federal activities and programs related to islet cell transplantation and to make recommendations for legislative or administrative actions that might increase the supply of pancreases available for islet cell transplantation.

Islet cell transplantation offers real hope for people with diabetes. Our legislation, which is strongly supported by the Juvenile Diabetes Research Foundation (JDRF), addresses some of the specific obstacles to moving this research forward as rapidly as possible, and I urge all of my colleagues to sign on as cosponsors.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 307—HONORING THE COUNTY OF CUMBERLAND, NORTH CAROLINA, ITS MUNICIPALITIES AND COMMUNITY PARTNERS AS THEY CELEBRATE THE 250TH YEAR OF EXISTENCE OF CUMBERLAND COUNTY

Mr. EDWARDS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 307

Whereas for thousands of years before the European settlers arrived, Cumberland County's streams and forests were home to native peoples who lived in the area, hunted, farmed, and buried their dead;

Whereas Cumberland County, located at the head of navigation on the Cape Fear River, quickly became a strong area of trade between the port city of Wilmington and the lower Cape Fear River to the southeast and the Carolina back country to the west;

Whereas the upper Cape Fear Valley in present Cumberland County experienced an early migration of Highland Scots beginning in 1739, many of whom settled in the area known as ''The Bluff'' along side the Cape Fear River 4 miles south of the Lower Little River;

Whereas in 1754, the area known as Cumberland County was formed from lands carved from Bladen County and was named in honor of William Augustus, Duke of Cumberland, third son of George II, King of England, an area which reflected a mixture of ethnic and national backgrounds;

Whereas each municipality was individually chartered: Falcon in 1913; Fayetteville in 1762; Godwin in 1905; Hope Mills in 1891; Linden in 1913; Spring Lake in 1951; Stedman in 1913; and Wade in 1913;

Whereas on June 20, 1775, 13 months before the Declaration of Independence, a group of Cumberland County's active patriots signed ''The Association'' later called the ''Liberty Point Resolves'', a document that vowed to ''Go forth and be ready to sacrifice our lives and fortunes to secure her freedom and safety''; a marker at the point lists the signers of ''The Association'';

Whereas the period of the American Revolution was a time of divided loyalties in Cumberland County, and a considerable portion of the population, especially Highland Scots, were staunchly loyal to the British Crown, among them was the famous Scottish heroine Flora McDonald;

Whereas African-American people, both slaves and free citizens, were represented in the early population of Cumberland County, and during the American Revolution several of the county's free African-Americans fought for the patriot cause; among the notables was the midwife Aunt Hannah Mallet (1755–1857) who died at the age of 102; she delivered hundreds of babies in her lifetime, and she typified the courage and vital role of the early 19th-century African-American community;

Whereas in 1783, the towns of Campbellton and Cross Creek merged to become Fayetteville, the first town in the United States named in honor of the Revolutionary War hero, Marquis de Lafayette;

Whereas in November 1789, the North Carolina General Assembly voted to adopt and ratify the United States Constitution at the Market House in Fayetteville, then known as the State House;

Whereas in 1789, the University of North Carolina, the first State university charted

in the United States, was chartered by the North Carolina General Assembly in Fayetteville, it being the first State university;

Whereas in 1793, the Fayetteville Independent Light Infantry Company was organized in Cumberland County; it has the distinction of being the oldest military unit in the South in continuous existence;

Whereas in 1816, the Fayetteville Observer was founded as a weekly newspaper; it is now published daily and is North Carolina's oldest newspaper still in publication;

Whereas in 1825, the Marquis de Lafayette visited the city named for him and stayed in the McRae family home that once stood on the site of the Historic Courthouse on Gillespie Street in Fayetteville;

Whereas in 1831, the Great Fire destroyed the State House (the Market House) and many other buildings and caused more damage than the 1871 Chicago fire or the 1906 San Francisco earthquake;

Whereas in 1865, General William T. Sherman brought the Union Army to Cumberland County, destroying the Confederate arsenal and effectively bringing the county back into the Union;

Whereas in 1867, 7 visionary African-American citizens of Cumberland County paid about $136 for 2 lots on Gillespie Street and formed the self-perpetuating Board of Trustees of the Howard School for the education of African-American youth; this school later became Fayetteville State University (FSU), which now offers 41 undergraduate programs, 22 graduate programs, and 1 doctoral program; FSU has 18 Central Intercollegiate Athletic Association (CIAA) and 2 National Collegiate Athletic Association (NCAA) championships;

Whereas in 1914, Babe Ruth, the New York Yankee great, hit his first homerun as a professional at the old ballpark on Gillespie Street in Cumberland County, and in doing so, the 19-year-old ''babe'' so amazed the crowd, that George Herman Ruth was forever known by the nickname, ''Babe'', bestowed upon him while playing in Cumberland County;

Whereas in 1918, Camp Bragg was established from lands ceded from Cumberland County; it is now known as Fort Bragg, home of the 18th Airborne Corps, the 82d Airborne Division, and the United States Army Special Operations Command;

Whereas Fort Bragg was named for North Carolina native Lt. General Braxton Bragg; Fort Bragg soldiers and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas in 1919, Pope Army Airfield was established and remained part of the Army Air Corps until 1947 when the United States Air Force was established; it was home to the 43d Airlift Wing and the 18th Air Support Operations Group; Pope airmen and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas on November 1, 1956, Methodist College was chartered as a senior coeducational liberal arts college; it has grown to more than 2,100 students who hail from 48 States and 30 countries, graduated 8,145 students, and awarded associate's, bachelor's, or master's degrees in 57 majors and concentrations; Methodist College NCAA Division III athletic teams have earned 24 national championship titles;

Whereas in 1961, Fayetteville Technical Community College (FTCC) was founded as the Fayetteville Area Industrial Education Center, with a faculty and staff of 9 people serving 50 students, and has since evolved into a comprehensive institution serving approximately 40,000 students annually, offering more than 121 programs;

Whereas Cumberland County's 6th courthouse, circa 1924, which is listed on the National Register of Historic Places, is being established and dedicated, pursuant to the county's 250th anniversary, as a gallery of early prominent members of the local bar and elected county officials; and

Whereas Cumberland County and the municipalities of Falcon, Fayetteville, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade, along with civic groups, private businesses and military partners, are joining together to celebrate 250 years of history, culture, and diversity; the celebration will take place March 26–28, 2004: Now, therefore, be it

Resolved, That the Senate honors the county of Cumberland, North Carolina, its municipalities, and other community partners for Cumberland County's 250th Anniversary Celebration.

AMENDMENTS SUBMITTED & PROPOSED

SA 2636. Mr. MCCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

SA 2637. Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, Ms. MIKULSKI, and Mr. DURBIN) proposed an amendment to the bill S. 1805, supra.

TEXT OF AMENDMENTS

SA 2636. Mr. MCCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

TITLE II—GUN SHOW LOOPHOLE CLOSING ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''Gun Show Loophole Closing Act of 2004''.

SEC. 202. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(36) The term 'special firearms event'—

''(A) means any event at which 75 or more firearms are offered or exhibited for sale, exchange, or transfer, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce;

''(B) does not include an offer or exhibit of firearms for sale, exchange, or transfer by an individual from the personal collection of that individual, at the private residence of that individual, if the individual is not required to be licensed under section 923 or 932; and

''(C) does not include an offer or exhibit of firearms for sale, exchange, or transfer at events conducted and attended by permanent or annual dues paying members, and their immediate family, of private, not-for-profit organizations whose primary purpose is owning and maintaining real property for the purpose of hunting activities.

''(37) The term 'special firearms event licensee' means any person who has obtained and holds a valid license in compliance with section 932(d) and who is authorized to contact the national instant criminal background check system on behalf of another individual, who is not licensed under this chapter, for the purpose of conducting a background check for a potential firearms transfer at a special firearms event in accordance with section 932(c).

''(38) The term 'special firearms event vendor' means any person who is not required to be licensed under section 923 and who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a special firearms event, regardless of whether or not the person arranges with the special firearms event promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.''.

SEC. 203. REGULATION OF FIREARMS TRANSFERS AT SPECIAL FIREARMS EVENTS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 932. Regulation of firearms transfers at special firearms events

''(a) SPECIAL FIREARMS EVENTS OPERATORS.—It shall be unlawful for a special firearms events operator to organize, plan, promote, or operate a special firearms event unless that operator—

''(1) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, verifies the identity of each special firearms event vendor participating in the special firearms event by examining a valid identification document (as defined in section 1028(d)(2)) of the vendor containing a photograph of the vendor;

''(2) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, requires each special firearms event vendor to sign—

''(A) a ledger with identifying information concerning the vendor; and

''(B) a notice advising the vendor of the obligations of the vendor under this chapter;

''(3) notifies each person who attends the special firearms event of the requirements of this chapter; and

''(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the operator.

''(b) FEES.—The Attorney General shall not impose or collect any fee from special firearms event operators in connection with the requirements under this section.

''(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a special firearms event, or on the curtilage of the event, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee in accordance with subsection (d).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement under paragraph (1) shall not—

''(A) transfer the firearm to the transferee until the licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee through which the transfer is made makes the notification described in subsection (d)(2)(A); or

''(B) transfer the firearm to the transferee if the person has been notified under subsection (d)(2)(B) that the transfer would violate section 922 or State law.

''(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Attorney General to impose recordkeeping requirements on any nonlicensed special firearms event vendor.

''(d) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, licensed dealer, or special firearms event licensee who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) with respect to the transfer of a firearm shall—

''(1) except as provided in paragraph (2), comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor);

''(2) not later than 3 business days (meaning days on which State offices are open) after the date of the agreement to purchase, or if the event is held in a State that has been certified by the Attorney General under section 204 of the Gun Show Loophole Closing Act of 2004, not later than 24 hours after such date (or 3 business days after such date if additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General), notify the nonlicensed transferor and the nonlicensed transferee—

''(A) of any response from the national criminal background check system, or if the licensee has had no response from the national criminal background check system within the applicable time period under this paragraph, notify the nonlicensed transferor that no response has been received and that the transfer may proceed; and

''(B) of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or State law;

''(3) in the case of a transfer at 1 time or during any 5 consecutive business days, of 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the recordkeeping requirements described in paragraph (4), prepare a report of the multiple transfers, which report shall be—

''(A) on a form specified by the Attorney General; and

''(B) not later than the close of business on the date on which the multiple transfer occurs, forwarded to—

''(i) the office specified on the form described in subparagraph (A); and

''(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

''(4) comply with all recordkeeping requirements under this chapter.

''(e) SPECIAL FIREARMS EVENT LICENSE.—

''(1) IN GENERAL.—The Attorney General shall issue a special firearms event license to a person who submits an application for a special firearms event license in accordance with this subsection.

''(2) APPLICATION.—The application required by paragraph (1) shall be approved if—

''(A) the applicant is 21 years of age or older;

''(B) the application includes a photograph and the fingerprints of the applicant;

''(C) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under subsection (g) or (n) of section 922;

''(D) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

''(E) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with the application; and

''(F) the applicant certifies that—

''(i) the applicant meets the requirements of subparagraphs (A) through (D) of section 923(d)(1);

''(ii) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located; and

''(iii) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met.

''(3) APPLICATION AND APPROVAL.—

''(A) IN GENERAL.—Upon the approval of an application under this subsection and payment by the applicant of a fee of $200 for 3 years, and upon renewal of a valid registration and payment of a fee of $90 for 3 years, the Attorney General shall issue to the applicant an instant check registration, and advise the Attorney General of that registration.

''(B) NICS.—A special firearms event licensee may contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for information about any individual desiring to obtain a firearm at a special firearms event from any special firearms event vendor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of the firearm, during the 3-year period that begins on the date on which the registration is issued.

''(4) REQUIREMENTS.—The requirements for a special firearms event licensee shall not exceed the requirements for a licensed dealer and the recordkeeping requirements shall be the same.

''(5) RESTRICTIONS.—

''(A) BACKGROUND CHECKS.—A special firearms event licensee may have access to the national instant criminal background check system to conduct a background check only at a special firearms event and only on behalf of another person.

''(B) TRANSFER OF FIREARMS.—A special firearms event licensee shall not transfer a firearm at a special firearms event.

''(f) DEFINED TERM.—In this section, the term 'firearm transaction'—

''(1) includes the sale, offer for sale, transfer, or exchange of a firearm; and

''(2) does not include—

''(A) the mere exhibition of a firearm; or

''(B) the sale, transfer, or exchange of firearms between immediate family members, including parents, children, siblings, grandparents, and grandchildren.''.

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(8)(A) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(1) have not been met—

''(i) shall be fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, shall be fined under this title, imprisoned not more than 5 years, or both.

''(B) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under subsection (a)(2) or (c) of section 932 have not been met, shall be fined under this title, imprisoned not more than 5 years, or both.

''(C) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(3) have not been met, shall be fined under this title, imprisoned not more than 2 years, or both.

''(D) In addition to any other penalties imposed under this paragraph, the Attorney General may, with respect to any person who violates any provision of section 932—

''(i) if the person is registered pursuant to section 932(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 932(a); and

''(ii) impose a civil fine in an amount equal to not more than $10,000.''.

(c) UNLAWFUL ACTS.—Section 922(b) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking ''or licensed collector'' and inserting ''licensed collector, or special firearms event licensee''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 44 of title 18, United States Code, is amended in the chapter analysis, by adding at the end the following:

''932. Regulation of firearms transfers at special firearms events.''.

SEC. 204. STATE OPTION FOR 24-HOUR BACKGROUND CHECKS AT SPECIAL FIREARMS EVENTS FOR STATES WITH COMPUTERIZED DISQUALIFYING RECORDS.

(a) IN GENERAL.—Effective 3 years after the date of enactment of this Act, a State may apply to the Attorney General for certification of the 24-hour verification authority of that State.

(b) CERTIFICATION.—The Attorney General shall certify a State for 24-hour verification authority only upon a clear showing by the State, and certification by the Bureau of Justice Statistics, that—

(1) not less than 95 percent of all records containing information that would disqualify an individual under subsections (g) and (n) of section 922 of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(2) not less than 95 percent of all records containing information that would disqualify an individual under paragraphs (8) and (9) of subsection 922(g) of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act (18 U.S.C. 922 note); and

(3) the chief judicial officer of the State requires the courts of the State to use the toll-free telephone number described in subsection (d)(1) to immediately notify the National Instant Criminal Background Check System each time a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court.

(c) CLARIFICATIONS.—

(1) DISQUALIFYING INFORMATION.—Disqualifying information for each State under subsection (b) shall include the disqualifying records for that State generated during the 30 years preceding the date of application to the Attorney General for certification.

(2) TOLL-FREE TELEPHONE NUMBER.—Upon a showing by the State that a court of the State has developed computer systems which permit the court to immediately electronically notify the National Instant Criminal Background Check System with respect to the issuance or lifting of restraining orders, the use of the toll-free telephone number described in subsection (d)(1) shall no longer be required under subsection (b)(3).

(d) NOTIFICATION INFRASTRUCTURE.—Before certifying any State under subsection (b), the Attorney General shall—

(1) create a toll-free telephone number through which State and local courts may immediately notify the National Instant Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court; and

(2) encourage States to develop computer systems that permit courts to immediately electronically notify the National Instant Criminal Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) has been issued, lifted, or otherwise removed by order of the court.

(e) 24-HOUR PROVISION.—Upon certification by the Attorney General, the 24-hour provision in section 932(c)(2) of title 18, United States Code, shall apply to the verification process (for transfers between unlicensed persons) in that State unless additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General, in which case the 3 business day limit shall apply.

(f) ANNUAL REVIEW.—The Director of the Bureau of Justice Statistics shall annually review the certifications under this section.

(g) REVOCATION.—The Attorney General shall revoke the certification required under this section for any State that is not in compliance with subsection (b).

SEC. 205. INSPECTION AUTHORITY.

Section 923(g)(1)(B), of title 18, United States Code, is amended by striking ''or licensed dealer'' and inserting ''licensed dealer, or special firearms event operator''.

SEC. 206. INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.

Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

''(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, licensed collector, or special firearms event licensee who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

''(B) If the violation described in subparagraph (A) is in relation to an offense—

''(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

''(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 207. INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.

Section 924(a) of title 18, United States Code, as amended by section 203(b), is further amended—

(1) in paragraph (5), by striking ''subsection (s) or (t) of section 922'' and inserting ''section 922(s)''; and

(2) by adding at the end the following:

''(9) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. 208. RULE OF INTERPRETATION.

A provision of State law is not inconsistent with this title or an amendment made by this title if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this title or an amendment made by this title.

SEC. 209. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

SA 2637. Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, Ms. MIKULSKI, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. ASSAULT WEAPONS BAN REAUTHORIZATION.

(a) SHORT TITLE.—This section may be cited as the ''Assault Weapons Ban Reauthorization Act of 2004''.

(b) 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.—Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

''SEC. 110105. SUNSET PROVISION.

''This subtitle and the amendments made by this subtitle are repealed September 13, 2014.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 3, 2004, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on the Committees Views and Estimate Letter on the President's FY '05 Budget Request for Indian Programs, to be followed immediately by an oversight hearing on the Status of the Completion of the National Museum of The American Indian.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

ENERGY AND NATURAL RESOURCES COMMITTEE

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 9th, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony regarding water supply issues in the arid West.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information please contact Shelly Randel at 202–224–7933 or Colin Hayes at 202–224–0883.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 10, 2004, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Proposed Reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Wednesday, March 10, 2004, to examine the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

For further information concerning this meeting, please contact Susan Wells at 202–224–6352.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 11, 2004, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Sue Ellen Wooldridge, to be Solicitor of the Department of the Interior.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224–1327.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 24, 2004, at 9:30 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1529, the Indian Gaming Regulatory Act Amendments of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public

that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 25, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1085, a bill to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and for other purposes and S. 1732 a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information, please contact Shelly Randel at 202–224–7933, Erik Webb at 202–224–4756 or Colin Hayes at 202–224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 2, 2004, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for Fiscal Year 2005 and the Future Years Defense Program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m., to consider the President's Proposed FY 2005 Budget for the Forest Service.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 9 a.m., to hold a hearing on foreign assistance oversight.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 3 p.m., to hold a hearing on North Korea.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m., to conduct a hearing on ''Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, for a hearing on the final report of the Department of Veterans' Affairs Capital Asset Re-alignment for Enhanced Services (CARES) Commission.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:15 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 2, 2004, at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE AND INFRASTRUCTURE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on The Rise of Obesity in Children on Tuesday, March 2, 2004, at 2:30 p.m. in SR–253.

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

SUBCOMMITTEE ON PERSONNEL

Mr. CRAIG. 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 March 2, 2004, at 2:30 p.m. in open session to receive testimony on Active Component, Reserve Component and Civilian Personnel Programs, in review of the Defense Authorization Request for Fiscal Year 2005.

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

SUBCOMMITTEE ON SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on Suicide Prevention and Youth: Saving Lives, during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 108–199, Section 104(c), 1(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: Dr. Stevan Trooboff of Portland, Maine.

ORDERS FOR WEDNESDAY, MARCH 3, 2004

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, March 3. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then begin a period for morning business until 10:30 a.m., with the time equally divided in the usual form, provided that the time under Republican control be equally divided between Senators MURKOWSKI and COLLINS or their designees.

Mr. REID. No objection. We have already done the other paragraph.

Mr. KYL. All right. I thank the Senator.

Mr. REID. It is my understanding we already have an order to go to S. 1637 at 10:30 in the morning.

The PRESIDING OFFICER. The Senator from Nevada is correct. Without objection, the unanimous consent request of the Senator from Arizona is agreed to.

PROGRAM

Mr. KYL. Tomorrow morning, following morning business, the Senate will begin consideration of S. 1637, the FSC/ETI bill. This legislation will have a direct impact on the creation of jobs and it is important that we move the bill forward. I make this statement on behalf of the majority leader and point out he and others have been working with our Democratic colleagues to lock in a list of amendments to the bill. Thus far, as the leader points out, we have not been able to limit the number of amendments, but we will continue to work toward that end. Senators GRASSLEY and BAUCUS will be here in the morning to start working through the amendments to the bill. The leader would encourage all Members who wish to offer an amendment to contact the bill managers as soon as possible.

The leader would also inform all Senators that votes are expected throughout the day tomorrow as we begin consideration of this important legislation, and Senators will be notified as votes are scheduled.

ORDER FOR ADJOURNMENT

Mr. KYL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Members of the other side of the aisle as under the earlier order.

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

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I express my appreciation to my friend, the Senator from Arizona, for the dignified manner in which the debate was conducted today. We feel that certainly it has been fair. I now ask unanimous consent that on the Democratic side there be 5 minutes for Senator REID from Nevada, 15 minutes for Senator LEVIN, 30 minutes for Senator REED of Rhode Island, 30 minutes for Senator GRAHAM of Florida, and 20 minutes for Senator DAYTON.

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

CAMPAIGNING ON THE ISSUES

Mr. REID. Mr. President, there has been some conversation today about statements made by people running for President on the Democratic side. Today, we had the person who appears to be the frontrunner for the nomination at this time, Senator KERRY of Massachusetts, who came and spoke before the Senate. He did an extremely good job of articulating his feelings of the legislation pending before the Senate. At the same time, he also outlined in a very brief fashion those things he thought were wrong, in his view, as far as what was going on in America today.

I want the majority to know as the election proceeds toward November, we in the Senate are going to do everything within our power to protect our nominee. By that I mean anything that is said outside this Capitol or inside this Capitol that reflects upon our nominee we are going to be on this floor defending him.

We believe the issues are on our side, that they favor us, and we want this campaign to be on the issues.

What has transpired during this Presidential primary season has been extremely important and good for the American people because the Democratic candidates running for President have been able to place their views on the record, and the American people have accepted what they have said about what is wrong with this country.

There have been debates—I do not know the number of them but a significant number of debates—where the American people have been able to hear how those seeking the Democratic nomination feel about our country. I want again to say whoever our nominee is, that person is going to get all the protection that is needed in the Senate. There will be nothing said that is negative toward our candidate that will not be responded to.

We feel we have had a primary season conducted with dignity and we are going to do everything we can to make sure the final months of this campaign are conducted with dignity as far as the Democratic nominee is concerned.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized.

IRAQ INTELLIGENCE

Mr. LEVIN. Mr. President, the question of whether or not the intelligence was flawed which was used so forcefully by the administration prior to going to war as the reason for going to war is a question which is going to consume the time of this body and a number of our committees for some time to come. It is a critically important question as to whether or not the intelligence was flawed, not just in terms of the accountability—which is so important if mistakes were made, if exaggerations were undertaken in order to advance the decision to go to war—but also in terms of the future security of this Nation.

This country went to war, we were told, because Iraq had weapons of mass destruction. That was the reason that was given over and over again by the administration. Whether or not there were other reasons, and there surely were, for that decision, which could be argued as a basis for the decision, the facts are that the American people were told it was the presence in Iraq of weapons of mass destruction which was the basis for attacking that country.

When a decision is made to go to war based on intelligence, it is a fateful decision. It has ramifications and impacts way beyond the current months and years. If the intelligence is as flawed as this intelligence was, we should find out why.

Whether people are glad we went to war or are not glad we went to war, whether history will prove we should have waited until we had greater support through the United Nations in order to avoid the kind of aftermath which we have seen, or not—we don't know what history is going to show in that regard—but regardless of the arguments back and forth as to the timing of it, the way in which it was handled, the failure to galvanize the international community so we had a broad array of countries with us, including Muslim nations so we would not be there as a Western occupying power with other Western nations after the military success; whether or not there was adequate planning for the aftermath, and I think it is obvious that there was not adequate planning, but regardless of what position one takes on all of those issues, it is incumbent upon us to find out how in Heaven's name the intelligence could be so far off.

How could we have 120 top suspect sites for the presence of weapons of mass destruction that were high-level to medium-level sites, where there was confidence that there were weapons of mass destruction either being stored or produced, and we batted zero for 120? How could we be so far off?

How is it possible that the CIA could tell us, as they did in their assessments, that there were chemical weapons and biological weapons and that a nuclear program was being undertaken again when, in fact, that apparently is not the case? How is it possible that intelligence can be as flawed as is this intelligence?

Again, regardless of what the arguments are on any side or any issue, I don't think any of us should be in the position of arguing that it is irrelevant to the future security of this Nation whether or not the intelligence upon which the decision to go to war was based is important. It is critically important.

Does North Korea have nuclear weapons or doesn't it have nuclear weapons? Should we put some credibility in the intelligence community's assessment of that? Where is Iran along the continuum of obtaining nuclear weapons? What are their intentions? Should we put confidence in the intelligence community's assessment of that?

Whether or not we place confidence or make decisions based upon the intelligence community's assessment is critically important. The lives of young men and women, perhaps the life of this Nation, could be dependent upon intelligence which is being assessed by the intelligence community. Life and death decisions are being made by the President of the United States based on decisions and assessments and appraisals of the intelligence community. When it is as wildly off as this intelligence community's assessments apparently were, then it seems to me we better find out for the future health of this country, not just in terms of trying to assess the accountability for past assessments.

Something happened to the intelligence after 9/11. The pre-2002 intelligence assessments relative to nuclear programs and biological programs and chemical programs were different from the October 2002 National Intelligence Estimate. Some of this has been set forth in the Carnegie Endowment's recent report. There are so many examples of where the intelligence shifted on these critical issues after 9/11.

A few examples: On the reconstitution of the nuclear program after 1998, the pre-2002 intelligence assessment was that Iraq had probably not continued their research and development program relative to reconstituting a nuclear program after 1998. Yet in October 2002, the intelligence community said, yes, it has restarted its nuclear program after the United Nations left in 1998. What happened between the pre-2002 intelligence assessment and the post-9/11 assessment?

What about enriching uranium for use in nuclear weapons? Prior to 2002, the assessment was that Baghdad may be attempting to acquire materials that could be used to reconstitute a nuclear weapons program. But after 9/11, in the October 2002 National Intelligence Estimate, we have, yes, Iraq has imported aluminum tubes and high-strength magnets. The Department of Energy's disagreement with this conclusion was set forth, but the assessment of the intelligence community shifted after 9/11.

Whether they attempted to purchase uranium from abroad, the same kind of shift in the intelligence assessment, there were no reports mentioning any attempts to acquire uranium prior to that 2002 assessment, but in 2002, October, suddenly the National Intelligence Assessment says Iraq has been trying to procure uranium ore and yellow cake. Again, disagreement from the Department of State, but that was the assessment of the intelligence community, and on and on. We have this kind of change that occurred in the intelligence assessments.

What is the explanation for that? What happened? There is no evidence, as the President has mentioned; there is no evidence that Saddam Hussein was part of the attack of 9/11, so what happened that caused the intelligence community to shift its assessment of chemical, biological, and nuclear programs after the 9/11 attack on us? That is something which we must find out.

We must make a determination—hopefully someday there will be an outside commission which will make a comprehensive review of this whole matter—but, in any event, we must do the best we can through the Intelligence Committee.

I am making an effort, the Armed Services Committee, my staff, to look into these issues, particularly as they relate to the question of how intelligence affected the operations and the planning relative to our military effort in Iraq.

But we must make that decision. We have an obligation. This is not a partisan issue and it makes no difference to me whether this assessment is finished before the election or after the election. It must be made for the health of this Nation, as to how our intelligence community, No. 1, could be so totally wrong relative to the presence of weapons of mass destruction on Iraqi soil immediately prior to the war; and, No. 2, how and why did the intelligence community shift its assessments so significantly after 9/11 from the assessments that occurred before 9/11?

There is another aspect of this which relates to the way in which intelligence was used or exaggerated by the policymakers. Here we have another issue—an issue which is going to be looked at by the Intelligence Committee at least as far as the use of the intelligence is concerned up to the point where the war began. There are some recent statements that I think also require explanation.

I have tried a number of times to find out how the Vice President could have, about a month ago, made a statement relative to the vans that were found in Iraq, that those vans were part of a mobile biological weapons program. For the life of me, I do not understand how the Vice President can make that statement when Dr. Kay who has looked at the van has said that there is a consensus in the intelligence community—and I am now reading from Dr. Kay's answer to my question in the Armed Services Committee—that the consensus opinion is that those two trailers were not intended for the production of biological weapons.

How is it that the Vice President of the United States at about the same time that statement was made before the Armed Services Committee by the chief weapons inspector—that some trailers which were found in Iraq are unrelated to a biological weapons program—would say the opposite in a very public forum? What is the basis for the Vice President's statement? I tried to find out. In fact, I wrote the Vice President the other day asking him: What is the basis for your statement?

We should know. The American people should know when the Vice President says something as significant as that, that these particular vans which we have now gotten in our possession are, in fact, biological weapons laboratories. In fact, what the Vice President said on January 22 on NPR was:

> I would deem that—

Here he is referring to those two vans—

> conclusive evidence that Saddam did in fact have programs for weapons of mass destruction.

Again, this is so totally opposite from what our chief weapons inspector has decided and said the consensus opinion is—that surely the American public is entitled to an explanation from the Vice President.

What is the basis for his statement of January 22 on national radio? What is the basis, Mr. Vice President, for your statement? The American public is entitled to know that. This is not some assistant secretary of some agency sitting in the bowels of the Pentagon or the bowels of some other building. This is the Vice President of the United States who is saying on national radio that we believe, in fact, that those semitrailers were part of the biological weapons program, that they were biological weapons vans. There is no explanation forthcoming, just sort of silence from the Office of the Vice President. We are entitled to more than that.

One possibility which the CIA's Director suggested when I asked him the question was that, well, maybe the Vice President was using old information when he said that. If the Vice President of the United States is making statements of significance based on old information, first, it seems to me he ought to say so and then say, Too bad that happened, I will make sure it doesn't happen again.

But it is also kind of discouraging, if that is true. There are daily briefings which I assume he is a part of—at least weekly briefings on these critical issues. We have a chief weapons inspector who says those vans, according to the consensus opinion, are not part of and were not part of the production of biological weapons.

But what all this is part of is kind of what is going to be phase 2 of the Intelligence Committee's investigation which is the use of intelligence by the policymakers. Here the statements of our top leadership go beyond the intelligence in a number of ways. They are much more certain than the intelligence communities' assessments were.

For instance, the Vice President, on August 2002, said the following:

> There is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends and against our allies and against us.

We have this additional aspect which is now being looked into by the Intelligence Committee and again by my staff on the Armed Services Committee as to how the administration could take the intelligence that was given and then turn those less certain findings into certainties.

Our friend from Arizona, Senator KYL, made the point earlier tonight that there is a lot of uncertainty in intelligence, and he surely is right. But wow. It sure doesn't sound that way coming from the administration prior to the war.

Vice President CHENEY told Tim Russert: We know with absolute certainty that Saddam is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.

Secretary of State Colin Powell—and this will be my last comment—said at the U.N.: There can be no doubt that Saddam Hussein has biological weapons.

The list of these statements where there is no doubt and there is absolute certainty that the administration says exists about these programs goes beyond what the intelligence communities' assessments were. It is those statements of absolute certainty which, it seems to me, require an explanation as to what was the basis of those statements of absolute certainty and there being no doubt, particularly in light of the fact Senator KYL pointed out that intelligence is, indeed, very uncertain and should be treated that way.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized for 30 minutes.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. REED. Mr. President, before I make some comments about the national situation, I express my thanks to Senator CRAIG of Idaho who is the manager on the Republican side of the bill that we considered today. I had the occasion to manage the bill for the Democratic side, and his fairness and his gentlemanlike conduct was deeply appreciated.

I also recognize two of my staff members, Neil Campbell and Steve Eichenauer, who did a superb job. Thank you very much for this opportunity to mention my respect for Senator CRAIG and also my appreciation for my staff.

IRAQ INTELLIGENCE

Mr. REED. Mr. President, Seamus Heaney, the Irish poet and Nobel laureate, wrote lines that are destined for immortality:

> History says, Don't hope on this side of the grave. But then, once in a lifetime the longed for tidal wave of justice can rise up, and hope and history rhyme.

We all long for that day when hope and history rhyme. But it is the special province of statecraft to try to make that rhyme.

As such, one way to look at foreign policy is to determine if our policies do rhyme with history or whether they represent the triumph of hope over history. By history, I do not mean the strictly academic variety. I mean the accumulation of insight and experience that we all carry about. Perhaps it is better described as our rough sense of the way the world works.

It is particularly interesting to pose these questions in light of the Bush foreign policy since so much of it seems to spring from ideological hope, from robust attempts to reshape the world along predetermined lines.

Iraq, of course, is the crucial arena. It has been made so by the administration.

Our immediate response to September 11 was to seek out and destroy the terrorist apparatus that struck us. Our attack in Afghanistan was aimed at the heart of al-Qaida and the rogue regime that provided it sanctuary. We understood very painfully that we could not grant these terrorists safe harbor. We had to act and we had to be prepared to act preemptively to destroy al-Qaida. The threat was clear and in the context of international terrorists like al-Qaida, the doctrine of preemption was not only compelling but also inescapable.

Operation Enduring Freedom, the demolition of the Taliban regime, and the disruption of the al-Qaida infrastructure represented a shrewd use of military power to focus directly on an existential threat. The history, again, using my very nontechnical definition, clearly shows that al-Qaida could not be deterred and toleration would simply invite further attack.

Ironically, having begun the destruction of al-Qaida in Afghanistan, the administration quickly shifted its attention from the complete destruction of the al-Qaida network to Iraq. Only in the past few weeks has the Bush administration begun to realize that Afghanistan is far from secure. They are redoubling their military and political efforts to ensure that Afghanistan does not slide back into a failed state. Still, the President's recent budget request only provides about $1 billion in funding for that effort, whereas commanders in the field have said they will annually need $5 billion to ensure success.

Furthermore, regardless of the situation in Afghanistan, and indeed anywhere else, the Bush administration has never lost its preoccupation with Saddam Hussein and his Baathist regime.

Some may recall that in January of 1998, Secretary Rumsfeld, Secretary Wolfowitz, and other prominent neoconservatives wrote to President Clinton urging him to use military force to remove Saddam Hussein. In their words:

> The only acceptable strategy is one that eliminates the possibility that Iraq would be able to use weapons of mass destruction. In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power. That now needs to become the aim of American foreign policy.

This letter predated the attack on Iraq by 5 years. It predated September 11 by more than 3 years.

With the publication of the first glimpses inside the Bush administration, this preoccupation with Iraq becomes more obvious. Former Secretary of the Treasury Paul O'Neill recounts that at the first meeting of the National Security Council on January 30, 2001, the discussion quickly vaulted over nagging issues of the conflict between Israel and the Palestinian Authority and landed squarely on Iraq. In an apparently scripted exchange, Condoleezza Rice and Vice President CHENEY and George Tenet not only led the discussion but also concluded with an examination of grainy photos purporting to show what the CIA thought was a plant producing chemical or biological materials for weapons manufacture. According to O'Neill, ''ten days in, and it was about Iraq.''

September 11 did not put Iraq in the administration's gunsights. It was always there. It was there as a challenge, a personal one for the President, and in the view of neoconservatives, it was there as an opportunity to make hope and history rhyme.

But in focusing almost exclusively on Iraq, the administration, in my view, disregarded a great deal of history. Again, I use the term history colloquially. The justification for action was based more on assumptions than evidence. The planning for their actions was based more on hopes than experience. The end of the cold war and the demise of the Soviet Union unshackled our military power so that we are unbeatable in any conventional battle against any conventional foe.

However, it has not reversed a century in which empires collapsed and foreign colonies began a troubled but independent road. Our military power may be unchecked by any military adversary, but it is exercised in a world that has come to distrust the unilateral use of force and disbelief of the motives of those who wield such force.

The administration's insistence on an essentially unilateral approach to confronting Iraq not only increased our effort both militarily and economically, but it also defied the worldwide consensus that without an immediate threat, the unilateral action of a great power against a lesser state is a vanished aspect of the colonial epic.

Today, the United States is fervently trying to maintain the mantle of liberator and avoid the label of occupier. In large part, this is due to the overwhelming presence of the United States unleavened by a broad array of allies or the significant presence of the United States or United Nations or NATO in Iraq.

In contrast, multinational operations in places such as the Balkans managed to avoid the stigma of occupation and insurgency for almost a decade. A multilateral attack is not a talisman that will guarantee success, but it is more congruent with a world that has rejected the colonial solution in favor of multinational action.

The administration's rationale for a preemptive and virtually unilateral operation against Iraq rested on a faithful devotion to their preconceived notions and a strained reading of available intelligence. One of the more thoughtful and evenhanded military analysts, Anthony Cordesman, at the Center for Strategic and International Studies has accurately summarized the record of the administration's intelligence activities leading up to Operation Iraqi Freedom.

In his words:

> [T]here are many indications that the U.S. intelligence community came under pressure to accept reporting by Iraqi opposition forces with limited credibility, and in some cases, a history of actively lying to either exaggerate their own importance or push the U.S. towards a war to overthrow Saddam Hussein. In what bore a striking resemblance to similar worst case interpretations of the global threat from the proliferation of ballistic missiles under the Rumsfeld Commission, U.S. policymakers not only seem to have pushed for the interpretation that would best justify military action, but to have focused on this case as if it were a reality, rather than a possibility.
>
> In the U.S., this pressure seems to have come primarily from the Office of the Vice President and the Office of the Secretary of Defense, but it seems clear that the Bush administration as a whole sought intelligence that would support its case in going to war, and this had a significant impact on the intelligence community from 2002-onwards.

The administration did not use intelligence to help make a difficult decision. It used intelligence to sell a preconceived notion. The long-term fixed

view of the administration held that deterrence and international inspectors were inherently incapable of containing Saddam. Only the elimination of the regime could suffice. Moreover, regime change, in their view, could have the added benefit of precipitating a transformation of the entire region.

In effect, what the President and the administration did is present a false dichotomy to the American people—two choices, when there are many more. The two choices were: Attack Iraq or do nothing. In fact, there are many other things we could have done and perhaps should have done, including give the U.N. inspectors more time to search. They might have come to the same conclusion that David Kay did: there are no weapons of mass destruction in Iraq. We could have used not only the legitimacy but also the cooperation of the United Nations if we had pursued a course of diplomacy. But the President saw only two options: Do nothing or attack Iraq.

Of course, we could not do nothing; indeed, we were not doing nothing. We should have been actively engaged in containment, and not just containment but enforcing the U.N. resolution with inspectors on the ground. We should recall there were U.N. inspectors on the ground inside Iraq and the administration, through their actions, had those inspectors recalled prior to the inception of the military operations. That is a result of this preoccupation with Saddam, the destruction of his regime, the triumph of hope over history.

Then in planning for post-hostilities, the administration most clearly let its hopes triumph over history. They bet that Iraqi gratitude, together with a government of exiles, would provide for a cheap and easy exit strategy. They ignored a history of antagonism among the Sunni, the Shia, and the Kurds. They spoke of a rapidly emerging democracy and market economy in Iraq, a country whose civic life and social institutions had been suppressed for many years. They insinuated exiles of dubious reputations, like Chalabi, who do not command the respect of the Iraqi people. The administration entrusted post-hostility planning to the Department of Defense, not for their expertise, but for their ideological correctness.

One other aspect of the administration's hopes is that our operations in Iraq would have a transformative effect on the region, if not the world. They saw a democratic, market-oriented Iraq as an irresistible attraction and example to the masses of Arabs who hunger for a better way of life. Our success in Iraq would be emulated either by enlightened leaders or rebellious streets. Since we have yet to succeed in creating this new Iraq, it is hard to judge its transformative value. In the very short run, the jury seems to be out.

Furthermore, our engagement in Iraq has limited our strategic flexibility and narrowed our strategic focus. We are paying insufficient attention to a place that is more likely than Iraq to produce that dreaded intersection of ''nukes'' and terrorists; and that place is North Korea.

We know the North Koreans have nuclear material and the ability to make much more of it, if they have not done so already. Although there does not appear to be any direct links between North Korea and al-Qaida or other terrorist organizations, the North Koreans have a disturbing history of weapons proliferation. Inept at economic development, they have become too adept at trading dangerous weapons to stay afloat or as a means to underscore their demands for international aid.

A few days ago, we concluded another round of international talks with the North Koreans without any apparent breakthrough. As encouraging as these discussions may seem, success—meaning the complete and verifiable elimination of nuclear material and nuclear weapons held by North Korea—can come, in my view, only with more resolute and determined leadership by the President. To date, Iraq seems to have monopolized the effective attention of the President and his inner circle. Failure to resolve the situation in North Korea through diplomacy will result in an intolerable situation that could prompt the consideration of military action. A military option is not appealing, and it may be extraordinarily difficult to carry out with the current open-ended and demanding commitment to Iraq.

In addition, there has been little progress between the Israelis and the Palestinians. In another regional problem area, the Iranians have opened their nuclear program to more robust international inspection but still refuse to moderate their domestic policies and their international rhetoric. Indeed, the hardliners in Iran recently won an election, giving them more clout and marginalizing the reformers within that country, in the wake of our attack against Iraq.

Libya presents an interesting case. Our military success seems to have focused their attention on repairing their relationship with the West. One must be grateful any time a regime effectively renounces weapons of mass destruction. Nevertheless, Qadhafi's actions seem more like self-preservation than democratization. And, as previously discussed, the ''shock and awe'' in Iraq did not influence the Afghanis to be more cooperative. In fact, we lost ground in Afghanistan to reconstituted insurgent forces. In the longer run, these hopes of democratic reform and economic renewal in the region and throughout the world will battle historic and cultural forces that may yield, but not without a struggle and not without time.

There are signs that even the administration is coming to recognize that history has overtaken some of their hopes. To minimize the stigma of occupier, the Coalition Provisional Authority has accelerated the transition to sovereignty with a target date of June 30, a date that is more difficult to achieve with each passing day. It remains unclear who they will be returning this sovereignty over to. An interim constitution was adopted apparently today, but there is still a great deal of uncertainty as to who will be the ruling authority and ultimately how this sovereignty will be passed—truly passed—to the Iraqi people.

In recognition of the economic reality of Iraq, the CPA has quietly shelved plans to privatize the Iraqi economy, plans they had initially. Now this would be a wrenching exercise in unemployment since almost every Iraqi directly or indirectly seems to work for a state industry or governmental entity.

The CPA is also deferring serious land reform in a country where land was expropriated from traditional owners and bestowed upon supporters of Saddam. The CPA also seems quietly poised to allow the Kurds to develop an autonomous region under a loose federation, belying the initial commitment to a fully integrated Iraqi state. And still outstanding is whether the Shia majority will ultimately accept the governing arrangements for the new Iraq.

And, having assumed the burden of Iraq, none of these recent pragmatic adjustments are themselves without great dangers. A hasty transfer of sovereignty could lead to a government without legitimacy or one that quickly morphs into a religious and authoritarian regime that does not share our enthusiasm for democracy. This political process becomes an inviting target for insurgents who see disorder as their key ally. Leaving economic restructuring to the Iraqis is probably leaving it undone. Allowing the Kurds to create an autonomous or semiautonomous region will cause consternation within Turkey while adding to the difficulties of the new central government in Baghdad.

This administration has committed the Nation to operations in Iraq. And we cannot fail. Let me emphasize that again. We cannot fail. But we need to recognize that these ideological preoccupations that have led us to Iraq have very real costs. We are spending approximately $4 billion a month to continue our operations in Iraq and Afghanistan, the bulk of it being spent in Iraq. These costs do not include the heartbreaking loss of American service men and women.

One must question a strategy in which you cannot afford to fail, but you may not win anything. But, questioning aside, one has little choice but to support our forces in the field and insist upon a more pragmatic approach.

First, the administration must increase the overall size of our land forces, not temporarily, but in anticipation of a long deployment in both Afghanistan and Iraq.

Last fall, I was able to propose an amendment with my colleague, CHUCK HAGEL, to increase the size of our Army by 10,000 soldiers. It passed on the floor of the Senate but was stripped out of the conference report at the insistence of the administration. They, at that point, failed to recognize the need for more military personnel. Since that time, the administration has indicated that they now recognize a need for additional forces in the Army. But they still continue to insist that it can be paid for out of supplemental appropriations.

I believe we have to prepare for a long stay in Iraq. These new military personnel should be paid for through the budget process, not supplemental appropriations here and there on an irregular basis.

I believe also that in addition to increasing our overall end strength, the administration must increase the number of forces in Iraq and direct those forces to the protection of the Iraqi people, not just to hunt for insurgents. Today, the greatest threat to the successful reconstruction of Iraq is the rampant violence that engulfs the country. Only a small portion of this violence is directed against American forces. The greatest portion is directed against the Iraqi people, creating a daily climate of violence facing every Iraqi which saps their will to remake their country and support our efforts.

Today is a prime example. Over 140 Shiites were killed when bombs exploded in Karbala and Baghdad during a religious holy day. However, the Department of Defense still stubbornly clings to the proposition that more American troops won't help. Rather, they claim that indigenous Iraqi security forces are the answer. So they have created, mostly on paper, Iraqi security forces that are inadequate and insufficient for the critical months ahead.

''Iraqization'' has dim echoes of ''Vietnamization.'' Both are political responses to real security problems. One failed; the other is of dubious value at the moment.

Secondly, the administration must candidly and promptly acknowledge the huge costs that are necessary to pursue our international objectives. The recently submitted Presidential budget does not include any funds for operations in Iraq and Afghanistan. The President is attempting to rely on previous supplemental appropriations until the election. Recently, the chiefs of the Army, the Marine Corps, and the Air Force admitted they would run out of funds on October 1 for operations in Iraq and Afghanistan. More recently, reports have surfaced that the services may indeed run out of these funds sooner than that. They are now robbing Peter to pay Paul as they scavenge other accounts to fund operations in Iraq and Afghanistan.

In addition to funding for our military forces directly, we should understand even at the most optimal success level, military forces will buy you time to deal with the more fundamental problems that cause terrorism, that cause unstable governments, unstable regions. Those costs are also huge: costs in economic development assistance, costs in educational assistance. Those costs have to be factored in also. They are not included effectively or sufficiently in the budget the President sent to us.

As I said, this is not only poor budget policy with regard to military forces, but if we cannot even honestly budget for military operations, how can we marshal the will and the dollars to reinforce military success with the resources for economic development that will address the root causes of the animosity we are confronting.

One measure of the wisdom of any strategy is whether that strategy is sustainable. The administration's choice of a virtually unilateral preemptive attack followed by long-term and expensive nation building is not a strategy that can be easily duplicated. It is especially difficult to sustain without broad-based international support. Ironically, our preoccupation with Iraq might serve as an inhibition as we confront other adversaries. Moreover, our military advantages simply buy us time, precious time, to deal with fundamental issues that create the climate in which terrorism thrives.

Our attention to these issues of education and economic development is necessary now and not just in Iraq. These, too, are expensive undertakings that require international cooperation with strong American leadership. We face great challenges around the world and here at home. But Americans are not strangers to great challenges. We will endure. And with wisdom and courage, we will prevail—the courage we witness every day in the extraordinary valor of our fighting forces.

But the challenges before us require a strategic vision grounded on attention to the compelling threats we face, not the ideological impulses that stir our hearts. These challenges can best be faced with other nations, not alone. These challenges require huge resources and a long-term commitment, not budgetary gimmicks in the short run.

Until the administration acts on these basic principles, our response to real threats will be hobbled by ideology rather than focused by experience.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Florida is recognized for 30 minutes.

Mr. GRAHAM. Mr. President, I would like to start by saying I believe our colleagues who scheduled this debate today have done a great service to this body and to the American people. The topic of the United States in the world and specifically the United States in the war on terror is of great importance to the American people. They deserve to have the kind of elevated discussion we are giving this evening.

This should not be a partisan issue. Rather, it is an issue of our national and personal security. Never in our Nation's history have we been so dependent on credible intelligence for our safety and security as we are today.

The real test all of us will face as policymakers on behalf of the people of the United States will be how wise we are in identifying the problems we need to address and how willing we are to cast away the anchor of the status quo and initiate real reforms. In both of those efforts, one of our strongest assets will be our American intelligence.

If we were to ask any person who has a reasonable knowledge of the capabilities of terrorists and the extent of America's vulnerability the question, what is the likelihood the United States of America will suffer another successful terrorist attack on our homeland within the next 5 years, the consensus answer is certainly going to be almost a 100 percent likelihood of a successful attack.

That is a sad but true fact. It is a sad but true fact which is unnecessary. In part, it is unnecessary because we need to initiate the reforms within our intelligence community. Reforms we have learned from the experience of September 11, and learned again in the war against Iraq and, I suggest, we will learn again in the incidents that have led up to the events in Haiti, the lack of transforming our intelligence community to a set of agencies that can effectively understand, interpret, and then assist policymakers in making decisions that will make us more secure, those reforms have not been made.

It is also unfortunately true there has been a lack of accountability. We have had major intelligence failures in the last 3 years. Yet, as of today, virtually no one has been held accountable for those. What signal does that send to our agency and our adversaries, that we are willing to tolerate performance that is less than acceptable, or to benefit by performance which is beyond the call of duty, and the former is not sanctioned and the latter is not recognized.

What I think we are facing this evening is a series of deficits that will prove as significant to the future of the American people as the skyrocketing budget deficit of this administration will be to our economic future. These deficits include a deficit in judgment. The reality is in the spring of 2002, the United States and our coalition partners had the terrorist group which had perpetrated the tragedy of September 11 on the ropes in Afghanistan. But a decision was made in the early spring—a decision which military officials

close to its implementation describe as an ending of the war on terror in Afghanistan and a substitution of a manhunt in Afghanistan and Pakistan, and a redirection of American intelligence and military personnel and resources to commence the war in Iraq.

This was more than a year before the war actually started. If you will read the front page of this past Sunday's New York Times, it talks about the fact that we are now, 2 years later, beginning to reintensify our efforts in Afghanistan, and we are returning to Afghanistan those very military and intelligence resources that were shifted to Iraq in the beginning of the spring of 2002.

So the consequence of making a decision that our greater enemy was Saddam Hussein than the enemy which had already shown the capability, the will, and the presence in the United States to effectively strike us on September 11 has been to allow our greater enemy to become yet stronger.

Al-Qaida is a powerful network today. It is a powerful network which is less hierarchical, more entrepreneurial, more diffuse, more difficult to attack—especially as al-Qaida cells form alliances with other radical Islamic groups. We missed the opportunity in the spring of 2002 to have cut off the head of this snake because we exercised unacceptably poor judgment as to which was the greater danger to the people of the United States.

What is the report card on that decision of judgment? I quote from a statement made by the director of the Central Intelligence Agency, Mr. George Tenet, on Tuesday of last week. This is what the leader of our American intelligence community said:

> . . . We have made notable strides. But do not misunderstand me. I am not suggesting that al-Qaida is defeated. It is not. We are still at war. This is a learning organization that remains committed to attacking the United States, its friends and allies.

Continuing to quote from the director of the CIA:

> Successive blows to al-Qaida's central leadership has transformed the organization into a loose collection of regional networks that operate almost autonomously. These regional components have demonstrated their operational prowess in the past year.
>
> The sites of their attacks span the entire reach of al-Qaida—Morocco, Kenya, Turkey, Jordan, Saudi Arabia, Kuwait, Afghanistan, Pakistan, Indonesia.
>
> And al-Qaida seeks to influence the regional networks with operational training, consultations, and money. . . .

You should not take the fact that these attacks occurred abroad to mean the threat to the United States homeland has waned. As al-Qaida and associated groups undertook these attacks overseas, detainees consistently talked about the importance the group still attaches to striking the main enemy: the United States.

In conclusion, the Director of Central Intelligence made this chilling observation:

> The steady growth of Osama bin Laden's anti-U.S. sentiment through the wider Sunni extremist movement, and the broad dissemination of al-Qaida's destructive expertise, ensure that a serious threat will remain for the foreseeable future—with or without al-Qaida in the picture.

That is the residue of the decision to allow the snake of al-Qaida to regenerate itself because we determined that the greater enemy to the United States—the enemy which had the greater capability to threaten the people of the United States of America—was Saddam Hussein. We have paid and we will pay a significant price for that flawed judgment.

There is also a deficit in credibility. Once the administration made the decision at least as early as the spring of 2002—and probably earlier—it used incredible information to convince the Congress and the American people to support that invasion.

To pick one example which has been widely reported, the administration knew, or should have known, that it was using misleading information about Saddam's weapons of mass destruction, about yellow cake from Niger, about the existence of tubes which could be used for centrifuges to make nuclear products, and about the connections of Saddam Hussein's regime with the tragedy of 9/11.

On several occasions, it was a leading figure within the administration, including the Vice President of the United States, who went to the intelligence agencies, asked for further information on the specific charge relative to Saddam Hussein's status as a producer and user of weapons of mass destruction, received from the intelligence agencies a report indicating it was a fabrication, and yet the administration continued to recycle incredible misinformation.

The administration's fondness for calling Iraq the new front in the war on terror has become a self-fulfilling proposition. There is little, if any, evidence that Saddam Hussein had ties to al-Qaida and that terrorist networks were active in the sections of Iraq that were controlled by Saddam Hussein.

What now? Now we have created chaos in Iraq, and in spite of the bravery and professionalism of our troops, we have seen a situation in which the terrorist organizations which did not exist in Iraq prior to the war have now become serious threats to the stability of that country and to the lives of American fighting men and women.

This is how the Director of the Defense Intelligence Agency, VADM Lowell Jacoby, described the situation in Iraq when he testified before the Senate Intelligence Committee on Tuesday of last week:

> Foreign fighters who have entered Iraq since the end of the war have carried out some of the most significant attacks, including suicide bombings. Left unchecked, Iraq has the potential to serve as a training ground for the next generation of terrorists.

There was minimal to no al-Qaida influence in Iraq before the war. Now, and this is credible, al-Qaida has found a new base of operations in Iraq. There is also a deficit of trust in the American people. This great democracy has had, as one of its fundamental values, that the people of America will serve their role as citizens only if they are fully informed about the operations of their Government. But why does this administration not want to let the people know the truth about our foreign policy and about the decisionmaking that takes place in forming that foreign policy?

This President lacks a basic respect for the common sense of the American people and relies excessively on secrecy, not to protect the national interests but to avoid political embarrassment.

I cochaired the House-Senate joint inquiry into the intelligence failures that preceded September 11. Our joint committee produced a lengthy report, some 800 pages, which focused on, among other things, the findings relative to the support which one or more foreign governments had provided to some, if not all, of the 19 terrorists.

The executive branch, after 7 months of examining our report, insisted on censoring the 27 pages of our report that contain the most important findings about that foreign support. It reached this level of absurdity. The Ambassador of the Kingdom of Saudi Arabia, responding to media speculation that it was his government mentioned in those 27 pages, pleaded with the President and his administration that the full report be released. ''How can I defend my kingdom against attacks of treacherous nature unless I can know what is the basis of those attacks?'' It was not just the Ambassador of the Kingdom of Saudi Arabia. The Foreign Minister of the Kingdom flew to Washington to plead for the declassification, for the release of this information so that he could also defend the honor of the Kingdom.

The President refused that request even before the Foreign Minister had reached the White House. Are we supposed to believe there wasn't some coordination of efforts, that there were private assurances of maintaining the status quo despite public pleas for release?

This President has shown that he does not believe the American people have the right nor the ability to effectively utilize information which will help them to understand who to hold accountable and to participate in reforms necessary for their security.

These are some of the deficits we have seen as a result of the events before and particularly after September 11, that we have seen in the preparation for the war in Iraq, and which we may well see repeated in the circumstances leading up to the current anarchy that grips Haiti.

Again, I conclude by saying how pleased I am that Senator KYL and other colleagues have given us the chance to have this discussion. We, too, have a responsibility to the American people to offer them the best security

that the Government can provide. There is no cave, there is no spider hole that we will be able to hide in to escape that responsibility should there be another terrorist attack on our homeland and we have not utilized the information of our previous failures to make our Nation more secure.

Let us look in the mirror. The face we see will share the responsibility for the loss of life and for the deficits I have outlined which are unacceptable in our democratic society.

Before I conclude, I would like to say that I believe the value of this debate has indicated the value of similar debates on other issues that have wide public concern. I will soon seek unanimous consent that we schedule time for a debate of this nature on the floor of the Senate on a regular basis for the remainder of this session.

I propose that the next issue to be discussed be our budget deficit, the inheritance of debt that we are going to leave to our people. The suggestion made recently by the Chairman of the Federal Reserve Board that we make tax cuts permanent while we also cut benefits for Social Security and Medicare could help in framing the choices that we will have in dealing with this budget deficit.

The American people deserve from this, the greatest deliberative body in the world, to pay attention to their future. They deserve to know that we serve their interests with sound judgment, with credibility, and with respect for those who have given us the opportunity to serve them.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Florida yields the floor. Does the Senator suggest the absence of a quorum?

Mr. GRAHAM of Florida. 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. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Under the previous order, the Senator is recognized for 20 minutes.

Mr. DAYTON. Mr. President, I thank my colleagues from the other side of the aisle for giving us this opportunity to discuss the matters surrounding the Iraq war, a war in which we are still engaged, a war in which Americans are losing their lives and their limbs on an almost daily basis. I am sure my colleagues have attended funerals, as I have in my own State, of brave men who did not return from that war alive. We all know the human cost that has been involved.

A number of us were at Walter Reed Hospital 2 weeks ago for an evening with brave men and women who have lost limbs and health, and in some cases will not ever be able to live fully normal lives because of the terrible devastation wreaked on their bodies by the war in Iraq. So what we are talking about tonight is something of enormous importance, something we should have talked about far more often in the past months and year than we have. I attempted back in the first months of 2003 to get this body to address some of these critical issues, questions about the information we had been provided even though we had voted previously in October of 2002 on this resolution that the President requested the majority of this body authorize, along with the House, to initiate a war at a time of his determination. But in the weeks preceding that I tried in vain, as did some of my colleagues, to ask the majority leader to bring this matter before the Senate, before the American people again. Unfortunately we were not able to. The decision was made not to create the time and the opportunity to do so.

Better late than never. This is much later than it should have been. I look forward to this opportunity in the weeks and months ahead because, as I understood from the Senator from Arizona, who was coordinating the time the Republican caucus used before we were given a chance to reply, that whenever the questions were raised, challenges were raised about the use or the misuse of intelligence information by the President of the United States and by his administration, there would be these occasions to discuss those matters again in the future. If that is the case, then I look forward to those opportunities because those questions should be raised. They have been raised before.

The American people have a right to know the truth, the facts about these matters. Those who have lost sons and daughters over in Iraq, those whose sons and daughters are serving there now, all of us whose lives, whose children, and grandchildren will bear the consequences of these profoundly important decisions that have affected not only the United States and our national security but the stability of the entire world have a right to know the truth.

Let's have these debates and these considerations as frequently as possible and air these matters fully, particularly since the commissions that have been established—the most recent one, by the President himself singlehandedly—are being precluded from addressing many of these issues like the misuse, as has been alleged, of intelligence information by high intelligence officials. That commission will not be allowed to investigate those matters. It will not have the authority to subpoena documents and information, investigating those matters. We will remain in the dark as those of us on the Senate Armed Services Committee on which I serve will remain in the dark despite our requests repeatedly to have that committee investigate these matters under its jurisdiction. At one point the distinguished chairman of that committee, Senator WARNER, a man for whom I have the greatest respect, one of the finest of the men and women with whom I have had the privilege of serving in this body over my 3 years, suggested on a Sunday talk show that would be the appropriate purview of the committee and that should be investigated to its determination of the facts and truth and then, from all accounts, was forcefully dissuaded from that position by higher level officials in the administration who did not want that kind of investigation.

So if we can't get the facts because we can't get committees of the Senate to look into these matters, if we can't get the facts because the President's own hand-picked commission is going to be prevented by him from investigating and reviewing these matters, then let's use these occasions here on the Senate floor, even if we are going to be, as the word was used, ambushed by the Republican caucus on these matters. That was reported last week. This was going to be a big surprise last Thursday. It was reported in one of the Hill newspapers and evidently it was decided to postpone it.

Today, after we talked, even at our caucus lunch today, the Democratic caucus lunch at 1 o'clock today, based on the information the Democratic leader received from the majority leader, we were going to finish the resolution of the bill before us and then we were going to turn to another piece of legislation. Lo and behold, we found out literally as members of the Republican caucus took the floor this afternoon that this was going to be the subject for debate.

But so be it. If you want to ambush us on this topic, then do it as frequently as possible so we can present to the American people all the facts, facts they may not receive in any other way.

Let's go back a minute and review the bidding on this whole matter. Let's go back to January of 2002. Mr. Karl Rove, senior adviser to the President, political strategist, was quoted as telling a Republican political gathering that the winning issue for the Republicans in November of 2002, at the midterm election, would be ''the war.'' By that at the time he meant the war against al-Qaida, against the Taliban in Afghanistan. But evidently in June of 2002, according to published reports based on an interview with the chief of staff of the White House, Andrew Card, published in the New York Times on September 7 of 2002, but referring back to a decision that was, according to Mr. Card, made in June of that year, 3 months earlier, to bring the spotlight onto this supposed immediate, desperate, urgent threat to the national security of the United States and the safety of our people by Saddam Hussein and his regime in Iraq, the question was asked of Mr. Card by the reporter, why, then, was there this delay until then right before and then right after

Labor Day of 2002, a good 3 months later, to bring this matter to the attention of Congress and to the American people. Mr. Card's answer, and I quote, was, ''Well, from a marketing standpoint you don't bring out your new products in August.''

About two sentences later he indicated also the President was on vacation in August. So, instead, we were all, I think, startled—this Senator was certainly surprised to hear from the Vice President, Vice President CHENEY, at two conventions of former men and women of the armed services in the last week of August of 2002, where he spoke to the Veterans of Foreign Wars, and he announced, ''Simply stated, there is no doubt that Saddam Hussein has weapons of mass destruction.''

The President himself then elaborated on these claims time and time again. He conjured up the most serious of threats to this country. On September 26 of 2002, at the time when this body was being pressured to rush to a vote about authorizing a war in Iraq, the President, after meeting with Members of Congress on that date, said:

> The danger to our country is grave. The danger to our country is growing. The Iraqi regime possesses biological and chemical weapons. . . .The regime is seeking a nuclear bomb, and with fissile material, could build one within a year.

He continued on that day to say:

> The dangers we face will only worsen from month to month and from year to year. To ignore these threats is to encourage them. When they have fully materialized, it may be too late to protect ourselves and our friends and our allies. By then the Iraqi dictator would have the means to terrorize and dominate the region. Each passing day could be the one on which the Iraqi regime gives anthrax or VX or someday a nuclear weapon to a terrorist ally.

On October 7, just 4 days before the October 11 vote in the Senate on the war resolution, the President said:

> We know that Iraq and the al-Qaida terrorist network share a common enemy—the United States of America. We know that Iraq and al-Qaida have had high-level contacts that go back a decade.

He continued:

> We've learned that Iraq has trained al-Qaida members in bombmaking and poisons and deadly gases. Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints.

He also elaborated on claims of Iraq's nuclear weapons program when he said on October 7 of that year:

> The evidence indicates that Iraq is reconstituting its nuclear weapons program. Saddam Hussein has held numerous meetings with Iraqi nuclear scientists, a group he calls his ''nuclear mujahideen''—his holy warriors. If the Iraqi regime is able to produce, buy, or steal an amount of highly-enriched uranium a little larger than a single softball, it could have a nuclear weapon in less than a year.

At that time, 4 days thereafter, the Senate voted historically and, I believe, having voted against that resolution, erroneously to authorize the war with the determination of the President—on a resolution which I believed and still believe is unconstitutional, was premature and, which has ultimately turned out to be the case, unfounded.

These assertions continued during the fall and then into the new year. Of course, Secretary of State Colin Powell went before the United Nations and stated that there were thousands of tons of these strains of botulism, of nerve gas agents, of botox, and other substances that were of such enormous quantities that they would have been easily identified by satellite surveillance or by the United Nations weapons inspectors then in Iraq, though at the time none had been found.

The Vice President again on March 16, just before the eve of the decision by the President to invade Iraq, leveled a serious new allegation that Hussein already had nuclear weapons. He said, ''We know he has been absolutely devoted to trying to acquire nuclear weapons,'' and ''We believe he has in fact reconstituted nuclear weapons.''

Subsequent events, of course, have proven all of those assertions to be almost totally incorrect.

Thank God. When United States and British forces invaded Iraq just a few days later, there were no chemical or biological or nuclear weapons used against them. None were found on the battlefield unused or in caches hidden and ready for use or even those weapons materials anywhere in Iraq, as the chief weapons inspector, David Kay, has now indicated in his public statements. He said to our Senate Armed Services Committee that he does not believe they will be found. But the more important fact, the irrefutable fact, is that they did not exist to be used against our Armed Forces. I am grateful for that. But that was the overriding premise—at least I know from a number of my colleagues on this side of the aisle—the overriding factor in their decision to support the resolution in October.

Under the United Nations charter, under international law, the only justification legally for invading another country, for launching a preemptive attack against another country, starting war against another country, is either an actual attack itself or the imminent danger or threat of an attack against a country.

It was certainly on that assertion by the administration repeatedly that Members of Congress were persuaded to support the resolution in October. It was that assertion that was made by the President himself and others leading up to and even in the speech the President gave to the Nation the night he authorized that invasion of forces.

In his State of the Union Address, he made assertions that Iraq had sought to buy uranium in Africa to reconstitute its nuclear weapons program. It was not until July 7 of 2003—almost 6 months later, or over 5 months later—that the administration acknowledged for the first time that the President should not have made that statement even though the reports were they knew conclusively as early as March. Some allegations are that they knew even prior to the time, or at the time of that statement, that that was not substantiated, or, in fact in March, a report even said it was false.

There are other statements that have been made by former CIA intelligence officials, reports made by investigative reporters that refer to information that was available to the administration at the time these various assertions were made that were contrary to facts as they were being reported.

The linkage to al-Qaida, between Iraq and al-Qaida, is one that I certainly can say from my own direct experience, being involved in probably two dozen top secret briefings in the fall of 2002 and early 2003 with members of the administration, that was something that was repeated, was raised in a most speculative way from other intelligence sources.

Then it is reported in June of 2003, after all this has been underway, according to the New York Times, two high officials of al-Qaida now in U.S. custody told interrogators, told them before the war in fact, that the organization did not work with Mr. Hussein. Several intelligence officials said no evidence of cooperation had been found in Iraq.

It caused the CIA Director, George Tenet, to state that:

> ''it was not at all clear there was any coordination or joint activities,'' a CIA source told the Washington Post.

An article in the Baltimore Sun went on to say:

> Last fall, in a classified assessment of Iraq, the CIA said the only thing that might induce Mr. Hussein to give weapons to terrorists was an American invasion. But month after month, unconstrained by mere facts, the president trumpeted a danger that his own intelligence officials dismissed.

Yes, there are very serious questions and a most profoundly serious matter reflecting on the veracity of the President of the United States and his officials at the highest levels. The debate should be undertaken here and the American people should have a right to all the facts but they will not get them.

One of the most disgusting ploys tonight has been to blame President Clinton and Senate Democrats during the 1990s for the supposed curtailment of our Nation's military preparedness and its intelligence operations. Some people are masters at this kind of slander.

In 2002, there were Republican campaign commercials that put Senator Max Cleland, a Democratic Senator from Georgia, upon the television screen next to pictures of Osama bin Laden and Saddam Hussein, claiming that all three of them were enemies of the national security of the United States.

Senator Cleland was a triple amputee and sat in this chair next to me during my first 2 years of the Senate, the

most amazing demonstration of human courage I have ever heard. I could scarcely imagine a man who lost three limbs serving in the military in Vietnam, a member of the Senate Armed Services Committee, who had voted for every single dollar of President Bush's requested military increases for military spending, for homeland security, every dollar, being smeared as an enemy of this Nation along with Saddam Hussein and Osama bin Laden.

Here they go again, smearing President Clinton and even Senator JOHN KERRY. I heard President Clinton attacked by colleagues across the aisle from the day I joined the Senate Armed Services Committee in January of 2001 for supposed military weaknesses. That continued up until the military that President Clinton commanded for 8 years routed the Taliban and al-Qaida in Afghanistan 10 months later. Now he is accused of emasculating the Intelligence Agency, causing the failures to prevent September 11, 2001, and the failures to inform us properly about the absence of weapons of mass destruction in Iraq.

Unfortunately, we cannot find out who is and who is not responsible for whatever failures occurred. We cannot find out because President Bush has blocked the 9/11 Commission access to the information that bipartisan group of distinguished Americans has been requesting for months from the administration.

We will not get to the truth about who misused intelligence information about weapons of mass destruction in Iraq because the President refused to appoint an independent commission, refused to grant them subpoena powers, and refused to authorize them to investigate the use of intelligence information by himself and his administration.

If the former administration is the one that is so culpable and if the current administration is so blameless, why wouldn't this administration want those two commissions to have access to all relevant information? Why would this administration block the 9/11 information that its cochairman, former Republican Governor of New Jersey, Thomas Kean, has requested for months on behalf of his Commission? Why won't the President allow his own handpicked Commission to assess the misinformation about weapons of mass destruction in Iraq that was provided to Congress and to the American people to investigate all the questions about that colossal misrepresentation of the truth as we later discovered it to be?

Those are critical questions that affect the future safety of our country and our citizens, whatever flaws existed before September 11, whatever errors were made after September 11, whatever mistakes, whatever lack of communication, whatever misreporting, misunderstanding, misrepresenting, exaggerating, or improper influencing of information, whatever or wherever it occurred, which weakened our national security, must know what that was in order to prevent it from ever happening again.

That imperative should transcend partisan politics. It should transcend Presidential reelections. It should transcend any consideration except for the safety of this country and of the American people.

If my colleagues on the other side of the aisle want to strengthen our national security, as I know they do—as we all do, because we are Americans first, and we are partisans after that—then I ask them to join us in insisting that the President unshackle those two commissions. Let them find the truth, the whole truth, whatever it might be, wherever it is, whoever it helps, whoever it hinders, so that we can know what we must do to ensure that the horrors of 9/11 never, ever occur again, and to ensure that the serious misinformation about weapons of mass destruction in Iraq, which influenced Members of this body to support a resolution to authorize the President to start a war against that country—to make sure that kind of misinformation used to justify a war to the American people never, ever happens again.

So, yes, let's debate these matters as frequently as possible. Let's get out all of the facts. And then let's let the American people decide.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., tomorrow morning.

Thereupon, the Senate, at 8:52 p.m., adjourned until Wednesday, March 3, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate March 2, 2004:

DEPARTMENT OF TRANSPORTATION

DEBORAH HERSMAN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2008, VICE JOHN GOGLIA, TERM EXPIRED.