

I encourage Senators to come to the floor today, tomorrow, Monday, and all next week as we hope to complete our work. My expectation is that we would complete our work on this resolution, on this set of issues relating to this resolution, sometime by midweek next week.

I know we are scheduled to have a vote at 4:15. That time has arrived.

I yield the floor.

AUTHORIZATION OF THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq:

Harry Reid, Jeff Bingaman, Jean Carnahan, Daniel K. Inouye, Bill Nelson of Florida, Ben Nelson of Nebraska, Ernest F. Hollings, John Edwards, Tim Johnson, Joseph I. Lieberman, Herb Kohl, John Breaux, Joseph R. Biden, Jr., Max Baucus, Mary Landrieu, Tom Daschle.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. HATCH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from Hawaii (Mr. INOUE) are necessarily absent.

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

The yeas and nays resulted—yeas 95, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—95

Allard	Burns	Craig
Allen	Campbell	Crapo
Baucus	Cantwell	Daschle
Bayh	Carnahan	Dayton
Bennett	Carper	DeWine
Biden	Chafee	Dodd
Bingaman	Cleland	Domenici
Bond	Clinton	Dorgan
Boxer	Cochran	Durbin
Breaux	Collins	Edwards
Brownback	Conrad	Ensign
Bunning	Corzine	Enzi

Feingold	Landrieu	Santorum
Feinstein	Leahy	Sarbanes
Fitzgerald	Levin	Schumer
Frist	Lieberman	Sessions
Graham	Lincoln	Shelby
Gramm	Lott	Smith (NH)
Grassley	Lugar	Smith (OR)
Gregg	McCain	Snowe
Hagel	McConnell	Specter
Harkin	Mikulski	Stabenow
Hollings	Miller	Stevens
Hutchinson	Murkowski	Thomas
Hutchison	Murray	Thompson
Inhofe	Nelson (FL)	Thurmond
Jeffords	Nelson (NE)	Torricelli
Johnson	Nickles	Voinovich
Kennedy	Reed	Warner
Kerry	Reid	Wellstone
Kohl	Roberts	Wyden
Kyl	Rockefeller	

NAYS—1

Byrd

NOT VOTING—4

Akaka
Hatch

Helms
Inouye

The PRESIDING OFFICER. On this vote, the yeas are 95, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 112, a 1-week continuing resolution, just received from the House, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 112) making further continuing appropriations for the fiscal year 2003, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, and the motion to reconsider be laid on the table, with no intervening action or debate.

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

The joint resolution (H.J. Res. 112) was read the third time and passed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—S. 2766

Mr. HARKIN. Mr. President, as I will every day, I ask unanimous consent that the majority leader, after consultation with the Republican leader, turn to the consideration of S. 2766, the Labor, Health, Human Services, and Education appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I did not quite catch the request. To clarify, this would set aside the homeland security bill? This would set aside the Iraqi resolution?

Mr. HARKIN. Yes. The appropriations bill for Labor, Health and Human Services, and Education passed the subcommittee unanimously, and passed the committee unanimously. We are now in a new fiscal year. Our schools out there need this help. Every day that we don't pass it means they are getting less money for special education, less money for teacher training, less money for title I to help, as a result of the bill we passed just a year ago, to leave no child behind. So I have asked unanimous consent that the leader turn to the consideration of S. 2766, the Labor, Health and Human Services, and Education appropriations bill.

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I, again, say I am sorry that we hear an objection from the other side. We are not doing much around here. Every day we sort of hang around and have a couple of cloture votes and that is about it. We could bring up this education bill.

As I said, it passed unanimously. That means both Republicans and Democrats supported this bill. It has money in it for Pell grants. We have a lot of middle-class kids going to college who are counting on these Pell grants. This bill had a \$100 increase to help these middle-class kids go to college. Yet we are being denied the opportunity to get that \$100 increase per year for the Pell grant.

We just passed a leave-no-child-behind bill last year. I ask Senators to go and talk to the principals in the schools. Where are the resources to back them up? Without the resources, a lot of children are going to be left behind.

So this bill has resources in it for title I—as I said, about \$700 million. That is going to be denied to our public schools because the other side objected.

Special education—almost \$1 billion is tied up because the other side objects to going to our appropriations bill.

I am sorry that the Republican whip has objected to bringing up this bill. But every day that we are here, I intend to ask unanimous consent to bring up the education funding bill.

This is our ticket out of the recession. It is our ticket to a better future. It is a ticket to a stronger America. We can't back off of our support for education.

I am sorry that we have gotten this objection on the Republican side. But, as I said, every day that we are here I will try to bring it up to get our education funding bill through.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

THE SENATE SCHEDULE

Mr. NICKLES. Mr. President, the Senate is not working. The Senator from Iowa is correct. The Senate is almost being dysfunctional when it comes to appropriations bills and the budget process. We haven't passed a budget. I could ask unanimous consent to bring up the budget.

This is the first time since 1974 that the Senate has not passed a budget. The Senate has not passed any appropriations bills and sent them to the President. I can't remember any time that at the beginning of the fiscal year we haven't sent one appropriations bill to the President. I fault the Senate because we haven't passed a budget. Therefore, we haven't worked out an agreement with the House on the total amount of money we are going to spend. The House has passed some appropriations bills because they have a budget, and we don't have a budget. So the Senate passes bills that are much higher than the House. They don't want to go to conference when the two numbers are not the same. Usually, if you have a budget, both the House and the Senate will at least be working with the same figures and it is much easier to reconcile and actually have a bill that would pass.

Also, I might mention that the President has already said he would veto a bill that would be in excess of what the House passed. We would be wasting our time in that respect.

I would love to take up more appropriations bills, but we haven't finished the appropriations bill that is pending before the Senate. Since we came back on, I believe, September 3, the day after Labor Day, the majority leader said we would do a dual track. We would take up the Interior appropriations bill in the morning and then we would take up the Department of Homeland Security in the afternoon. We would double track those. We didn't object. It took unanimous consent to do that. One would have thought we would have rapidly finished both bills. Unfortunately, we haven't finished one in the entire month of September when we usually do a lot of appropriations bills. We have not done one appropriations bill.

The Department of the Interior appropriations bill is still pending before the Senate. It is not up to the individual chairman of the subcommittee to advance this bill on the floor. It is up to the majority leader to move to consideration of the appropriations bill, and the majority leader did not do so—I would guess because we still had other items on the floor. The Department of the Interior appropriations bill should have taken 2 days. We have been on it for 4 weeks.

We have been stuck on an issue dealing with fire management. The State of South Dakota has an exemption. They have fire management that the majority leader was able to pass earlier to deal with cleaning up their forests so they do not have such a volatile fire situation in their forests. Many Senators wanted to do the same thing for their States. They have offered amendments to do so, and they have yet to get a vote on their amendments. I have stated repeatedly that they are entitled to a vote. That is on the Department of the Interior appropriations bill. Hopefully, we can vote on those amendments and finish the bill. We should be able to do that in no time. It should not take too long.

People should be able to offer amendments. If people don't like the amendment, they can object. It doesn't take too long to finish appropriations bills if the managers and the leaders are willing to vote to table the amendments and find out where the votes are. If you win, you win. If you lose, you lose. We are willing to do that.

We haven't finished the Department of the Interior appropriations bill, nor the homeland defense bill.

People say, let us add another bill to the equation. I disagree. We just voted on a cloture motion. We have had several cloture votes. I happen to disagree. Every time we turn around we are voting on cloture. I disagree with that.

I think we are trivializing the rules of the Senate. Cloture should be used to break a filibuster. There was no filibuster on the Department of Justice authorization bill. We had a cloture vote.

Some of us were hoping we could get some agreement on when we would have more votes on judges. We are disappointed in the fact that we have a lot of judges who were nominated a long time ago and who have yet to get a vote, and in many cases even a hearing in the Judiciary Committee. I spoke to that yesterday. I don't need to repeat it. But several outstanding nominees have not been voted on and in some cases have not even had a hearing before the Judiciary Committee. That bothers me because we are going to finish this Congress and these people have been waiting in some cases 1½ years and they are not going to get a vote.

John Roberts comes to mind. He was nominated on May 9. He has argued 35 cases before the Supreme Court and he didn't even get a hearing this year. He is eminently qualified. He is a former

assistant solicitor general and he didn't even get a hearing this year.

I have been pushing and I hope maybe we will be successful in getting a vote on Michael McConnell this year. At least the committee has had a hearing on him. He is from Utah. He is from Senator HATCH's State. He was nominated by President Bush and is supported by Senator HATCH. The tradition of the Senate is that surely the ranking minority member of the Judiciary Committee is entitled to get a vote on his judge.

I have asked for the Judiciary Committee—and I hope it is not too late—to put Michael McConnell on the docket to be voted on next week. I hope they will. I understand he is not on it yet. I am going to encourage our colleagues to include him, as well as Dennis Shedd and others.

There is a lot of work to be done. Now we have a whole succession of people coming in asking to take up their bills. The majority leader has the right to move to whatever item is on the floor of the Senate. That is his prerogative. That is the prerogative of the majority leader, and I support maintaining that tradition. Obviously, we have others who are saying: Wait a minute. I want to take up my bill.

Labor-HHS has not passed because we haven't passed a budget. Other bills haven't passed because the Senate didn't pass a budget. Unfortunately, the majority leader never called the budget up to put it on the floor for a vote. It may well have been because he didn't have the votes.

But I know when Senator DOMENICI was chairman of the Budget Committee he had a difficult time. And every once in a while we went to the floor and fought lots of battles. We won some and we lost some. But we ended up with a budget resolution that we were able to work out with the House. We would pass a budget resolution, and it would be identical figures, total spending figures, between the House and the Senate. That enabled us to move forward on the appropriations bills. We did not get it done this year, so we have not passed appropriations bills.

I would also like to say I heard: Well, all these education accounts, they are being cut, cut, cut. That is not actually correct. I believe the correct statement would be: We are continuing appropriations. We just passed a continuing resolution for funding until next week, and that continues at last year's level—not an increase, not a decrease.

So I just mention that. I think people should understand we may be on a continuing resolution, unfortunately—because we have not done our work, because we have not passed a budget, because we have not passed appropriations bills—we may be on a continuing resolution for months, but that will not be a cut for anybody. It is basically going to be a continuation of funding levels at last month's, last year's level. I say that just for people's information,