STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 244—ELIMINATING SECRET SENATE HOLDS

Mr. GRASSLEY (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 244

Resolved,

SECTION 1. ELIMINATING SECRET SENATE HOLDS.

Rule VII of the Standing Rules of the Senate is amended by adding at the end the following:

''7. A Senator who provides notice to party leadership of his or her intention to object to proceeding to a motion or matter shall disclose the notice of objection (or hold) in the Congressional Record in a section reserved for such notices not later than 2 session days after the date of the notice.''.

Mr. GRASSLEY. Mr. President, today I am submitting, along with my colleague Senator WYDEN, a Senate resolution to amend the Senate rules to eliminate secret holds.

I know Senators are familiar with the practice of placing holds on matters to come before the Senate.

Holds derive from the rules and traditions of the Senate.

In order for the Senate to run smoothly, objections to unanimous consent agreements must be avoided.

Essentially, a hold is a notice by a Senator to his or her party leader of an intention to object to bringing a bill or nomination to the floor for consideration.

This effectively prevents the Senate leadership from attempting to bring the matter before the Senate.

A Senator might place a hold on a piece of legislation or a nomination because of legitimate concerns about that legislation or nomination.

However, there is no legitimate reason why a Senator placing a hold on a matter should remain anonymous.

I believe in the principle of open government.

Lack of transparency in the public policy process leads to cynicism and distrust of public officials.

I would maintain that the use of secret holds damages public confidence in the institution of the Senate.

It has been my policy, and the policy of Senator WYDEN as well, to disclose in the CONGRESSIONAL RECORD any hold that I place on any matter in the Senate along with my reasons for doing so.

As a practical matter, other Members of the Senate need to be made aware of an individual Senator's concerns.

How else can those concerns be addressed?

As a matter of principle, the American people need to be made aware of any action that prevents a matter from being considered by their elected Senators.

Senator WYDEN and I have worked twice to get a similar ban on secret holds included in legislation passed by the Senate.

But, both times it was removed in conference.

Then, at the beginning of the 106th Congress, Senate Leaders LOTT and DASCHLE circulated a letter informing Senators of a new policy regarding the use of holds.

The Lott/Daschle letter stated,

. . . all members wishing to place a hold on any legislation or executive calendar business shall notify the sponsor of the legislation and the committee of jurisdiction of their concerns.

This agreement was billed as marking the end of secret holds in the Senate and I took the agreement at face value.

Unfortunately, this policy has not been followed consistently.

Secret holds have continued to appear in the Senate.

For example, last November, it became apparent that an anonymous hold had been placed on a bill, S. 739, sponsored by Senator WELLSTONE.

This bill had been reported by the Committee on Veterans' Affairs.

However, neither Senator WELLSTONE nor Senator ROCKEFELLER, as chairman of the Committee on Veterans' Affairs, were ever informed as to which Senator or Senators had placed the hold.

The time has come to end this distasteful practice for good.

This resolution that Senator WYDEN and I are submitting would do just that.

It would add a section to the Senate rules requiring that Senators make public any hold placed on a matter within two session days of notifying his or her party leadership.

This change will lead to more open dialogue and more constructive debate in the Senate.

Ending secret holds will make the workings of the Senate more transparent.

It will reduce secrecy and public cynicism along with it.

This reform will improve the institutional reputation of the Senate and I would urge my colleagues to support the Grassley-Wyden resolution.

SENATE RESOLUTION 245—DESIGNATING THE WEEK OF MAY 5 THROUGH MAY 11, 2002, AS ''NATIONAL OCCUPATIONAL SAFETY AND HEALTH WEEK''

Mr. DURBIN (for himself, Mr. BROWNBACK, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 245

Whereas every year, more than 6,000 people die from job-related injuries and millions more suffer occupational injuries or illnesses;

Whereas every day, millions of people go to and return home from work safely due, in part, to the efforts of many unsung heroes—the occupational safety, health, and environmental professionals who work day in and day out identifying hazards and implementing safety advances in all industries and at all workplaces, thereby reducing workplace fatalities and injuries;

Whereas these safety professionals work to prevent accidents, injuries, and occupational diseases, create safer work and leisure environments, and develop safer products;

Whereas the more than 30,000 members of the 90-year-old nonprofit American Society of Safety Engineers, based in Des Plaines, Illinois, are safety professionals committed to protecting people, property, and the environment globally;

Whereas the American Society of Safety Engineers, in partnership with the Canadian Society of Safety Engineers, has designated May 5 through May 11, 2002, as North American Occupational Safety and Health Week (referred to in this resolution as ''NAOSH week'');

Whereas the purposes of NAOSH week are to increase understanding of the benefits of investing in occupational safety and health, to raise the awareness of the role and contribution of safety, health, and environmental professionals, and to reduce workplace injuries and illnesses by increasing awareness and implementation of safety and health programs;

Whereas during NAOSH week the focus will be on hazardous materials—what they are, emergency response information, the skills and training necessary to handle and transport hazardous materials, relevant laws, personal protection equipment, and hazardous materials in the home;

Whereas over 800,000 hazardous materials are shipped every day in the United States, and over 3,100,000,000 tons are shipped annually; and

Whereas the continued threat of terrorism and the potential use of hazardous materials make it vital for Americans to have information on these materials: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 5 through May 11, 2002, as ''National Occupational Safety and Health Week'';

(2) commends safety professionals for their ongoing commitment to protecting people, property, and the environment;

(3) encourages all industries, organizations, community leaders, employers, and employees to support educational activities aimed at increasing awareness of the importance of preventing illness, injury, and death in the workplace; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe ''National Occupational Safety and Health Week'' with appropriate ceremonies and activities.

● Mr. WYDEN. Mr. President, One of the Senate's most popular procedures cannot be found anywhere in the United States Constitution or in the Senate Rules. It is one of the most powerful weapons that any Senator can wield in this body. And it is even more potent when it is invisible. The procedure is popularly known as the ''hold.''

The ''hold'' in the Senate is a lot like the seventh inning stretch in baseball: there is no official rule or regulation that talks about it, but it is has been observed for so long that it has become a tradition.

The resolution that Senator GRASSLEY and submit today does not in any way limit the privilege of any Senator to place a ''hold'' on a measure or matter. Our resolution targets the stealth cousin of the ''hold,'' known as the ''secret hold.'' It is the anonymous hold that is so odious to the basic premise of our democratic system: that the exercise of power always should be accompanied by public accountability.

Our resolution would bring the anonymous hold out of the shadows of the Senate.

Senator GRASSLEY and I have championed this idea in a bipartisan manner for six years now. In 1997 and again in 1998, the United States Senate voted unanimously in favor of our amendments to require that a notice of intent to object be published in the CONGRESSIONAL RECORD within 48 hours. The amendments, however, never survived conference.

So we took our case directly to the leadership, and to their credit, TOM DASCHLE and TRENT LOTT agreed it was time to make a change. They recognized the significant need for more openness in the way the United States Senate conducts its business so TOM DASCHLE and TRENT LOTT sent a joint letter in February 1999 to all Senators setting forth a policy requiring ''all Senators wishing to place a hold on any legislation or executive calender business [to] notify the sponsor of the legislation and the committee of jurisdiction of their concerns.'' The letter said that ''written notification should be provided to the respective Leader stating their intentions regarding the bill or nomination,'' and that ''holds placed on items by a member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day.''

At first, this action by the Leaders seemed to make a real difference. Many Senators were more open about their holds, and staff could no longer slap a hold on a bill with a quick phone call. But after six to eight months, the Senate began to slip back towards the old ways. Abuses of the ''holds'' policy began to proliferate, staff-initiated holds-by-phone began anew, and it wasn't too long before legislative gridlock set in and the Senate seemed to have forgotten what Senators DASCHLE and LOTT had tried to do.

My own assessment of the situation now, which is not based on any scientific evidence, GAO investigation or CRS study, is that a significant number of our colleagues in the Senate have gotten the message sent by the Leaders, and have refrained from the use of secret holds. They inform sponsors about their objections, and do not allow their staff to place a hold without their approval. My sense is that the legislative gridlock generated by secret holds may be attributed to a relatively small number of abusers. The resolution we are submitting today will not be disruptive for a solid number of Senators, but it will up the ante on those who may be ''chronic abusers'' of the Leaders' policy on holds.

Our bipartisan resolution would amend the Standing Rules of the Senate to require that a Senator who notifies his or her leadership of an intent to object shall disclose that objection in the CONGRESSIONAL RECORD not later than two session days after the date of the notice. The resolution would assure that the awesome power possessed by an individual Senator to stop legislation or a nomination should be accompanied by public accountability.

The requirement for public notice of a hold two days after the intent has been conveyed to the leadership may prove to be an inconvenience but not a hardship. No Senator will ever be thrown in jail for failing to give public notice of a hold. Senators routinely place statements in the CONGRESSIONAL RECORD recognizing the achievements of a local Boys and Girls Club, or congratulating a local sports team on a State championship. Surely the intent of a Senator to block the progress of legislation or a nomination should be considered of equal importance.

I have adhered to a policy of publicly announcing my intent to object to a measure or matter. This practice has not been a burden or inconvenience. On the contrary, my experience with the public disclosure of holds is that my objections are usually dealt with in an expeditious manner, thereby enabling the Senate to proceed with its business.

Although the Senate is still several months away from the high season of secret holds, a number of important pieces of legislation have already become bogged down in the swamp of secret holds this year. The day is not far off when any given Senator may be forced to place holds on numerous other pieces of legislation or nominees just to try to ''smoke out'' the anonymous objector. The practice of anonymous multiple or rolling holds is more akin to legislative guerilla warfare than to the way the Senate should conduct its business.

It is time to drain the swamp of secret holds. The resolution we submit today will be referred to the Senate Committee on Rules. It is my hope that the Committee will take this resolution seriously, hold public hearings on it and give it a thorough vetting. This is one of the most awesome powers held by anyone in American government. It has been used countless times to stall and strangle legislation. It is time to bring accountability to the procedure and to the American people.●

AMENDMENTS SUBMITTED AND PROPOSED

SA 3135. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3136. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3103 submitted by Mr. KENNEDY (for himself and Mr. SMITH of Oregon) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3137. Mr. CAMPBELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3138. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3139. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3140. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3141. Mr. DORGAN (for himself, Ms. CANTWELL, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3135. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 23 and all that follows through page 48, line 4, and insert the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real time wholesale market for the sale of electric energy.

''(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

''(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or