

full whistleblower rights to FAA employees in 2000.

I urge my colleagues to once again protect our Federal whistleblowers by providing full and explicit whistleblower protection to employees in the Department of Homeland Security. I urge my colleagues to oppose the Gramm-Miller amendment and support the Lieberman substitute.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Madam President, could the Chair indicate how much time is remaining on each side?

The PRESIDING OFFICER. One minute to the Senator from Connecticut, and 7 minutes to the Senator from Texas.

Mr. LIEBERMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. LIEBERMAN. Madam President, let me conclude in the moment I have remaining. I have the feeling this will not be the last moment I or other Members will have to discuss the Graham-Miller substitute or the question of protections for Federal workers.

There is a significant disagreement about the protections for homeland security workers. I do think, as we talk about the Nelson-Chafee-Breaux compromise, which I support, that it will be seen that it not only gives some protection to Federal workers, particularly those who are currently unionized and will be transferred to the new building, but it leaves the President with the last word on matters of national security. Let not the debate on that matter obscure the fact that, as Senator GRAMM himself has said, 95 percent of his substitute is the same as our committee bill. So let's settle the small point of disagreement and get the rest that we agree on done.

I believe my time has expired.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Nevada.

Mr. REID. Madam President, I have a unanimous consent request which I have informed the minority I am going to propound at this time. Senator NELSON has been designated as Senator DASCHLE's designee. I ask unanimous consent that following my unanimous consent request—and I understand there will be an objection—Senator

NELSON be recognized to offer an amendment.

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

#### UNANIMOUS CONSENT REQUEST— S. 1140

Mr. REID. Madam President, I ask unanimous consent, on behalf of Senator DASCHLE, that the Senate proceed to the immediate consideration of Calendar No. 210, S. 1140, the motor vehicle franchise contracts bill; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Madam President, I have no objection to this request, but I understand there is a Senator on this side who wants to review it further, and on his behalf I object at this time.

The PRESIDING OFFICER. Objection is heard.

#### HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 4740 TO AMENDMENT NO. 4738

(Purpose: To modify certain personnel provisions, and for other purposes)

Mr. NELSON of Nebraska. Madam President, I call up my amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself, Mr. CHAFEE, and Mr. BREAUX, proposes an amendment numbered 4740 to amendment No. 4738.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

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

Mr. NELSON of Nebraska. Madam President, I am pleased to join with my friends, Senator JOHN BREAUX of Louisiana and Senator LINCOLN CHAFEE of Rhode Island, in helping break the stalemate on the labor-management issues that have held up the homeland security legislation. We need to move forward and pass a bill that provides real security for all Americans without the distractions of labor-management issues.

This legislation is a huge undertaking, and the reorganization will certainly not be accomplished overnight.

That being said, we need to get to it right now because the later we come back to try to do this, the more difficult it will be. We need to do it right

because unscrambling the eggs is impossible.

The new Department will not begin well if it begins with a staff who feels their concerns have been ignored. We now have the opportunity to break that logjam. This compromise addresses the concerns of both sides. The agreement preserves the Presidential authority to exempt union employees from collective bargaining as employees of the Department of Homeland Security. It also grants the President historic personnel flexibility, giving him the authority to hire, fire, promote, demote, and to rewrite civil service laws in the area of performance appraisals, classifications, pay rates and systems, and adverse action.

The agreement provides binding arbitration on personnel flexibility. All sides will have a seat at the table during the development of the new personnel rules and any disagreements over the rules will be referred to the Federal Service Impasse Panel, which will have the authority to set the rules and resolve disputes. This is modeled after the IRS Restructuring and Reform Act of 1998, which is current law.

The Federal Service Impasse Panel has discretion to impose new rules to break this agreement. This is existing law. It is the way in which we ought to proceed.

I know this amendment will receive broad bipartisan support, and I hope those of us who seek to complete action on this important legislation will support this effort to clear one of the major hurdles that has been currently blocking our progress so we can move forward on this important and vital security matter currently before us.

I ask for the support of my colleagues, and I hope we will move forward on this as soon as we possibly can. There is no reason to delay this legislation any longer.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Madam President, I support the amendment to the Gramm-Miller amendment which has been offered by our good friend and colleague Senator NELSON, and by my colleague Senator LINCOLN CHAFEE. It is very clear the Senate, as we debate homeland security, has reached a point where we are at a logjam. I, for one, and I think the vast majority of our colleagues, strongly support the creation of a Homeland Security Department, and why is very simple.

In light of today's terrorist threat to this country, we can no longer continue to operate and protect our Nation's security in the way we always have. In the past, too often the right hand did not know what the left hand was doing, and vice versa. It is clear, from the evidence that has now been presented, we have agencies within our own Government that had certain amounts of information that was important information, but information they did not adequately share with other Departments and agencies within our Government.

It is nice to have individual agencies know a little bit about the intelligence of an international threat, but if they do not share that information with other Departments within our Government, and they do not put all of the information gathered into one single place where people can look at it and analyze it, it is really not very effective information. It is certainly not as effective as if we have the collective wisdom of all of the various intelligence-gathering agencies within our Government.

The point has very accurately been made if the CIA has information the FBI does not have, if the Immigration Service has some information neither one of the other agencies has, that is not a very effective situation. If you throw in information that agencies such as the Drug Enforcement Administration, the Immigration and Naturalization Service, and local police and State police have, if each one of them keeps that information to themselves, we are not providing the service we should to the American people. For the first time, the creation of a Homeland Security Agency is going to say to all of these collecting agencies that gather the information that is so important, we should absolutely share it and involve each other in what that information is all about, and that is what the Homeland Security Agency does very effectively.

All of those, Republicans and Democrats together, who have worked very hard to bring this legislation to the floor have done a good job. This is good legislation. It is important legislation. What this legislation does is simply say to the American people after 9/11, we are going to create a new agency in our Federal Government to ensure our ability to better protect the rights and freedoms of all American citizens than we have in the past.

There are actions that have to be taken in times of national emergencies that are not normal, such as during this period of special concern. One of the powers that is necessary for a President to have is the ability to move agencies, departments, and individuals as quickly as possible, to the best position to serve the American public.

The President currently has the authority to say if it is important for national security that some of the collective bargaining rights of some of these employees of the Federal Government have to be temporarily set aside. He can exercise that authority now, and he has exercised it in the past. It has not been only this President but it has gone back, I think, all the way to President John Kennedy. We are in that type of a situation.

With the creation of a new Homeland Security Agency, however, we are talking for the first time about creating a new agency where thousands of employees may be taken out of one position and put into the Homeland Security Agency.

Somewhere between 40,000 and 50,000 who have collective bargaining rights where they are currently working, if they are transferred to a new Homeland Security Agency, for the first time may have those collective bargaining rights taken away.

How ironic it would be if the agency we are creating to protect the rights and freedoms of Americans is the agency that is utilized to take away the rights of American citizens to collectively bargain without the appropriate justification for doing so. I do not think anyone would want to say that is their desire.

This Homeland Security Agency is designed to protect the rights and freedoms Americans have gained. Some may argue about the wisdom of having collective bargaining rights, but it is a right American citizens have. So the question before this body now is: How do we give the President the authority to do what is necessary in this new Homeland Security Agency, which I support very strongly, while at the same time ensuring while we take rights away from American citizens, it is only done under the most unusual circumstances, and if it is necessary it be done, it be done very carefully so everyone will understand how this transaction is taking place?

What brings us to the floor today is this suggestion my good friends, Senator NELSON and Senator CHAFEE, and myself, have worked on to try to say, yes, we support homeland security, but we also want to make sure we protect the rights and freedoms of our own American citizens.

It is interesting to note, if people would only take the time—and I have said this so many times. I have said this to my good friend, the chairman, Senator LIEBERMAN—if all of us had the time to read the legislation and see the actual differences between the two versions, they would find the differences are far less than the similarities, particularly when it comes to this very issue which is causing this problem right now.

If we look at the current authority of the President of the United States with respect to what he can do to remove collective bargaining rights of American workers when he transfers them, it is almost similar, if not identical, to what our suggestion is to break the logjam. For instance, under the current law of the United States, under 5 U.S.C. section 7103, this is what people are saying, do not take away the President's authority. The current law says the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter—meaning take away their collective bargaining—if the President determines, first, that the agency or subdivision has as a primary function intelligence, counterintelligence, investigative or national security work; and, second, the provisions of this chapter cannot be applied to that agency or subdivision in a manner con-

sistent with national security requirements and considerations. What that says is the President can take away their collective bargaining rights now only if he makes a determination that these two things are present.

How do we handle it in our amendment, which I think can generate more than a majority? Simple. Our legislation says no agency can have their collective bargaining rights taken away, unless it is shown that the mission and responsibilities of the agency or subdivision materially change, and, second, that a majority of the employees within the agency have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

I will argue with anyone who wants to say that this somehow hampers the ability of the President to take away collective bargaining rights. Under our suggestion, the President, as under current law, has to make a determination that these people are important to intelligence gathering. That is easy for the President. And also that the mission and responsibilities of the agency from which he wants to take these rights away have materially changed. I think that is a very easy thing, under the circumstances that exist today for the President to be able to reach that standard.

It is interesting that under the current law there is no appeal from the workers to go to the NLRB or any kind of labor agency. But there is no appeal under our provision to go to any kind of NLRB or agency at all.

Some of my friends on the Republican side say, yes, but those workers could take the agency to court. That is true. But that is also true under current law. If someone under current law thinks the President has not made this determination correctly, they have the right to go to court. I don't know that it has ever been done. If so, I think maybe once it was not successful. But they have that right today. It is not appropriate to say we are going to create this new agency but we are going to give workers less rights than they have today.

Some have also suggested they show that mission and responsibilities of the agency have materially changed. That would never fit today's circumstances. The example they give is, we may have an immigration agency working in south Texas that is all of a sudden going to be transferred to the new agency to look after immigrants who are coming from suspected terrorist areas of the world and that their mission will not materially change. They will be doing the same work in a different agency and, therefore, not meet the test of having their work materially change because they will be doing the same type of work.

That does not create a problem. It is the intent of the authors of this to clearly say it is our intent when you are transferring people who are doing immigration work in border towns,

protecting our States under normal circumstances, that they have to do that type of work to stop international terrorists at a time we have been attacked by terrorists from other countries is materially changing what they are doing. They are now looking out after foreign terrorists who are trying to attack the United States and do grave harm to this country. Their work has materially changed. The President makes this determination under our amendment, as he does under current circumstances. There is no appeal from the workers to be able to go to any NLRB-type of organization and plead their case.

I plead with folks at the White House who have looked at this, take another look at it. Read what the current law says. Read what our suggestion is on collective bargaining. You will find there is not any difference that is worth objecting to if we are able to get this through the Senate with a large majority. It is not a good idea, I suggest, to have a 50/50 vote on homeland security and have to ask the Vice President of the United States to come to this Chamber to break the tie, to barely get this through the Senate. What type of unanimity does that show the American people as we pass homeland security? This amendment should pass with 75, 80, or 90 votes at least. Our suggestion in the Nelson-Chafee-Breaux amendment would allow us to have a huge vote in support of this proposition.

The second area we have addressed in our amendment is important. The question is, Do you give the President flexibility to move people around, to change, perhaps, how they get paid, or to change their functions because now there is a question of national security? We have done that in our amendment. We have clearly spelled out the fact that they have the authority to have management flexibility. We have taken the larger part of the so-called Portman-Quinn amendment offered in the House which gives management flexibility to the President.

I happen to think he should have management flexibility, but certainly not unlimited. He should have it in the areas he needs it. We have offered that. The Portman language in the Senate gave him management flexibility in six different categories. We have said that we will take four of those six categories and give him the flexibility he needs to make the decisions he would like to make in moving these people around.

The President should have that in terms of the national emergency. We give him the authority that he needs, like in Portman-Quinn. The only suggestion is, you should not be able to do it, like you cannot today, without some involvement of the workers. You ought to at least sit down with them and discuss with them as you do in other agencies—such as the IRS, the FAA. Under current law, you sit down and talk with the people you are going

to be moving around to get their support, to get their ideas, to get their suggestions about how it can be made to work in a more efficient manner.

What type of managers want to dictate to the employees that he will do this, that, and the other, and oh, by the way, I want you to be a loyal worker after I do this? Our legislation requires that in making these management changes, they shall be worked out with the representatives of the workers and the Secretary, that they would enter into a written agreement to approve the management flexibility that the Secretary thinks he needs.

The point is, if they do not reach an agreement, do the workers have a veto? Absolutely not. As under current Federal law, as under the Internal Revenue Service when we gave them management flexibility, this body and the other body voted and approved when they cannot agree on management flexibility, you bring in the Federal Service Impasse Panel and they will have the authority under the Federal Service Impasse Panel—if the parties cannot arrive at an agreement, they have the authority under our amendment, as under current law, to take whatever action is necessary to resolve the impasse. That means if they want management flexibility, they sit down with both sides and discuss it. If the two sides cannot agree, they bring in the Federal Service Impasse Panel and they make the decision. It is a binding decision.

What is this Federal Service Impasse Panel? Is this an arm of the AFL-CIO? A new creation? No, it exists in Federal law today. There are seven people on it. Guess who appoints the seven. The President of the United States. He appoints every single member of the Federal Service Impasse Panel that will look at what the President is trying to do, and if the people cannot agree, his appointees, all seven of his appointees, unanimously appointed by the President of the United States, put into effect what they think is appropriate and improper. I don't think that is something that is bad at all. That is current law for the Federal service workers right now when they are being moved around.

I suggest if we could adopt the Nelson-Chafee-Breaux amendment we could put this aside. This bill has to go to conference with the other body. There will be further negotiations on this issue. Hopefully, we can come back with something that leaves the Senate, first, with a very large vote, instead of 50/50, and then come back in a fashion that will also generate the type of support that I think is critically important.

I ask for a "yes" vote on my amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, creating the Department of Homeland Security is an enormous undertaking. In fact, it is the largest Federal under-

taking since the creation of the Department of Defense. Senator BREAUX, Senator NELSON, and I offer this amendment to address the concerns, not only of the President, of course, but also concerns of the many thousands of Federal employees to whom we are entrusting our national security. As Senator BREAUX and Senator NELSON have pointed out aspects of this amendment, I think it is important to note that what we have done is taken Republican amendments, I say to my colleagues on this side of the aisle, we have taken Republican amendments from the House, the Republican amendment offered by Representative MORELLA from Maryland, Republican amendments offered by Representative PORTMAN and Representative QUINN, from Ohio and New York, and offered them into this amendment. This is an honest attempt at bipartisanship.

Most important, as Senator NELSON has said, this amendment will finally enable the Senate to move the process forward by getting this bill to conference with the House. Without this compromise, there will be no Senate bill. There will be no Department of Homeland Security. But with this compromise we can empower the conference committee to work with the administration to finalize a bill that will meet the President's legitimate concerns and protect employees' legitimate rights. I do urge passage of this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. I ask unanimous consent the quorum call be rescinded.

Mr. REID. Reserving the right to object, Madam President—I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. LOTT. Madam President, I renew my request the quorum call be rescinded.

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

Mr. LOTT. Just to clarify my intent, Madam President, this is not to get recognition to try to offer an amendment or affect the procedure on the pending issue. Talking with Senator REID, he wanted to make sure that at the conclusion of my remarks there would be an opportunity for someone to seek recognition on the other side. I am sure that would be the case, although Senator BUNNING is here and wishes to speak on the amendment at hand.

I would like, rather than just to speak on the amendment, to use leader time, as was done by Senator DASCHLE this morning, to speak on this critical area.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Madam President, the Senate now has been on this important issue over 3 weeks. The creation of the Homeland Security Department, something that clearly is very important, needs to be done. Perhaps it needed to be done earlier—without being critical of anybody. There needs to be some way to bring these different groups together and get a focus, get some direction, to give them the directions they need and the funds and the people to deal here at home with the threat by terrorists and by others. We need this Homeland Security Department.

I had thought we could probably do a Homeland Security Department in a few days—probably less than a week. But here we are, now. Obviously, we are going to take a month on this issue.

What is at stake? What has delayed this issue is the President's authority to impose national security interests, the security of the American people in their homes and their streets and their businesses, innocent men, women, and children here at home—for the President to be able to act in the national security interest, to have some flexibility in management authority to make sure this Department runs efficiently. Yet we see we are still arguing over work rules in the workplace. We are still arguing over whether the President should have the authority to say, for national security reasons: I am going to be able to move people and money around, and we are going to be able to override work rules to look after the security of the American people.

I think it is ridiculous that we have come to this point. I oppose the pending amendment because, once again, this is an effort to try to find a way to make it difficult or even impossible for the President of the United States—and not just this President, Presidents—to be able to do the job on homeland security.

The President has said that the Senate needs to act on homeland security. There is beginning to be doubt about the Senate's commitment in this area because we are putting special interests of certain groups over homeland security. That is a legitimate debate. The debate has been gentlemanly. We have not had many amendments because we have had more talk than we have had amendments. But now we have the President's proposal that has been offered by Senator GRAMM and Senator MILLER—a bipartisan bill with some changes that have been agreed to. And now we have an amendment that will be offered. That is all well and good. That is fine.

Then there is the separate issue of the Iraq resolution. What are we going to do about Saddam Hussein? Let me read to you what the President of the United States said on that issue.

I want to thank Members of both parties of the U.S. Congress for working to develop a

strong resolution and a strong signal to the world that this Nation is determined.

That is what the President actually said. Now, I am deeply saddened by the tenor and the tone of the remarks of my friend, the majority leader, this morning on the administration's conduct and Iraq. We live in grave times, when this body should be carefully and deliberately debating the threat that Iraq's weapons of mass destruction pose against the United States. Instead we heard accusations that a President of the United States is using the possibility of war for political purposes.

Who is the enemy here? The President of the United States or Saddam Hussein? That is who was attacked this morning here on the floor of the Senate. I think we would be better served debating Saddam Hussein and the threat he poses for the world. He is a brutal dictator. He has already used chemical and biological weapons against his own people.

We know he has the ability to deliver these weapons. We know he has invaded his neighbors.

We had better be asking ourselves what we are going to do about this tyrant. He has for 11 years ignored 16 U.N. resolutions and has been involved in the killing of thousands of innocent people.

For anyone who seems surprised that we are engaged in this debate, I ask a very simple question. Where were you, 9 months ago, when the President of the United States came before a Joint Session of Congress and said, "Iraq continues to flaunt its hostility toward America and to support terror. The Iraqi regime has plotted to develop anthrax and nerve gas, and nuclear weapons for over a decade. This is a regime that has already used poison gas to murder thousands of its own citizens—leaving the bodies of mothers huddled over their dead children. This is a regime that has something to hide from the civilized world?"

Where were you, 9 months ago, when the President continued, "States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic?"

Where were you 6 months ago, on the half year anniversary of September 11, when the President said, "Here is what we already know: some states that sponsor terror are seeking or already possess weapons of mass destruction; terrorist groups are hungry for these weapons, and would use them without a hint of conscience. And we know that these weapons, in the hands of terrorists, would unleash blackmail and genocide and chaos?"

The President continued, "These facts cannot be denied, and must be

confronted. In preventing the spread of weapons of mass destruction, there is no margin of error, and no chance to learn from mistakes. Our coalition must act deliberately, but inaction is not an option."

Again in May, the President said:

The evil that has formed against us has been termed the "new totalitarian threat." The authors of terror are seeking nuclear, chemical and biological weapons. Regimes that sponsor terror are developing these weapons and the missiles to deliver them. If these regimes and their terrorist allies were to perfect these capabilities, no inner voice of reason, no hint of conscience would prevent them.

The President of the United States has been actively laying out the case against Iraq in a deliberate and focused way for nearly 1 year.

Just a month ago, Democrats in the Senate and Republicans in Congress were saying to the President: Mr. President, make your case to the American people. Come to the Congress. Make your case to us. Let us be engaged in the dialog and the debate, have some resolution prepared, and vote. Go to the United Nations. Make your case to the world community. Reach out to our allies around the world, and those not necessarily our allies, and show them the danger. Talk to them. Have a dialog.

The President did that. He has been going to the American people. So has his administration. He came to the Congress and said: You are right. I am going to consult with you and communicate with you.

Let us have a dialog. Let us have a debate. Let us have a vote.

A number of Democrats have stood up and said: Yes, this problem is serious, and we must address it. We must address it now.

The President went to the United Nations. He showed commitment and leadership. He turned the whole debate there around and put pressure on the United Nations to decide if they were just going to be a League of Nations or if they were going to really enforce their resolutions that had passed several times.

The President gave a bill of particulars about why we must act, and we must act now, because with ever passing day, week, month, and year, the threat grows, it doesn't diminish.

This is about the people in Iraq who are being oppressed and who have been killed. This is about security in the region. This is about security here at home.

Some people have said: He can't deliver nuclear weapons yet. He may not have them.

He has the delivery systems. He is working to make them longer range. We know that. He is trying to get materials he needs to have these nuclear weapons. But put aside the nuclear weapons. We know he has biological and chemical weapons right now. We know that. Some of these weapons can be delivered with an aerosol can—right here; not somewhere else; right here.

Have we forgotten the events of 9/11 so soon, which was so catastrophic and so big? Are we ignoring what we are learning from the hearings that are underway and from the realities of the threats from terrorists all over the world, and particularly from Saddam Hussein?

Once the President came to the Congress, some people said: Wait. We didn't mean now. Some people said: Let us do it instantly. Now some people say it is being politicized; we shouldn't do that. We should reduce the shrill of rhetoric. We should try to find a way to do this in the right way and in a broad bipartisan way.

But let us go beyond the situation right here at home. Is somebody going to accuse Prime Minister Tony Blair of politicizing the issue? He is not up for reelection. In fact, he is going against a lot of the people in his own party. I think the British people support what he is doing. But he has shown real courage. He went before the House of Commons this week and laid out the information he had. He deliberately pointed out the danger and why we need to act now. Nobody can accuse him of politicizing the issue.

This is what he said.

[The British Joint Intelligence Committee] concludes that Iraq has chemical and biological weapons, that Saddam has continued to produce them, that he has existing and active military plans for the use of chemical and biological weapons, which could be activated within 45 minutes, including against his own Shia population; and that he is actively trying to acquire nuclear weapons capability.

The Prime Minister continues:

Since the departure of the inspectors in 1998, Saddam has bought or attempted to buy: specialized vacuum pumps of the design needed for the gas centrifuge cascade to enrich uranium . . . an entire magnet production line . . . and has attempted, covertly to acquire 60,000 or more specialized aluminum tubes which are subject to strict controls due to their potential use in the construction of gas centrifuges.

All this, and Iraq has no civil nuclear powerplants. So they are not doing it for that purpose.

The Prime Minister concluded:

Two things about Saddam stand out. He has used these weapons, thousands dying in chemical weapons attacks in Iraq itself. He used them in the Iran-Iraq war, started by him, in which one million people died. And his is a regime with no moderate elements to appeal to. Read the chapter on Saddam and human rights. Read not just about the one million dead in the war with Iran, not just about the 100,000 Kurds brutally murdered in northern Iraq, not just the 200,000 Shia Muslims driven from the marshlands in southern Iraq; not just the attempt to subjugate and brutalize the Kuwaitis in 1990 which led to the Gulf War. Read about the routine butchering of political opponents; the prison "cleansing" regimes in which thousands die; the torture chambers and hideous penalties supervised by him and his family and detailed by Amnesty International. Read it all again and I defy anyone to say that this cruel and sadistic dictator should be allowed any possibility of getting his hands on more chemical, biological or even nuclear weapons.

That was the British Prime Minister.

This is not about politicizing the issue. We shouldn't do that. But it is a very important issue. The American people's security is at stake.

I think what maybe has happened here is a desire to try to find some way to put this issue off or to in fact make it political.

But let me correct the Record just in case some of the comments here were inspired by misinformation.

Today's Washington Post story on President Bush and Vice President CHENEY has remarks in it that are flat wrong. The partial quote cited in the Post was specifically referencing the current debate over management flexibility of the Department of Homeland Security—not the war on terror in Iraq. I think that is a very important and critical difference.

I took the time to look at the Vice President's remarks. I know DICK CHENEY. I have the utmost respect for him. I have heard him speak to several different groups—political meetings and nonpolitical. He is always low key, very studied in what he says, very careful, and it is never inflammatory. He does talk about the need for the right actions in the economy, national and homeland security, and trade promotion authority. He has talked about the things we have done.

Then he said:

President Bush and I are very grateful for the opportunity to serve our country. We thank you for your support, not just for our efforts, but for good candidates like Adam Taff, who will make a fine partner for us in the important work ahead.

What is the problem with that?

When I looked at what was said today, I must confess, I was shocked and even horrified. I have taken a moment here to talk to some of the colleagues on the floor about the important work ahead of us.

At a press conference this very morning, I was saying: We are going to work this language out. We are going to find language that will give the President the authority he needs but language that will have broad bipartisan support in both bodies. We can find a way to do that.

But the accusations leveled against the President of the United States today cannot stand. This is not about unity. That is the worst kind of division. I am going to try to remain calm and attribute the reaction I heard today to perhaps misunderstanding. We are not going to question anybody's patriotism here, but we are going to question the commitment and what we need to do to protect the American people.

It is not about questioning it; it is about doing it. We are not going to pass a homeland security bill that ties the President's hands. It is not going to happen. And he will not sign it.

We are going to take action against Iraq to make sure their weapons of mass destruction are located and destroyed. If it takes regime change, this

Congress, this Senate is already on record saying we support that.

I think it is time we get a grip on things. We have a lot of work to do. Here in the Senate, we are not moving anything. We are becoming totally dysfunctional. And now we are going to add to that the type of accusations we had here this morning?

We have 2 weeks and 2 days or so to do a lot of important work: the defense of our country, homeland security, economic security issues that we need to address—terrorism insurance. There is so much we need to do. I hope we will find a way to do those issues and get this discussion back on the right track.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, we have been hoping to move this process along. And I would hope that we would continue to have debate throughout the day on the Gramm and the Nelson amendments.

The Senator from Texas had noted earlier that he was desirous of an up-or-down vote. I would be prepared to provide that up-or-down vote. I am going to propound a unanimous consent request to accommodate that, so I will do so at this time.

I ask unanimous consent that the Senate vote on Senator NELSON's amendment at 10 o'clock in the morning, tomorrow, and that immediately after it has been disposed of, Senator GRAMM be recognized to offer a further second-degree amendment that is the text of amendment No. 4738, and that the Senate then vote immediately in relation to Senator GRAMM's amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, all we have asked for, from the very beginning, is to have an opportunity to have an up-or-down vote on the President's proposal, not having an up-or-down vote on it as amended by somebody else.

The Senator has every right to amend it. It just seems to me, in a wartime situation, when the President has proposed a compromise and has asked that we vote on it, that we ought to do that. And on that basis, I will object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. DASCHLE. Mr. President, I have a hard time understanding the basis for

the Senator's objection. We have offered him an up-or-down vote on his amendment, just as he has suggested.

Mr. NICKLES. Will the majority leader yield?

I am going to help the majority leader.

Mr. DASCHLE. I will yield in just a moment.

#### MOTION TO COMMIT

Mr. President, I do not see that we have any other option, then.

To ensure that we keep in place the current parliamentary circumstances that we have legislatively, I move to commit the bill to the Governmental Affairs Committee and that it be reported back forthwith with the Lieberman amendment No. 4471, as amended, pending. And I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is before the Senate.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4742 TO THE INSTRUCTIONS OF THE MOTION TO COMMIT H.R. 5005 TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 4742 to the instructions of the motion to commit H.R. 5005 to the Committee on Governmental Affairs.

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

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

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

Mr. DASCHLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4743 TO AMENDMENT NO. 4742

(Purpose: To modify certain personnel provisions, and for other purposes.)

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 4743.

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

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

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

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I ask unanimous consent to be listed as a cosponsor of the bipartisan Gramm-Miller substitute and rise to speak in favor of that amendment.

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

#### AMENDMENT NO. 4738

Mr. BUNNING. Mr. President, I believe the proposal of Senator GRAMM and Senator MILLER represents our best hope of passing legislation this year to put a new Homeland Security Department in place.

The Gramm-Miller substitute addresses the legitimate policy concerns of many Senators on both sides of the aisle while also giving the President the flexibility and the authority he needs to put together and run a Homeland Security Department that fulfills its primary mission—defending our people and our Nation.

This amendment is a good, bipartisan compromise. It contains a number of provisions from the original bill reported out of the Governmental Affairs Committee. It also contains the bulk of what the President has asked.

As a member of the Governmental Affairs Committee, I would like to take a few minutes to talk about what I see as the strengths of this proposal as well as the weaknesses of the Democratic proposal and why it is imperative that we pass Gramm-Miller now.

One of the most important things this bipartisan amendment does not do is, it does not take away important Presidential national security authority when this country is in the middle of a war. Going back to the markup of the homeland security bill in committee, many of us argued that the President needs to have the maximum flexibility to effectively administer a Homeland Security Department. We are fighting a new type of war. The Department is going to have to be nimble. Officials there are going to have to be able to react to events at home and abroad on a moment's notice. The President must have the ability to make decisions and move resources around to fight an enemy that has spread throughout the world and could attack us from any point.

Every President since Jimmy Carter has had more discretion in running agencies that were involved in national security. For instance, over the past 30 years, every single President, Republican or Democrat, has been able to declare, and actually has declared, that some civil servants are exempt from

collective bargaining rules that apply to other agencies. The Democratic bill would change that when it comes to homeland security.

Let me be clear: The employees at the new Department are going to have a very important job to do. They deserve our respect and our support. But to go as far as to give the President less authority over them and to put more bureaucratic rules into place is to distract from the reason we are debating this legislation in the first place.

We need to make sure these employees have the resources to do the job. We need to make sure the President has the same ability. To give him less authority is the exact opposite of what we need to do.

In short, that means the Democratic proposal would actually give the President less flexibility than he already has under current law. That is crazy. There is no reason to have this debate if we are only going to talk about making it harder, not easier, for the President to lead us in the war on terrorism.

This debate is supposed to be about crafting rules and building a new Department to help fight the war on terrorism. It is not supposed to be a debate about rolling back the clock to an outdated way of thinking about labor and management relationships.

I have said throughout this debate that if the choice comes down to national security versus more redtape and rules, national security must win every time.

Instead, what the Gramm-Miller proposal would do is give the President necessary management and personnel flexibility to allow him to integrate the pieces of many standing agencies into a new Homeland Security Department. This is going to be an awesome task we are undertaking. We are talking about taking bits and pieces from literally dozens of current agencies and quickly fitting them together into an effective unit called the Department of Homeland Security.

That job is going to be an even harder one if we continue to focus on old rules and redtape instead of how to fashion a new and flexible agency to fight a war in the 21st century.

Another reason to support Gramm-Miller and to oppose the Democratic bill or any substitute for it is the forward-thinking parts of the bipartisan bill when it comes to civil service and personnel issues. For instance, Gramm-Miller gives the President flexibility when it comes to management decisions relating to hiring, evaluating, and compensating. Democratic opponents look at this and see the glass is half empty. They claim it is a pretext for cracking down on workers. I see the glass as half full and view these reforms as a way for the President and the others to reward those employees who do a good job and provide the flexibility to hire the best and brightest for this new Department. After all, we are talking about defending our Nation and our people. Employees who do a good



job as part of that should be rewarded. Those who do not should either be disciplined or fired.

At the same time, Gramm-Miller also retains whistleblower protection and a full range of employee benefits and protections. I understand it might not be everything the Government unions want, but it is still a very good deal.

Gramm-Miller is also on the right track when it gives the President extra authority to transfer funding and responsibilities to the Homeland Security Department. Right now his hands are often tied by redtape, but if we were to have another 9/11 disaster, if we were to see another attack, the President would need more authority to act quickly when it comes to moving around funds and responsibilities to make sure we respond as rapidly as possible.

I know some of my colleagues worry about this new authority. They think we are going too fast and that Congress would be giving away some of its constitutional authority. I totally disagree. Gramm-Miller specifically says that as to the biggest changes, the President would ask Congress for permission by submitting a resolution to the House and to the Senate and that we would have 90 days to act. That is the type of consultation with which I am comfortable.

Obviously, we have to respect the separation of powers as well as Congress's power of the purse and our powers to declare what role they are going to play. We can do this while at the same time giving the President more tools to effectively administer the Federal bureaucracy.

My friends on the other side of the aisle who oppose Gramm-Miller have also thrown out a couple of other red herrings when it comes to labor and personnel issues. They have tried to fall back on the notion that the proposal would undercut the Davis-Bacon rules covering prevailing wage on Government construction projects. But the fact is that Gramm-Miller is neutral on this issue and explicitly does not address it.

They also try to make the claim that supporters of Gramm-Miller are using it as some devious way to undercut, in a broad manner, rights under the Federal Labor Relations Act. Again, this just is not true.

The President does have the right under Gramm-Miller to exempt applications of the rules on a limited basis but only—but only—if national security is involved. That sounds reasonable, and I believe most of the American people, if given a choice between tying the President's hands with labor negotiations or giving him the ability to act for national security, would give him the benefit of the doubt.

When you get beyond the debate about broad policies and personnel issues, Gramm-Miller also makes sense when it comes to the nuts and bolts of making changes to specific departments and agencies.

For example, when reorganizing the Customs Service under the new Homeland Security Department, the Democratic bill would provide for the transfer of Customs to the Homeland Security Department but at the same time also requires it to be maintained as a distinct entity within the Border and Transportation Security Directorate.

That also makes no sense. Customs cannot be in two places at one time. It is either a part of homeland security or it is not. There is no other way I can see how it can function effectively by splitting its resources and focusing among two agencies.

The only reason I can see that the Democratic bill does it this way is to protect turf, but all this would do is to protect the same old stovepipe system and personnel we have now, but under different names. If anything, moving Customs into two different agencies might make things worse.

Instead, Gramm-Miller would transfer Customs to homeland security and reserve at Treasury the limited right to issue regulations covering some of the Customs' revenue functions. That seems like a much more sensible and workable solution to me.

I know it might not be popular in the bureaucracy, and there might be some at Treasury and Customs who are resisting this change, but if it is a choice between keeping the status quo or some sort of warped version of it to save the bureaucratic face to protect turf, then I have no problem in upsetting the applecart and supporting a new streamlined approach to Government.

Another example of what I am talking about is how the competing proposal deals with FEMA. The Democratic bill moves FEMA to a new Department as a "distinct entity" that cannot be reorganized or merged.

The Gramm-Miller bill simply moves FEMA to the Homeland Security Department.

I do not even understand what the Democrat bill is trying to do here. It claims to move FEMA to Homeland and to give the Secretary some authority over it. But at the same time it says that FEMA cannot be reorganized or improved.

This is a distinction without a difference. Either FEMA is part of Homeland or it isn't.

Either the new Secretary has the authority over FEMA and the ability to put its resources to work or he doesn't.

The Democrat bill tries to tiptoe around the issue so that it does not step on toes. But when it comes to war and fighting terrorists, it is time to step boldly.

Instead of talking about shades of gray and playing word games, we need to start looking at the world in black and white and acting boldly.

In other areas, Senator GRAMM and Senator MILLER have gone out of their way to adopt workable sections of the Democrat bill and to compromise.

For instance, Gramm-Miller adopts the Democrat bill's language when it

comes to Freedom of Information Act issues and the law enforcement powers of inspector agents.

These might seem small, but especially with FOIA I know that many of my colleagues were worried about accountability of the new Department, and I appreciate the bipartisan efforts to reach across the aisle from Senator GRAMM and Senator MILLER.

Gramm-Miller also borrows from the Democrat bill when it comes to provisions covering Federal workforce improvement and adopting reforms worked out in the Governmental Affairs Committees by Senator VOINOVICH and Senator AKAKA.

It accepts all of the Democrat proposal when it comes to emergency procurement authority.

On the subject of Administration of the Centers for Disease Control, it also accepts all of the Democrat proposal.

Gramm-Miller proposes effective immigration reforms by adopting the Democrat bill's proposal to create an Immigration Affairs directorate within the new Department and to transfer the Immigration and Naturalization Service to it.

Senator GRAMM and Senator MILLER also accept, with only minor changes, the Democrat's proposal to modify the Coast Guard's mission and reforms the rules that cover how we issue visas.

In short, Gramm-Miller has tried to take the best and most acceptable parts of the Democrat bill while also maintaining the flexibility and some of management proposals that the President says he needs.

For instance, the President's plan provides for unified intelligence analysis and infrastructure protection in one organization.

This would have a single agency responsible for providing both threat assessments and vulnerability analysis. Nowhere in the Government does this currently take place. This plan would fill that gap.

As the current Joint Intelligence Committee hearings have shown the last several days, our intelligence community needs some work.

Most importantly, information about what is going on in this country needs the most work, and information about what our own weaknesses are is largely nonexistent. This amendment would allow these two types of analysis to come together and provide the most accurate information about what we need to do as a Nation to protect ourselves domestically.

This flexibility and reform is not part of the Democrat bill.

We have been at loggerheads on this legislation for almost 4 weeks now.

I think we know it is getting down to crunch time and it is time to compromise. That is what Gramm-Miller does.

No one is going to get everything of what they want and the time before adjournment is shrinking rapidly.

I think it is time to move beyond confrontation and toward a workable

compromise that will allow us to put an effective Homeland Security Department into place now.

I know that some Members think we are moving too fast and they want to spend more time debating the bill.

I think that is the wrong way to look at this situation.

Obviously, we have to get things right in building the new Department. But at the same time, we all know that if we can come up short we come back and fix things down the road. I do not think anyone seriously doubts that if we pass a bill that needs to be tweaked down the road that the Congress is going to drag its feet on such an important national security issue.

We owe it to ourselves and the American people to finish work on this bill. We have been debating it for close to a month. Before that, it was subject to some public debate during the August recess and during the Government Affairs Committee markup in July. We have had over 15 hearings on this bill.

We are not reinventing the wheel. We have had a good debate. I think we have a good handle on this bill and now it is time to vote.

If we are worried about making mistakes or not passing a perfect bill we will be here until doomsday—literally.

This is a complicated issue. There are bound to be mistakes. But I think we are on the verge of getting much of it right, and on many levels we will not know for sure how to make the Department work until we get it up and running and see where the shortcomings are.

So let's get started. The people who will staff this new Department are already out there, trying their best to protect America.

They are dedicated public servants who make many sacrifices to serve this Nation and their fellow citizens, but right now they are spread throughout the Government.

It is time to bring them together and to harness their collective talents for the national good.

There is an old phrase that says one should either leads, follow, or get out of the way. Right now we are doing none of those things. We in Congress need to start leading.

The President has been pretty clear about what he needs to administer the new Department.

He has told us what he can accept and what he has to veto.

The House has acted, and now I think a bipartisan majority in the Senate ought to be ready to act.

We can continue talking or try to pass a political bill that the President will send right back to us.

Instead, we should adopt Gramm-Miller. It is a good starting point—a solid, consensus bill.

It borrows the ideas from competing bills, and as the only bipartisan bill it offers common sense solutions when it comes to building the Department of Homeland Security.

I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Mr. President, before the Senator from Kentucky leaves the floor, I, as all Senators, I am sure, feel very fortunate to be able to serve in the Senate. One reason is the associations we develop with our fellow Senators. One of the things I haven't had a chance to say publicly, or even privately, to the Senator from Kentucky is how much I enjoy serving with him.

As a boy, I used to listen to baseball games—no television; we used to listen to the games. Of course, JIM BUNNING was one of the people who pitched those great ball games. Then, of course, I watched him do all the great things he did later on. And now, to serve in the Senate with a member of the Baseball Hall of Fame, for somebody who wanted to be a baseball player—that was what I wanted to be until I found out I wasn't good enough—is really one of the pleasures of my life—to say I served with somebody who is in the Baseball Hall of Fame.

Mr. President, I will send a cloture motion to the desk.

Mr. BUNNING. Will the Senator yield?

Now you have switched your allegiance to a fellow who lives in your home State?

Mr. REID. I have to admit I did give a statement on the floor the day before yesterday about another great pitcher who certainly will be a member of the Hall of Fame, Greg Maddux. In my statement, I said Greg Maddux is less than 6 feet tall, weighs maybe 10 pounds more than I do—not very big, clearly not as big as the Senator from Kentucky. The Senator from Kentucky hasn't gained much weight, if any, from the time he pitched. Greg Maddux is one of the great ones. On Sunday he won his 272nd game. He has an ERA lifetime of about 2.5. He tied Cy Young's record of winning 15 games 15 years in a row.

One of the interesting things I learned was that, as a 20-year-old, when he came up to the majors, the second game he won, he pitched against his brother Mike, and beat him. Mike played for the Cincinnati Reds at the time when he beat him.

I haven't switched my allegiance. I can have allegiance for more than one great baseball player.

Mr. BUNNING. I thank the Senator.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under Rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation.

Harry Reid, Ben Nelson of Nebraska, Hillary Rodham Clinton, Debbie Stabenow, Mark Dayton, Patrick Leahy, John Breaux, Tom Carper, Tom Daschle, Byron L. Dorgan, Jack Reed, Jim Jeffords, Tim Johnson, Mary Landrieu, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Because of the parliamentary matters we have been going through this afternoon, a number of Senators have come to the floor and have wanted to speak and have been prevented from doing that. Therefore, I hope things will run a little more smoothly this afternoon.

I ask unanimous consent the Senator from Utah, Mr. HATCH, be recognized for up to 15 minutes, Senator NELSON be then recognized for up to 10 minutes, and Senator NICKLES for 10 minutes. He told me that is what he wanted. Then, Senator VOINOVICH waited here all morning and part of the afternoon. I ask that he then be recognized for up to 35 minutes to speak and that then Senator LIEBERMAN, the manager of this bill, be recognized after that for up to 30 minutes.

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

Mr. REID. In that order.

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

The Senator from Utah.

Mr. HATCH. Mr. President, I personally want to express my regard for the distinguished Senator from Kentucky and his excellent remarks today. I think he covered the problems quite well. I personally appreciate the friendship we have together and the great leadership he provides in the Senate. I think he did a very good job. I agree with him.

Mr. President, every Member of this body, and every citizen in this country, knows that the most critical issue facing our Nation today is the task of securing our homeland and protecting our country from further terrorist attacks. The enormity of this task cannot be overstated; and its implementation is equal measures vexing and daunting. But we must rise to the challenge. And we must do so together. No less than the lives of our citizens and the security of our nation hangs in the balance.

With regard to this, I pay my compliments to the distinguished Senator from Georgia who gave a speech this morning that was really very good. Senator MILLER, it seems to me, has made a real effort to bridge the gap between Democrats and Republicans on the floor and otherwise. His remarks were just absolutely right on the money. I personally express my regards for his remarks and express my love and affection for him as a Senator. He is a good man, and we ought to listen to him.

I speak today out of a spirit of bipartisanship. I am proud of the way that Congress has come together on issues of national security since the horrific



attacks of September 11. In the wake of these tragic events, members of the Judiciary Committee and Congress worked tirelessly to provide the Attorney General with the tools necessary to fight terrorism worldwide and protect our country. Specifically, we passed the PATRIOT Act, a critical set of reforms needed to unleash our government's ability to detect and prevent terrorist attacks, by an near-unanimous vote of 99-1. It is my hope that enough of that robust bipartisan spirit remains today as we consider the landmark legislation to create the Department of Homeland Security. As we have just passed the anniversary of the terrorist attacks that killed thousands of innocent Americans, such a sentiment is not just sorely welcome; it is also fundamental and necessary and appropriate.

Today, we face a significant new type of military threat, one far different than post-World War II communism. We face today the danger of numerous, well-financed, well-trained and completely ruthless terrorist groups who will stop at nothing to cross our borders and attack our institutions, infrastructures, people and freedoms with all types of weapons. They engage in unconventional warfare and are bound by no rules. I speak not of just al-Qaida but many other terrorist groups. The creation of the new Homeland Security Department is a massive task precisely because the terrorist threat is so pressing and pernicious.

The proposal to create a new Homeland Security Department is the next logical and necessary step in our country's war against terrorism. In my view, there are several components that are critical to ensuring its success.

One of these involves our intelligence practices. In the aftermath of September 11, it is abundantly clear that we must improve the gathering, sharing, and analyzing of information within and among our Federal, State and local agencies. Our nation clearly needs to have a centralized office that is responsible for reviewing all of the terrorism-related information that collected by any agency, be it the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, or one of the others. The Homeland Security Department is a critical step to ensuring that intelligence information is comprehensively collected, analyzed and disseminated. We must be sure not to handcuff the new Department's ability to do its job in this area. In particular, we must take pains to ensure that we do not unnecessarily limit the use of this intelligence within the new Department. The stakes are simply too high to place artificial constraints on this important function.

Another critical area involves managerial flexibility. The new Department of Homeland Security must be given the ability to hire and retain the very

best people to do the work of keeping our country safe. We need to give the Secretary of Homeland Security such fundamental management powers as the ability to remove poor performers and reward exemplary employees with merit-based pay raises. Believe it or not, under our antiquated system of Federal employment rules, it can take five months to hire a new employee and 18 months to fire a terrible worker. Most Federal employees also get annual pay raises based on how long they have worked for the government, not how well they do their jobs. The vast majority of ordinary Americans don't have such outdated rules in their workplaces. There is absolutely no sound reason to move such inefficiencies to the new Department of Homeland Security. That is the current law. The bill before us even expands that.

Let me be clear: I am convinced that the vast majority of Federal workers do an outstanding job for our country. That is why I am not concerned with giving the Department of Homeland Security more managerial flexibility. Indeed, because most Federal workers do great work, they have nothing to fear and everything to gain from an improved system that allows their work to be rewarded through merit-based bonuses and raises. Only poor workers need be concerned, and they should be. Frankly, there is no place for underperforming or incompetent workers in the agency charged with protecting our safety. The new Department has the Herculean task of preventing terrorist attacks and keeping our country safe. I cannot imagine any reason why we would handicap it by imposing a system of rules that protect bad Federal workers at the expense of good ones and, more importantly, at the expense of our nation's safety. That is what the amendment to the bill by Senator GRAMM and Senator MILLER changes.

The need for flexibility, in my view, must run through every corner of the Department of Homeland Security. The very nature of our enemy is quick and deliberate action; terrorists are quick to change their members, associations, plans, training bases, and destructive methods. Terrorists, moreover, come in many different shapes, colors and ideological bents. We must equip our security forces with the ability to be similarly adaptable. The Department simply must have the ability to adapt itself to a constantly changing enemy threat. We will fail our task miserably if all we end up doing is reorganizing dozens of inflexible agencies into a new titular Department of Homeland Security. If the Secretary of Homeland Security is required to keep intact within the Department each of the individual agency's personnel, components, budgets and rules, then we don't have a new department—just a hodgepodge of independent agencies. We will have created just another layer of bureaucracy. That cannot be our goal. That cannot constitute effective governance. For

this reason, I think it is absolutely essential that we give the Secretary of Homeland Security the ability to move personnel, assets and money to best meet the rapidly shifting terrain of terrorist threats.

We all recognize that the war against terrorism cannot be won simply by reorganizing existing government agencies into a Department of Homeland Security. That Department must be equipped with the tools to complete its task. Moreover, it is essential that we tap into the resources and expertise of America's private sector. The new Department must enlist the aid and expertise of America's businesses to enhance our nation's security, and I am committed to making sure that the new Department is able to receive the uninhibited advice and counsel of our business leaders. It is private businesses which own and operate most of our infrastructure—our telecommunications, energy and financial systems. Our government cannot effectively fight this war against terrorism without their support. We must arm our agencies with the best technologies available, and our private sector is a critical player in this process, as it has been in our national defense and military. Our war against terrorism would be hopeless without the active innovation and support of private industries. We must also recognize that the private sector cannot realistically step up to help wage our fight against terrorism without some reasonable protection from frivolous tort litigation.

Congress must act and must do so quickly and carefully without political gamesmanship. Our task is too important; we cannot afford to sacrifice our country's safety in the process. The threat of terrorist attacks on our homeland, as well as abroad, is here to stay. Our response to this threat requires a singleness of focus. All of us in Government have a duty to do all we can to protect the American people from future terrorist attacks.

I have spent considerable time considering the tools that the new Department of Homeland Security simply must have to create an effective system of protecting our borders from terrorism. Having done so, I have reluctantly concluded that I cannot support Senator LIEBERMAN's proposal, which simply cobbles together dozens of disparate agencies without any mechanism for adapting their personnel and missions to meet the challenge of the new Department. On the other hand, I find myself in great agreement with the central proposals of the Gramm-Miller bill. It is a bipartisan measure. And, as all bipartisan bills, it represents a series of compromises. But, I am convinced, the compromises will not, in my view, detract from the core ability of the Department to do its job and protect American lives. Critically, the Gramm-Miller bill provides enough flexibility for the President and the Secretary of Homeland Security to respond to an ever-changing, multi-headed threat.

The task of guarding against terrorism is immense; the risk of failure is enormous. We simply cannot be bound by partisan interest groups in this time of war and crisis. Let us join together to pass the bipartisan Gramm-Miller bill so that we can feel certain that we have done all we possibly could to protect the mothers, fathers and children for whom each of us work.

The same considerations that compel me to support the Gramm-Miller bill cause me to oppose the Nelson-Chafee-Breaux amendment. While this amendment is a slight improvement from the Lieberman substitute, it still ties the President's hands much too much. Like the Lieberman substitute, the proposal cuts back on the President's existing authority to decertify the union affiliation for workers in the new Department in the interests of national security. This would be a step back under any circumstances; it certainly is not a forward-thinking way of creating a successful new Department of Homeland Security. Moreover, the amendment allows the unions to arbitrate any attempt by the President to loosen the civil service rules governing promotions and dismissals. I think I need to be entirely candid on this issue: how many members of this body would feel good about these rules if it took us 5 months to hire a staffer and 18 months to fire an incompetent one? How many of us would stand up and support such a system if it affected the way we do business?

There is not one of us who would do that. And that is what we will get if we have the underlying bill.

In all honesty, I think it is time to bring this matter to a close.

I personally have seen how the majority has loaded up the tree with a bunch of Democrat amendments in an attempt to prevent a vote on the Gramm-Miller amendment. We intend to have a vote on the Gramm-Miller amendment, and the sooner the better. It may be that the majority will win on that amendment; it may be that they won't. But that is the nature of the process around here. We can't keep playing parliamentary games with homeland security. That is what is going on around here. That is the reason I have come to the floor. I don't come to the floor that often to raise Cain. And I am not raising Cain here, I am just speaking frankly.

I think it is time for us to get about voting on these two different aspects of the bill. We ought to vote on the Gramm-Miller bill. There will have to be a vote on it. We ought to vote on the underlying bill, if that is the case—the Lieberman bill. I am not objecting to that. I don't think our side is objecting, nor is our side filibustering. We just want to be treated in a decent, honorable fashion; that is, give us a vote on the Gramm-Miller amendment, or the Gramm-Miller substitute, to put it in better terms.

I get a little tired of politics around here, especially now that we are deal-

ing with homeland security. That is what the President was criticizing. I hate to say this, but I saw the remarks of the distinguished majority leader earlier. It was on all three cable networks, as far as I could tell. Those remarks implied that the President was politicizing Democrats. That is not the case. The President did say we are muddling around here. He didn't say it in those terms. I will put it in these terms—muddling around with this homeland security bill instead of voting up or down and getting the job done.

That is what we need to do. We don't need to have any distortions of what the President said or what Vice President CHENEY said.

That is what I think, unfortunately—I am sure it was sincere and well intentioned—was a distortion, but it is still a distortion.

I think it is time we get rid of those types of attempts to have political games at the expense of a bill of this importance. That is what the President is driven by.

After seeing all the weeks that we have been on this bill, I think the President is justified in his criticism.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to rise in support of the Nelson-Breaux-Chafee amendment which is a bipartisan compromise on homeland security.

I believe perhaps some clarification is in order because there seems to be some misinformation or misunderstanding about what this bill does.

My good friend from Utah said the amendment ties the President's hands. We have looked very carefully at existing authority that the President has in similar circumstances at this very moment. And it doesn't tie the President's hands.

I must say Nebraska is going to be playing Texas at Texas A&M. My good friend from Texas is my hunting partner. Senator GRAMM is not going to move the goalposts down in Texas when we play A&M. We are not going to move the goalposts on Texas when Texas plays in Lincoln. I don't think it is about moving goalposts in athletic events. But I believe on this amendment we have had the goalposts moved on us.

Just recently, while I was presiding, Senator GRAMM, in talking about the Lieberman bill, referred to the fact that it was too restrictive on the President's authority in the area of collective rights and bargaining rights, or in terms of civil service protection. At that point, he believed it tied the President's hands in dealing with these very important issues when it comes to national security.

It was partly as a result of his comments at that time that I thought we would try to find a compromise that could deal with the situation.

Let me read from some of Senator GRAMM's comments that he made on the floor, I believe, just last week.

He was talking about the fact that when we decided to federalize inspectors at airports, in that bill we gave the President power in terms of personnel flexibility to hire and fire, and we gave him the ability to get around the normal procedures that require up to 6 months to hire somebody. Then he goes on to say we have done that same sort of thing in the Federal Aviation Administration.

Then he goes on and references the Internal Revenue Service. I quote:

I ask my colleagues: If we believed that the current system was failing us in the Internal Revenue Service and that we had a problem which required a different approach and more flexibility with regard to our sensitivity at the Internal Revenue Service with people who know our intimate financial information and who look at our tax returns. If we believed that flexibility to administer that Department was necessary—and we did, and we adopted it and it is the law of the land today—I wonder what people back home would think when we said we thought flexibility was required at the Internal Revenue Service. . . .

In other words, he says what we did in the Internal Revenue Service reorganization was OK.

That is what he said last week.

Well, lo and behold, because of his commitment to that particular flexibility, that is exactly the kind of language and that is the reference we have in this amendment.

If it was good enough for last week, it seems to me it ought to still be good enough for this week and next week and the week thereafter.

So if this isn't moving the goalposts, it is at least shifting around on the answers. And I believe that what was good enough last week, and what is good enough for the Internal Revenue Service to deal with flexibility, is good enough for homeland security.

Then the White House, through various spokespersons, has raised a question about whether the President's hands would be tied with what we are proposing.

But lo and behold, Governor Ridge—who took advantage of me with a bet on the Penn State-Nebraska game, which I shall pay him very vividly for—went ahead and said something in his letter to Senator LIEBERMAN that I thought was important.

This is in his letter dated September 5, 2002:

Senator, the President seeks for this new Department the same management prerogatives that Congress has provided other departments and agencies throughout the Executive Branch. For example:

. . . personnel flexibility is currently enjoyed by the Federal Aviation Administration—

And guess what—

the Internal Revenue Service, and the Transportation Security Administration.

I do not know what has changed since September 3 or last week, because we thought this would be acceptable,

given the fact that the President needs the kind of historic personnel flexibility he is seeking.

So for those who said we are changing the laws, or we are somehow restricting the Presidential authority, or tying the President's hands by changing the law, apparently they have not focused on what the current status of the law is because they are asking for what we are trying to provide them at the present time.

Now, I don't know whether someone hasn't read the amendment, but some of the criticisms I have heard of the amendment would indicate they saw a previous iteration. It seems to me the current state of affairs with our amendment would be directly on point or on all fours with what has been asked.

So I am very anxious to see if we can get a clarification because I think it has to be some sort of a simple mistake. I cannot believe that we have been asked to do something, or it has been suggested that this would be OK, and then, when we offer it, that somebody cannot take yes for an answer. I hope this will be clarified.

It is also important to say that binding arbitration and personnel flexibility is part of the IRS Restructuring and Reform Act of 1998, which both Governor Ridge and Senator GRAMM have suggested was OK. So it seems to me that whether it was binding arbitration, personnel flexibility, or, in the case of Presidential authority, in terms of exempting union membership, union employees, from collective bargaining membership, we have done exactly what others have been asking us to do.

So it seems to me that if the people are as anxious as they seem to be, both in the administration and on the other side of the aisle, to get the Gramm-Miller amendment considered, the first step is to pass or at least have a vote on Nelson-Breaux-Chafee because it will, in fact, give us an opportunity to have that vote, and I think another vote shortly thereafter, if necessary, on Gramm-Miller.

I do not know what more a person can do today than give the other side the kind of answers they are seeking and the kind of solution for which they have been asking. I hope this will be clarified. If there are some misunderstandings—as I think it may be a simple misunderstanding—I hope some other people will show up and respond to what we have put out there at this point in time.

Very often, misinformation, a lack of information, mischaracterizations, and things such as that can drive the day. I hope they do not drive this day. National security is too important, and passing this homeland security legislation is of the utmost importance.

So for those who are suggesting there is any effort to delay it or in some way tie the President's hands, this simply does not do it. It is consistent with existing law, and it gives the President ample authority to do what the Presi-

dent needs to do for personnel, for collective bargaining, and for breaking the logjam in the homeland security debate, which is so important to the future of our country.

Passion runs deep: passion about Iraq, passion about homeland security, passion about getting something done as quickly as possible. I hope we can use that passion as a basis to accomplish something.

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

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I rise to speak for a little bit of time until Senator NICKLES from Oklahoma arrives, and ask unanimous consent that he then be permitted to speak.

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

Mr. KYL. Mr. President, I simply want to respond, very briefly, to what I saw this morning on the television when I was observing the activity on the floor.

I saw the majority leader come to the floor and give what I thought were very intemperate remarks suggesting that—not suggesting—demanding that the President of the United States apologize, allegedly for politicizing the war effort.

My belief, after looking at all of the transcripts of the comments that were attributed to the President and the Vice President—and I have them all right here, as well as the newspaper accounts of the same—it suggests to me that it is not the President but the distinguished majority leader who needs to apologize.

I say that because it is very clear the President has not politicized anything with respect to this war. The comments in which he criticized the Senate—and I believe rightly so—have to do with our failure to adopt a homeland security bill. And he referred to the special interests that have been involved in impeding action on the bill, and complained about the fact that the Senate has not followed the leadership of the House and passed a bill.

As a matter of fact, earlier today the Senate precluded a vote on the President's plan. When Senator GRAMM sought to have an opportunity to vote on the President's plan, that was turned down.

So we have a situation in which the Senate, for the fourth week now, is debating the homeland security bill—has not passed it, will not even let the President have a vote on his proposal—and the majority leader suggests the President is politicizing national security.

The President is right to complain about that. But what the President did

not do was to connect any activity of the Senate, or Democrats in the Senate—or anybody else, for that matter—to the war effort, as was inferred by the majority leader.

The majority leader attempted to take quotations that dealt with homeland security and transform them somehow or other into criticism of Democrats in the policy with respect to Iraq. And that simply is not true. It did not happen. For that reason, as I say, it seems to me the majority leader ought to be the one offering the apology, not the President.

I had been talking, just before watching this, about the damage that was being done to the attempts by the President to reach an international consensus in developing a plan for dealing with Iraq by the comments of German Chancellor Gerhard Schroeder during his election. And both Dr. Rice and Secretary Rumsfeld have noted the fact that those comments were not helpful and poisoned the atmosphere.

They poisoned the atmosphere internationally by, in effect, confirming what Saddam Hussein is saying, that the President is acting out of political motives rather than out of a desire to achieve peace in the world. When the distinguished majority leader comes to the Senate floor and seemingly validates those same criticisms of the President, he is further poisoning the atmosphere.

That is another reason why he owes the President an apology. He is literally politicizing the issue in a way that is destructive to the President's attempt to achieve an international consensus.

I find it ironic because it is the other party that has sought to assure the President would gain that consensus internationally, many of them suggesting that is necessary before we act, and then that very attempt is being undermined as a result of the comments made here.

Mr. ROBERTS. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. ROBERTS. I ask the Senator from Arizona if he is aware, along the same vein of comments that were made by the distinguished majority leader in reference to the Vice President—I share the same concern he has mentioned—is the Senator aware when the Vice President was in Kansas, basically they are accusing the Vice President of politics in regard to the Iraq debate in urging an audience in Kansas to vote for a GOP congressional candidate?

Mr. KYL. I am aware of the fact the majority leader alluded to that. But he was only looking at a headline in a newspaper. I know the Senator from Kansas was actually at the event.

Mr. ROBERTS. I would respond to the Senator by simply indicating, there is nothing that hurts the truth more than stretching it.

I understand if somebody reads a headline and gets upset about it. I would, too. But the headlines I have

from the Kansas press—and the Senator is correct; I was at the meeting and introduced the candidate. The candidate introduced Lynne Cheney, the wife of the Vice President. The Vice President gave a very standard speech. Here is the headline, “Cheney Talks About Iraq at Congressional Fundraiser.” He said that our candidate would be “an effective voice for Kansas, a fine addition to your State delegation, which is already one of the best in the country,” which I appreciated. But I find nothing here that has anything to do with politics.

And then here is another one, “Fundraiser for Taff Draws 500.” From the Kansas City Star, “Cheney Talks Tough at Taff Fundraiser.” But the two things were separated. It was a very sobering discussion on the policy of preemption and what we face in Iraq.

As a matter of fact, the Vice President, in a private session, said the Congress ought to be asking tough questions, which we are, and urged bipartisan support. I heard every word. For the life of me, I just did not hear that kind of inference at all. I wanted to come to the floor—I thank the Senator for yielding to me—to indicate that simply was not the case. If we are into a situation where we are inferring we are trying to politicize this effort, that is not the case with the Vice President. We can’t be in the business of the security of the American people and sending wrong messages to Saddam Hussein unless we get the facts straight.

In doing that, I am not trying to perjure the intent or the concern of the distinguished majority leader. It just did not happen. I wanted to set the record straight.

Mr. KYL. I appreciate that from the Senator from Kansas. I know the majority leader this morning a little bit later, in talking to reporters in response to a question, said he was relying upon the newspaper accounts of what had been said. But I suggest that while that might ordinarily be all right, the press can make mistakes, and when you are accusing the President of politicizing a war effort, you better be correct. We have gone back and actually looked at the stories, and the Senator from Kansas makes a point, too. The Vice President is a very careful person. He is not prone to politicizing things.

I will conclude by saying it is very important for us to keep our eye on who the enemy is. The enemy is the terrorists. The enemy is Saddam Hussein. The enemy for none of this is President Bush. I don’t think we should be raising questions or throwing around allegations that undercut what ought to be a common effort from everybody in this country as well as this body to ensure we have the kind of consensus that will enable us to prosecute whatever war we prosecute in a way that enjoys both support in the United States and abroad. The kind of tirade entered into here this morning undercuts that effort. It does not assist.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to add 10 minutes to the time allocated to me under the order.

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

Mr. VOINOVICH. Mr. President, I rise today to talk about the Lieberman homeland security bill, the Gramm-Miller amendment, and the Nelson-Chafee-Breaux amendment to that amendment.

Before I do that, I will comment on the fact I am really disturbed at what I see going on here in the Senate in terms of the President of the United States. Our President has more on his plate than perhaps any President in my memory. He has the Middle East situation. I have been studying that for 20 years. That is more fragile than I have ever seen it during my lifetime.

We are in Afghanistan. We have forgotten we are there. That is a major undertaking. We are trying to work diplomatically to make sure Pakistan does not go after India and India after Pakistan, which could embroil us in a nuclear situation.

We have a problem with Saddam Hussein in Iraq. We have a domestic economy in bad shape today. People in this country are losing faith in our financial markets. We are in a very fragile, shaky period.

What we should be doing in the Senate is rallying to the cause to try and be as supportive as we can of the President, who is trying to rally the world and the United Nations and our allies in dealing in a responsible way with Saddam Hussein, who has thumbed his nose at us for so many years and has set up a new paradigm in terms of the United Nations where they will work together to make it very clear they will not tolerate people such as Saddam Hussein.

I was going to say it is business as usual in the Senate; I just wish it were business as usual. I hope my colleagues on both sides of the aisle will start to understand the American people are watching what we are doing here, and it is important that we behave in a way that gives them confidence that we are more interested in moving our country ahead than we are in partisan politics.

#### HUMAN CAPITAL AND THE FEDERAL WORKFORCE

Mr. VOINOVICH. Mr. President, since my election to the Senate in 1998, I have given top priority to a public policy issue that seldom gets the attention it deserves: The challenges of our Federal Government’s civil service system.

For nearly 4 years, I have used my position as a member of the Governmental Affairs Committee and chairman and ranking member of the Oversight of Government Management Subcommittee, to focus the spotlight on this critically important issue. As I learned more about the condition of our Federal Government’s personnel system, it became crystal clear we are

in the midst of a human capital crisis in the United States Government, one which will only get worse unless this Congress acts decisively to address it.

What is it? Is it real? Why do we have it? The human capital crisis is, simply stated, the inability of the Federal Government to properly manage its workforce. Robust personnel management includes the ability to recruit the best candidates, hire people in a timely manner, award performance bonuses and other motivational tools to encourage retention, provide training and professional development opportunities, and the flexibility to shape a balanced workforce.

Good management includes the flexibility to act quickly and to compete as an employer of choice in the fast-paced 21st century knowledge economy.

Unfortunately, at present, the Federal Government’s ability to use such tools is not what it could be. By now, we have all heard the statistics, and maybe some of my colleagues have not heard them. The average Federal employee is 47 years old. By 2005, more than 50 percent of the 1.8 million person Federal workforce will be eligible for early or regular retirement.

Even more incredible is the fact that by 2005, 67 percent of the Senior Executive Service will be eligible for regular retirement, and an additional 21 percent will be able to retire early. This is an astounding 88 percent of our top-level workers, managers, department heads, and division chiefs.

I was talking to businesspeople this morning, and they said: “Explain to us what this is about.”

I said: “Consider your own businesses. Say during the last 10 years you were eliminating employees without any regard for how that would affect your mission, or how high-tech manufacturing and information technology has changed your business. Then imagine half the remaining people working in your plant are going to retire soon. Then imagine that about 88 percent of your top managers are going to retire also. Where would you be today?” They got it.

I remind my colleagues, this dire predicament refers to what could happen in the next 2 to 3 years, but it is virtually impossible to predict accurately the amount of experience and institutional knowledge that is literally going to walk out the door at the end of this decade.

Some may ask: Is the human capital situation really that important? Is it really a crisis in the Federal Government?

Consider some additional evidence we have learned from officials in some of the agencies that handle national security and finances, such as the CIA, FBI, FEMA, Social Security Administration, and Department of Commerce.

CIA Director George Tenet, in recent congressional testimony, said within 3

years, between 30 and 40 percent of his workforce will have been there for less than 5 years.

According to a recent GAO report, more than 70 agencies have foreign language needs, and staff shortages at those agencies, such as the FBI, "have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, counterterrorism, and diplomatic efforts."

Mr. President, do you remember after 9/11? The call went out: We need people who can speak Arabic and Farsi. Incredible. Ten years after the Persian Gulf war, we remain actively involved in the Middle East, yet we do not have enough people who speak Farsi and Arabic in the FBI, the State Department, or the CIA.

At FEMA, retirements have accelerated since 9-11-2001 as employees have reevaluated priorities, and nearly 50 percent of the remaining workforce will be eligible for retirement in the next 18 months.

According to a recent Federal Times survey of more than 2,200 managers at our Social Security Administration, dramatic downsizing in the ranks of managers and front-line employees has hurt training, caused burnout, strained resources, reduced managers' effectiveness, and created disconnects between headquarters and field offices, all at a time when the agency's workload is skyrocketing.

According to GAO, the Department of Commerce is unable to effectively monitor U.S. trade laws with foreign countries due to a shortage of staff with the right expertise.

Mr. President, the evidence is clear. The Federal Government has a serious human capital crisis. That is why I have sought information from some of the best minds in the country over the past few years in public policy and management, and why I have spent so much time listening to the people closest to the problem.

Furthermore, Mr. President, I believe that if a Federal agency or department is important enough to receive the hard-earned tax dollars of my constituents and yours, we have a moral responsibility to see to it that the people's money is spent wisely. Outdated personnel practices and lack of training not only put agencies at risk of not being able to fulfill their mission and provide needed services to the American people, this also represents wasteful Federal spending. We simply must provide the flexibility agencies need and give them the right tools to do their work.

I have sought to attract attention to this issue at every opportunity. My subcommittee held 10 hearings from July 1999 to March of 2002. Two of those hearings were held by Chairman DURBIN, and I thank him for his willingness to work with me on this issue.

Earlier this year, Senator AKAKA held 2 days of legislative hearings on civil service reform. I also recognize

his leadership and partnership on this issue. I sincerely appreciate their assistance in raising the profile of our pressing human capital challenges.

Also, in December of 2000, just before our new President took office, I released a comprehensive report on this subject "The Report to the President: The Crisis in Human Capital" which summarized our subcommittee's activities during the 106th Congress and made recommendations to the incoming administration on how to address the Government's human capital challenges.

Mr. President, I want you to know I have not been alone in my assessment of the situation. In 2001, Comptroller General of the United States David Walker designated human capital on the General Accounting Office's "High-Risk List." In the past, other areas that were on the list, such as the Y2K problem, the 2000 census, the Superfund Program, and the Department of Agriculture's farm loan programs, received attention and priority, and they no longer threaten the operations of the Federal Government. As Congress did with these issues, we must prioritize human capital; otherwise, this crisis will persist.

Dr. Joseph Nye, Dean of Harvard University's Kennedy School of Government, one of the top public policy schools in the Nation, also identified the Federal Government's human capital crisis as a critical issue. The problem truly hit home for his academic institution. During the nineties, increasing numbers of Kennedy School graduates, despite their top-notch graduate level training in public policy, chose employment in the private and non-profit sectors rather than work for the Federal Government.

Dr. Nye noted he did not want the Kennedy School to be known as the second best business school in Cambridge! As a result, he organized a series of executive sessions during the 2001-2002 academic year, bringing together approximately 30 leaders on human capital management from the public, private, and nonprofit sectors: For example, professors from Harvard, Stanford, Wharton, CEOs, and former senior officials at the Departments of Treasury, Labor, Office of Federal Procurement Policy, and Office of Management and Budget. I attended three of the four sessions and found them productive and insightful.

In addition, the U.S. Commission on National Security in the 21st Century, a bipartisan group chaired by former Senators Gary Hart and Warren Rudman, released a series of reports providing a comprehensive evaluation of our national security posture.

We have been talking a lot about national security, haven't we? Their reports included many recommendations on homeland security which we are considering in this bill that is before the Senate. The Commission's final report concluded as follows:

As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government.

#### Unprecedented crisis.

The maintenance of American power in the world depends on the quality of the U.S. Government's personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure the United States can meet future challenges.

Furthermore, in his testimony before our committee, former Defense Secretary and member of the Commission James Schlesinger added:

It is the Commission's view that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

Mr. President, yet another poignant illustration was offered by FEMA Director Joe Allbaugh when he testified before a Senate committee earlier this year. I note FEMA is one of the key agencies in the proposed Homeland Security Department. In describing his workforce needs, Director Allbaugh said:

We have not been spending enough time internally on our employees. Before 9/11, retention was a problem and there was essentially no recruitment. Over the next 18 months, nearly 50 percent of our agency is eligible for retirement, and since 9/11, retirements have accelerated. The people who worked at Ground Zero came to my office with a different perspective on life. They want to spend more time with their kids, grandkids, and spouses.

I think these comments represent the feelings of many Federal employees, and Director Allbaugh's testimony calls attention not only to the urgent need for reform of our civil service laws, but also for a completely new mindset for considering the Federal Government's personnel requirements and workforce culture.

Mr. President, if that is not a compelling call to address this issue, I do not know what is. Despite all the evidence that significant human capital challenges exist in the Federal Government, this issue has not received the attention it deserves. To its credit, the Bush administration has taken steps to raise the profile of this issue. In fact, strategic human capital management is one of the five governmentwide issues targeted for reform in the President's management agenda, which was released in August of 2001.

Having recently marked the 1-year anniversary of the horrendous and unprecedented terrorist attacks on the United States on September 11, the Senate is considering legislation designed to reorganize our Federal Government in a way that will help our Nation prevent future such attacks.

Suddenly, in the context of this debate, civil service reform is the issue du jour. It is an issue which for years has not been substantively addressed except when agencies become dysfunctional. It is now front and center in the consideration of the most important

Government reorganization to take place in our Nation in half a century. It is about time.

In the debate over homeland security, we have backed into this personnel issue that has demanded attention for so many years. At least we are finally taking the first step to address the problem by having a debate on the subject. We are talking about personnel practices and the people who make a difference for the Government and deliver the services.

Unfortunately, however, this debate is limited to the proposed Department and not to the needs of the entire Federal Government. The entire Federal Government needs new flexibilities. Congress last enacted major civil service legislation for the entire Federal Government 24 years ago in 1978. In today's fast-paced, high-tech world, the 1970s represent almost prehistoric times when people were still using typewriters and the only computers were mainframes. To operate effectively, the Federal Government cannot afford to revise its personnel laws only every quarter or half century. The basic classification and compensation system for the Federal Government dates back to World War II, when the professionals in the civil service had jobs as clerks and typists and were at GS levels 2 and 3. Today's civil service professionals are typically GS-12s and GS-13s. So much has changed over the years, and changing times require new thinking and new laws—policies that allow flexibility in our Federal Government civil service system.

The intellectual basis for one of the areas I have sought to reform, competitive hiring, dates back to the Grant administration! Back then, our soldiers were using single-shot, repeating rifles, the telegraph was cutting-edge communications technology, and the primary mode of transportation was the horse! That was when we started the "rule of three."

I know of no successful business anywhere in the world that is using a personnel system based on management theory that is more than 50 years old, or which dates from the Industrial Age.

During the 107th Congress, I have worked with some of the Nation's premier experts on public management to determine what new flexibilities are necessary to create a world-class 21st century workforce, and to draft legislation based on their insights. These individuals include some of our colleagues in Congress, including Senator AKAKA; officials of the Bush administration such as OPM Director Kay Coles James; former OMB Director Sean O'Keefe, who now heads up NASA; Clinton administration appointees who spent a lot of time on this, including Steve Kelman, the former Administrator of the Office of Federal Procurement Policy; and Elaine Kamarck, a domestic policy adviser to then-Vice President Gore—this is a bipartisan effort; Federal employee unions such as the American Federation of Govern-

ment Employees, with their president, Bobby Harnage, and the National Treasury Employees Union, NTEU, and their president, Colleen Kelley; representatives of public policy organizations such as the Council for Excellence in Government, Partnership for Public Service, Private Sector Council, Brookings Institution, National Academy of Public Administration, and the Volcker Commission; and subject experts in some of our country's top educational institutions, including Dr. Jack Donahue of Harvard's Kennedy School of Government.

I was especially attentive to the concerns of unions, making several significant changes to my draft legislation since last summer to allay their uneasiness with some of its flexibilities. I felt it was important. As someone who dealt with 25 unions when I was mayor, and with 5 unions when I was governor, I know it is important that unions be at the table and that their input be taken into consideration.

We made changes that include new language to clarify that the intent of my proposed early retirement and buyout authority is workforce reshaping, not the downsizing of the 90s; as well as the revision of removal of provisions that enjoyed strong support from other stakeholders, including the establishment of a public/private exchange program to cross-pollinate good management ideas between sectors of the economy.

In other words, we tried to accommodate the concerns of our union representatives.

Finally, Mr. President, I note that my bill was the subject of a letter to Chairman LIEBERMAN and other members of the Governmental Affairs Committee, a letter of support for the legislation was signed by 29 Kennedy School executive session participants. By combining my reform proposals with those of the administration, both of which I introduced last fall, I was able to develop a package of consensus human capital reforms that I believe will have a positive impact on the Federal Government's personnel management.

On June 20, along with Senators THOMPSON and COCHRAN, I introduced that consolidated bill, S. 2651, the Federal Workforce Improvement Act, a measure that is designed to get the right people with the right skills in the right jobs at the right time.

In July, during its consideration by the Governmental Affairs Committee, working with Senator AKAKA, I successfully amended key provisions of this bill to the homeland security legislation, and I really appreciate the bipartisan support we received for those changes. I am grateful to Senator AKAKA for that. I only wish we had put more of S. 2651 into the homeland security bill.

I hope as we wrap up homeland security—at least I hope we wrap it up, my colleagues will conclude we should adopt the rest of the provisions of S. 2651 in this important legislation.

Let us get it done all at once. The provisions we have already included will have an impact not only on the new Department but on all Federal agencies. The Voinovich-Akaka language will help the Federal Government begin to address its human capital challenges, challenges that extend far beyond the corridors of the proposed Department of Homeland Security. These flexibilities are not as comprehensive as what we were proposing for the new Department, but they represent a good start on the path of reform in this critical area that has not received adequate attention by past administrations or Congress.

It does the following: Creates Chief Human Capital Officers at the Federal Government's 24 largest departments and agencies, officials who have responsibility for selecting, developing, training and managing a high-quality workforce; establishes an Interagency Chief Human Capital Officers Council chaired by the OPM Director, to advise and coordinate the personnel functions of each agency and meet with union representatives at least annually; requires OPM to design a set of systems, including metrics, for assessing agencies' human capital management, something that has been largely ignored; reforms the competitive service hiring process, allowing agencies, consistent with merit principles, to use an alternative category ranking method for selecting new employees instead of the "Rule of 3," making the process more efficient and fair, a practice that has been very successful at the Department of Agriculture for the past decade; provides governmentwide authority for offering voluntary separation incentive payments and voluntary early retirement, buyouts and early-outs, for the purposes of workforce reshaping, not downsizing. This authority, which I was able to secure with legislation 3 years ago, is currently being used effectively on a limited basis for civilian employees at the Department of Defense.

It also lifts the total annual compensation cap for senior executives, allowing performance bonuses to be paid in full in a single year; and it reduces restrictions on providing academic degree training to federal employees, thereby emphasizing the importance of individual professional development.

In light of the fact that there has not been government-wide civil service reform in a quarter century and, as the Hart-Rudman Commission noted, personnel is the basis for maintaining national security, it is absolutely appropriate that this legislation be included in the bill to create the Department of Homeland Security.

I thank Senators GRAMM and MILLER of their willingness to consider my proposals which represent extensive efforts to address the Federal Government's personnel challenges during my 4 years in the Senate, and for including the Voinovich-Akaka language in their substitute amendment. I believe it is a



strong addition that also has the administration's support.

As I said, I hope we'll be able to add the balance of S. 2651 to the homeland security bill before we conclude this debate, because these reforms are badly needed.

The Homeland Security Department is not the first, and not the last, agency that needs to have greater flexibility. Even more comprehensive flexibilities and reforms, similar to those proposed in the Gramm-Miller substitute for the Department of Homeland Security, which I will describe in a moment, are needed at other agencies as well, including the Department of Defense and NASA. These agencies may provide the impetus for Congress to return to this issue next year.

In fact I asked Senator WARNER and Senator LEVIN, when they were considering the Defense Authorization bill, to give consideration to accepting some personnel flexibilities that the Department of Defense wanted. I know from Secretary Rumsfeld that they will be coming back asking for those flexibilities.

It is my hope that the incremental provisions I have developed with my colleagues and a diverse group of stakeholders over the course of the last year will assist the rest of the federal government while we consider next steps.

I would like to take a few moments now to discuss the personnel provisions in the Gramm-Miller substitute that apply specifically to the new department. I have worked with Senators GRAMM and MILLER on these provisions and believe this language will provide the Department with the tools it needs to get the job done, and at the same time respects the rights of those union workers being transferred into the new department.

I say this because I am close to the leadership in both of our major unions. They have some concerns. I tried to get the administration to sign an Executive order continuing partnerships between unions and the Federal Government. Unfortunately, this did not happen. The administration also included competitive sourcing on the President's Management Agenda, setting targets that each department had to meet in order to receive a green light on the Management Scorecard. I said, if you tell an agency head that he must outsource 10 percent, 15 percent, 20 percent—instead of trying to shape his department with the people he has and give them training, he will spend all his time figuring out how he is going to outsource those jobs.

The proposed Department of Homeland Security will merge nearly 170,000 employees from more than 20 Federal agencies. This is a momentous undertaking. Although the creation of the Department of Defense in 1947 combined a larger number of civilian and military employees, the consolidation we are now contemplating would require more than a score of different

workplace cultures and personnel systems to be effectively harmonized, all while the Nation entrusts this new department with the one of Federal Government's most urgent and important missions: to preserve the homeland and protect American citizens from harm. In order to accomplish this very tall order, the President and the new Secretary of Homeland Security will need new flexibility, and I believe Congress should authorize it.

In recent years, however, Congress has engaged in management by scandal, only granting more flexibilities when agencies under-perform! For example, the FAA, IRS and SEC each received special personnel authorities over the last decade, but only after each of these agencies was singled out for its failure to achieve its mission.

The Bush Administration has correctly pointed out that we cannot wait for a similar occurrence at the Department of Homeland Security, and it has justifiably sought broad flexibility for the new department before any mission failures occur.

On a related matter, Mr. President, it is interesting to note that the recommendations of the Hart-Rudman Commission form the intellectual basis for large portions of the underlying legislation we are debating today. Yet, while we are paying close attention to the Commission's recommendation to establish a new Department of Homeland Security, we are not seriously considering its recommendations to modernize the civil service system. We simply must take these necessary steps now.

The personnel provisions in the Gramm-Miller substitute represent a good-faith effort to modernize the personnel system for the new department.

The Quinn-Portman amendment would preserve employee rights, including hiring and promotion based on merit and equal pay for equal work, and would protect employees from improper political influence and reprisal for whistle-blowing. Employees would still be protected from prohibited personnel practices, such as illegal discrimination, politicization of the hiring or promotion processes, and violation of veterans' preference requirements. I notice my friend, Senator AKAKA was talking about the fact that whistle blowing is not involved in the amendment. We specifically talk about protection of employees against reprisal for whistle blowing.

Furthermore, employees would still have the right to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions that affect them.

First, the substitute features House-passed language proposed by Representatives JACK QUINN and ROB PORTMAN. In June, the President sent to Congress a blueprint for the personnel system he envisioned at the new department. The President realized that Congress would flesh out many of the issues in his proposal, and that is

just what happened. The House-passed version is less flexible than what the Administration originally requested—it is really important to understand that—but it is designed to deal with the personnel flexibility sought by the President, and to address the collective bargaining rights that many of our colleagues seek to protect.

The Quinn-Portman amendment retains most of title V's provisions. This is not as broad as Transportation Security Administration to which Congress gave blanket exemptions from title V last November.

The language also requires that the new department collaborate with unions and other employee organizations in creating its personnel system. In addition, it includes procedures to ensure that exclusive bargaining units are represented by individuals designated by the union itself. It also provides certain safeguards for employees as the proposed department develops a new system for employee appeals.

In order to ensure that the new human resources management system is developed in collaboration with the unions, the Quinn-Portman amendment provides for direct involvement by employee representatives in three stages of the development process.

In the first stage, as the human resources management system is being designed, the Secretary and OPM Director must provide a written description of the proposed system or adjustment to the system; allow each employee representative at least 60 days to review and make recommendations on the proposal; and give any such recommendations full and fair consideration in deciding whether or how to proceed with the proposal.

At the second stage, when the Secretary and OPM Director decide to implement a human resources management proposal, they must, prior to implementation: give each employee representative details of the decision along with information upon which the decision was based; give each employee representative an opportunity to make recommendations; and give such recommendations full and fair consideration. If any employee representatives' recommendations are not proposed to be implemented, the Secretary and Director must explain why.

During the third stage, once a human resource management system proposal is implemented, the Secretary and OPM Director must develop a method for each employee representative to participate in any further planning or development.

The Quinn-Portman amendment also fleshes out the Administration's original proposal by providing necessary flexibilities in six key areas: performance appraisals, classification, pay rates and systems, labor-management relations, adverse actions, and appeals. Each of these areas would be open to modernization, subject to the explicit limitations included in the language to protect employees, which, as I have

just delineated, are comprehensive, and rooted in current civil service law.

We currently have pending a second-degree amendment to the Gramm-Miller amendment from Senators BEN NELSON, CHAFEE and BREAUX.

They would like to reduce the six areas of flexibility to four. I happen to believe that the administration, in order to create this new Department, is going to need those six areas of flexibility to get the job done.

Based on my experience as mayor and Governor, I thought it also would be a good idea to have the Secretary negotiate as opposed to consult with union representatives in the six areas in which the administration is seeking flexibility. My belief in that regard comes about as a result of my experience over the years. In other words, after the consultation and the negotiation occurred, there would be an impasse panel that could be appealed to for a final decision.

I thought that would be helpful because it would make the negotiation more robust and there would be fewer areas of disagreement. Once it was over, the parties could say the matter was taken to a third party and decided. That is the way it should be decided.

In other words, and I want to point out to my colleagues, the success or failure of the administration to get the job done is going to depend on the relationship they develop with our labor unions and other Federal employee organizations. If there is consensus, if there is openness and a sense of fairness, this will be a great success. On the contrary, if it is an adversarial relationship, one that is not open, one where we don't have the discourse that we need, it will be a failure.

I have reorganized as Governor. I have combined departments as Governor. And I have found that the only way you can be successful is to work with organized labor on a consensus basis and work things out. Without working things out, it will not be a success. I have brought this to the attention of the administration several times. I am confident that with the process that is in the Gramm-Miller amendment, the process will be open and fair.

I have talked to Kay Coles James, Director of the Office of Personnel Management; I have talked to Mark Everson, Deputy Director for Management at OMB, and many other people. They understand that they have to build trust with the unions if they expect to have a successful Department. If they don't work together and achieve a consensus, we are in big trouble.

Finally, the Gramm-Miller substitute includes the House-passed language proposed by Representatives CONNIE MORELLA and CHRIS SHAYS—with an additional provision that I have recommended. This language would, for the first time, limit the current authority of the President to exclude an agency or agency subdivision from par-

ticipation in a collective bargaining unit.

Under current law, the President may exclude participation in a collective bargaining unit upon determining that the entity has as a primary function intelligence, counterintelligence, investigative or national security work and that permitting the entity to have union organizations would be inconsistent with national security requirements and considerations.

Under current law, the President may exclude participation in a collective bargaining unit upon determining that the entity has a primary function of intelligence, counterintelligence, investigative or national security work, and that permitting the entity to have union organization would be inconsistent with national security requirements and considerations.

I want to make this clear to my colleagues.

The Morella-Shays language would limit the President's current authority only with regard to the new department. It would prohibit the President from using the exclusionary authority unless the mission and responsibilities of a transferred agency materially change and a majority of the employees within such an agency have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism.

The language does provide, however, that the President could waive the above limitations on his authority if he determines in writing that their use would have a substantial adverse impact on the department's ability to protect homeland security.

Senators GRAMM and MILLER have agreed to add language that I proposed requiring that, when the President executes his authority under the Morella-Shays language, he must notify Congress of the reasons for his determination at least 10 days prior to the issuance of his written order.

What our unions are worried about is arbitrary and capricious action on the part of the President exempting members from membership in their unions.

This language basically says that we, for the first time, in the Homeland Security Department, will limit that power of the President, and if he exercises it under Morella-Shays, it means his decisionmaking will be subject to a filing in Federal court as to whether he has abused his discretion in exercising that power.

This is very important. If he decides to waive it and says, no, I don't want to do it by Morella-Shays, I want to go ahead and exercise my power, that basically says the President has to put it in writing, and send it to Congress. The unions will see it, the majority will see it, the minority will see it, the media will see it, and public personnel experts will see it. I have tried to convince some of my colleagues that this process is open to public scrutiny.

I have to say to my colleagues, how can you ask this President of the

United States—at a time when we have a national security crisis—to give up the same authority held by all other Presidents since 1962—when we create this new Department of Homeland Security?

The fact that this administration has agreed to set up criteria and limit the President's authority to certain specific reasons for exercising it—to then say to the President, by the way, you can't do that now. To say, 'you have to send it to Congress 10 days in advance' is more than enough limitation on this historic executive authority. I say to my friends on the other side of the aisle, I say to my friends in the unions, that, first of all, I don't believe this President is anti-labor or trying to short-change or treat our employees improperly.

Second of all, even if he thought of doing something like that, or somebody recommended it, he would have to explain the rationale in writing, and allow it to be held up to public scrutiny 10 days prior to his order taking effect.

Mr. President, I have been one of the leaders on civil service reform during the last two sessions of Congress. I believe I have probably dedicated more time than any Senator to addressing the Federal Government's personnel interests. I have tried to raise the profile of this issue and then work in good faith with all interested parties to develop solutions. Based on my work, I want my colleagues to know I believe the personnel provisions in the Gramm-Miller substitute can go a long way towards putting personnel management in the executive branch back on track.

I just hope that somehow in the next couple of days we can work something out on both sides of the aisle so that people feel comfortable that we can protect the rights of organized labor and at the same time give the President of the United States the authority and the flexibilities he needs to get the job done.

I hope that after this debate is over, the well is not so poisoned that when the administration and the unions begin to sit down and talk with each other, they can work together to arrive at a consensus so that this reorganization can be successful and fruitful, and we can achieve what we all want to achieve to secure our homeland.

Thank you, Mr. President. I yield the floor.

Mr. REID. Mr. President, I say to my friend from Ohio, who I think is such a good legislator—

Mr. VOINOVICH. Could the Senator speak a little louder? I am wearing a hearing aid.

Mr. REID. I was saying nice things about the Senator. I will be happy to speak louder.

I was telling my friend from Ohio, who is such a good legislator, I would like to at a subsequent time today make a unanimous consent request that we vote on cloture on Gramm-Miller tomorrow. It is now set for Friday.

We want to move this legislation along. I think that is what we need to do.

The Senator doesn't need to respond to that at all. I just wanted to let him know that we hope to work something out in the next couple of days. I hope we can work something out tomorrow. We want to move this legislation along.

I have to say this: Having been on this bill for the fourth week, I am concerned that maybe people down on Pennsylvania Avenue don't want this bill. We have done everything we can to move this legislation. It doesn't appear that people on the other side of the aisle want it moved.

For example, Senator BYRD's amendment was pending for several days. At any time, Senator BYRD's amendment was subject to a motion to table. Everyone knew there were enough votes to table that amendment. But for days, the minority chose not to do that.

So I hope that I am wrong. I hope that I am wrong. I hope that there are as many on your side of the aisle as on our side of aisle who want this legislation to pass. But I have the feeling now, I say to my friend from Ohio, is that the minority does not want to move the homeland security bill.

We will see in the next—

Mr. VOINOVICH. Mr. President, I say to the Senator, I beg to differ with the Senator from Nevada. We do want to move forward with this homeland security bill. We do want it to pass. We know how necessary it is for the President to have this new Department, with the flexibility he needs to merge more than 20 agencies.

From my perspective, I cannot figure out why the Majority has been filing cloture motions on some of these amendments, when I think they could make a motion to table instead. I am still trying to figure that out. I may need to get the Parliamentarian to explain what this is all about.

But I can assure you, that after the time I have spent on this issue with many of my colleagues, including many on the other side of the aisle, we want this to move forward.

We would like to have a vote up or down on the President's amended proposal, which is contained in the Gramm-Miller amendment. We would like to have a vote on the recommendations from Senators NELSON, BREAUX, and CHAFEE, and see where the Senate stands on that amendment.

We have to move this along. We cannot go home, I think, without getting this done. I know this has gotten to be pretty partisan. But I honestly believe that if we can sit down and start talking about some of this a little bit more, we could work something out and move ahead.

I assure the distinguished Senator from Nevada that we are not delaying this. We want to move forward. And I will certainly do anything I can to help cooperate in this regard.

But we want a vote on the Gramm-Miller amendment. We also want a

vote on the amendment of Senators NELSON and CHAFEE and BREAUX.

Mr. REID. I would simply say—the majority leader is here, and I don't want to take a lot of time—the majority of the Senators over here want a bill. I am confident a majority of the Senators want a bill. This is the fourth week we have tried to do it.

We are trying very hard. We should be able to do it. It appears to me that some people cannot take yes for an answer. We are willing to give a vote on the amendment offered by the Senator from Texas, but he says he does not want a vote unless he can have the first vote. It is just a lot of what appears to me, and I am sure to the people in Nevada and the public, to be a lot of silliness.

We want to move forward with this legislation. As the Senator from Ohio has said, you want it passed. We want it passed. Hopefully, we can do something. But it appears we are not getting impetus from the leadership on your side of the aisle and the White House to get this done.

I am sorry to have taken the leader's time.

The PRESIDING OFFICER (Mr. MILLER). The majority leader.

Mr. DASCHLE. Mr. President, parliamentary inquiry. Who controls the floor?

The PRESIDING OFFICER. Nobody controls the floor at this time.

The majority leader is recognized.

Mr. DASCHLE. Mr. President, I do not want to interrupt the statement of the Senator from Ohio.

Mr. VOINOVICH. Mr. President, I don't see anybody else seeking recognition on my side of the aisle. I yield the floor.

Mr. DASCHLE. Mr. President, I came to the floor for a couple of reasons. One was to reiterate what I think I heard the assistant Democratic leader say with regard to our desire to have a vote. As we have indicated publicly and privately, we are prepared for an up-or-down vote. We want a vote on the Nelson-Breaux amendment. And once that vote is taken, we are more than willing to vote on the Gramm amendment. So there should be no question about that.

I think I heard the Senator from Nevada say that there are some who cannot take yes for an answer. We are prepared to offer that vote any time. I would hope that our colleagues on the other side of the aisle would take our offer in the manner in which it was intended. We hope to have a vote up or down on that particular amendment.

NO "CONTEXT" JUSTIFIES QUESTIONING THE PATRIOTISM OF OTHERS

Mr. DASCHLE. Mr. President, the other matter I wanted to come to the floor to discuss is the reaction to some of the comments that I made this morning.

A number of our colleagues have come to the floor and, as I understand

it, the administration has stated that if I had understood the context in which the President made those remarks—the remarks that Senate Democrats are not concerned about national security—that I probably would not have been so critical. In fact, they criticized me for having criticized the President.

Mr. President, what context is there that legitimizes an accusation of that kind? I don't care whether you are talking about homeland security, I don't think you can talk about Iraq, you can't talk about war, you can't talk about any context that justifies a political comment like that.

This is politicization, pure and simple. I meant it this morning and I mean it now. I don't know what may have motivated those in the White House to make the decision to politicize this debate, but it has to stop. There is no context within which anybody can make that accusation about people on this side of the aisle on an issue relating to homeland security, or Iraq, or defense, or anything else.

So let's get that straight. I would hope that we can finally bring this debate to a level that it deserves.

I can recall in 1991 and 1992—especially in 1992—when President Bush made the decision he did. I can recall several of my staff coming to me, suggesting that we say this or that. But never once did I have someone on my staff, someone here in the Senate, refer to the politics of the war with Iraq.

I remember sitting at my desk, handwriting my speech, explaining to my people in South Dakota, and to whom ever else might be listening, why I made the decision I did. I did not make that decision for political reasons. And I don't think there is a person in this Chamber who did.

We need that same level of debate this time if we are going to have a debate, if we are going to do it this close to an election.

So I want all the apologies at the other side of Pennsylvania Avenue, all of these explanations about "context" to be taken for what they are worth. They are not worth the paper they are printed on.

The time has come for us to quit the explanations, to quit the rationalizations, to quit the politicization, and do what we should do as Americans: Make our statement, make our judgment, have a debate, and send a clear a message to Saddam Hussein as we can. We are not going to tolerate his actions. And we, as a country, will build on a coalition to do the right thing.

I hope this will be the last word. I look forward to talking directly with those in the White House, those on this side of the aisle, as we fashion our response, as we take this matter as seriously as we should, as we do it in a way that lives up to the expectations of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.