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Senate

The Senate met at 9:47 a.m. and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain Rabbi Moshe Feller, of Saint Paul, MN.

The guest chaplain offered the following prayer.

PRAYER

Almighty God, Master of the Universe, the Members of the U.S. Senate convene here today to fulfill one of the seven commandments which You first issued to Noah and his family after the great flood, the command to govern by just laws.

As related in the book of Genesis and its sacred commentaries, You issued at that time the following seven laws:

To worship You alone;
Never to blaspheme Your Holy Name;
Not to commit murder;
Not to commit adultery, incest, or any sexual misdeeds;
Not to steal, lie, or cheat;
Not to be cruel to any living creature; and

That every society govern by just laws based on the recognition and acknowledgment of You, O God, as the sovereign ruler of all men and all nations.

Grant, Almighty God, that the Members of the Senate constantly realize that in enacting just laws they are performing your will.

Almighty God, I beseech You today to bless the Senate and the entire Nation in the merit of one of the spiritual giants of our time and of our country, the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson of righteous, blessed memory, who passed away 10 years ago today. The Rebbe labored with great love, dedication, and self-sacrifice to make all mankind aware of Your sacred presence.

May his memory be for a blessing, and his merit be for a shield for our

Government and our country, which he always referred to as "a country of kindness."

Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 2004.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WAYNE ALLARD, a Senator from the State of Colorado, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ALLARD thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will again return to the Defense

authorization bill. Last night's agreement provides for an additional hour of debate in relation to Senator LEVIN's missile defense amendment. The order also provides for the vote on the Brownback indecency amendment immediately following the Levin vote. Senators can, therefore, expect two consecutive votes at approximately 11 a.m. this morning. We have also reached an agreement to have all first-degree amendments offered by 6:30 this evening. Given this agreement, I anticipate we will have votes throughout the day into the evening. If we are unable to complete the bill this evening, we would then return tomorrow for a series of votes on any remaining amendments and conclusion with final passage. Under this scenario, we should finish the bill either late tonight or tomorrow morning.

There is much more work to do before the Fourth of July recess. Although an earlier agreement allows us to go to class action, we will postpone consideration of that measure in order to begin the Defense appropriations bill in order to provide the vital support, vital monetary support, for our troops who are fighting at this moment in the war on terror overseas.

Once again, I remind my colleagues we will continue to schedule votes on the remaining judicial nominations this week, and I anticipate consideration of several of those today.

I also remind Senators to be in their seats at 2:15 today for the official photograph. This will take just a very few minutes if we have people on time. I ask Senators to be here promptly.

CANCER IN WOMEN

Mr. FRIST. Mr. President, I take a few minutes to speak on a totally unrelated issue on leader time and then we will move to the bill unless there is another comment to be made. It is a very important message. It is an issue most people do not understand and it has to

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



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do with an issue of health care and emergency health. It is regarding a fundamental question which most people cannot answer, cancer in women.

I ask people to be thinking what the appropriate answer is, What is the deadliest cancer in women today? What is the leading cause of cancer death among 55 percent of our population today? Most people think breast cancer, cervical cancer, ovarian cancer, or one of the gynecological cancers. It is not. The deadliest cancer is lung cancer.

It is preventable and it does not have to be that way. Therefore, the solution comes with education. I will take 3 or 4 minutes to comment.

The Journal of the American Medical Association this spring published the astonishing finding that lung cancer is the No. 1 cause of cancer deaths in American women. In fact, breast cancer, all the gynecological cancers, add those up and they still do not equal the number of women who die from lung cancer.

The female death rate from lung cancer has risen 600 percent over the last six decades. The last lung cancer operation I performed was about 10 years ago. Since then, the death rate has increased. It is a problem that is getting worse. The death rate continues to grow, even though the rate of smoking among women has begun to taper off since the 1960s. The whole point is that lung cancer can continue to strike even after someone stops smoking.

Lung cancer is the deadliest of all cancers. It tends to spread to the brain. It tends to spread to the bones. It is usually diagnosed very late. The 5-year survival, which is the end point that we in medicine use, is very low. If you take all women who were diagnosed with lung cancer from 1992 to 1999, only 12 percent—1 in 10—survived 5 years. In the Journal of the American Medical Association article, the survival rates, according to the researcher, to use his words, are “dismal.”

It is interesting that the disease affects women differently than men. Probably estrogen plays a role in that. We see female smokers suffer a higher result of genetic damage from the smoke and the ingredients in smoke. Females are less able to repair genetic damage from the smoke. It is an epidemic. It is an epidemic in this country with these high death rates, but there are also great smoking increases across the world, so it becomes a pandemic when we look at Asia, or a continent I go to on a regular basis, Africa, where smoking is gaining in popularity. Thus, lung cancer and death will be increasing in decades to come.

The good thing is we can prevent it. Up to 80 percent of lung cancer is caused by one thing: smoking. It is as simple as that. A lot of people try to dance around it but it is as simple as that. It does not matter statistically whether you are smoking light cigarettes or regular, even heavy smokers versus social smokers. There is no such thing as a safe cigarette today.

You can quit and that is tough to do. I have counseled hundreds and hundreds of patients, being a heart surgeon, a lung surgeon, and lung cancer surgeon before. I have counseled hundreds of patients, probably thousands of patients. It is tough to quit smoking. Nevertheless, if you put your mind to it, you can quit, and if you quit you can reduce that risk.

The best thing we can do is have people never start. That means we have an obligation to take the very latest scientific data, what we know today, and educate the American people. I argue, also, we need to educate people in high school today because the easiest thing to do is stop people from smoking up front.

I urge my colleagues, educators, parents, and the media to convey that message loud and clear. We know where smoking leads. It leads to addiction, to cancer, contributes to heart disease, to stroke, blood vessel disease, and cardiovascular disease. We need to educate young women to the consequences of smoking before they have done irreparable damage to their lungs.

Although I know my colleagues will not read the Journal of the American Medical Association, the article itself is factual, very well researched. I believe at least I have an obligation to share this with my colleagues so they can share the current state of the art with their constituents and reverse a growing challenge to women's health.

I yield the floor.

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

Mr. WARNER. Could we speak for a minute before the quorum call?

Mr. REID. Senator DASCHLE is going to give a speech.

Mr. WARNER. I was going to recommend that our colleague from Alaska, who has commitments early this morning, be able to initiate on this side comments in rebuttal to the distinguished Senator from Wisconsin and the Senator from Michigan can follow and then the Presiding Officer wishes to say something, and I will wrap.

Mr. REID. I am sure that is appropriate.

I suggest the absence of a quorum.

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

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

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time.

CONGRESSIONAL OVERSIGHT

Mr. DASCHLE. Mr. President, no question more occupied the minds of our Founding Fathers than how to keep American democracy from devolving into despotism.

The delicate and elaborate structure of our Government is designed not merely to represent the will of the American people but to prevent the concentration and abuse of power. To eliminate the prospects that tyranny could take hold, the Framers not only created a separation of equal powers, but they gave each branch authority over its peers.

“Unless these departments be so far connected and blended as to give each a constitutional control over the others,” James Madison wrote in *The Federalist Papers*, “the degree of separation . . . essential to a free government, can never in practice be duly maintained.”

For our system to work, no part of Government can be free from scrutiny—not Congress, not the judiciary, and not the White House.

Unfortunately, Congress seems to have abdicated its role in our system of checks and balances. Partisan loyalty is taking precedence over our constitutional responsibilities, and oversight has ground to a halt. There are few clearer examples than Congress' failure to investigate the decision to withhold the cost estimates for its controversial Medicare proposal.

There have been serious allegations that the administration misled Congress about the projected cost of the Medicare legislation, denying access to a study that projected much higher costs than those administration officials, including the President, discussed publicly. These allegations included charges that the former Administrator of the Centers for Medicare & Medicaid Services violated Federal law by threatening to fire Medicare's Chief Actuary if he disclosed the cost information to Members of Congress. Yet the allegations are being ignored in both the House and the Senate. The White House, too, has stonewalled. There have been no hearings, no inquiries, nothing but silence.

These charges are too serious to ignore. There are four crucial questions relating to those facts that urgently need investigation.

First, who in the administration knew about the higher cost estimates? CMS Chief Actuary Richard Foster has said that the HHS cost estimates were shared with White House officials.

To assess whether there was a coordinated effort within HHS and the White House to mislead Congress, we need to know who in the administration knew about the higher cost estimates and when they knew it.

Second, who in the administration participated in the decision to withhold the cost estimates from Congress?

According to the Congressional Research Service, Federal employees have a statutory right to communicate with

Congress, as well as certain whistleblower and employment protections. Moreover, HHS is expressly prohibited from using funds to pay the salary of anyone who prevents or attempts to prevent an executive branch employee from providing information to Congress if that information relates to relevant official matters.

CRS has found that the CMS may have violated these laws when the Administrator threatened Mr. Foster. We need to know if others above the Administrator's level participated in or authorized this activity.

Third, were senior leaders in Congress part of the effort to withhold the cost estimates from the rest of Congress?

In a letter to Representative HENRY WAXMAN, the Department of Health and Human Services has asserted that "[Health and Human Services] made conferees aware that HHS expected its final scoring to be higher than CBO's final scoring" and cited Republican conferee NANCY JOHNSON as one of the Members who "knew about these numbers."

If the administration shared the cost estimates with selected Republican leaders, why did these leaders not share the estimates with all conferees and all Members?

Fourth, is the administration seeking to obstruct congressional investigations?

To date, the administration has refused to cooperate with legitimate efforts to investigate its actions. White House Counsel Alberto Gonzales has intervened to prevent officials from testifying before the House Ways and Means Committee about White House involvement. President Bush has failed to respond to a request for information from 12 U.S. Senators. These actions suggest there may be a concerted effort by the administration to block oversight of its actions.

There could be no clearer case demonstrating the need for congressional oversight.

To preserve our system of checks and balances and maintain citizens' trust that the power they have vested in their elected leaders is being exercised responsibly, we must take very seriously allegations that executive branch officials misled Congress in this case. Therefore, along with several of my colleagues, I have requested that the leadership in both the House and the Senate take the following two steps:

First, Congress should ask the administration to provide copies of any documents relevant to this investigation.

Second, Congress should hold hearings at which Mr. Scully; Doug Badger, Special Assistant to the President for Economic Policy; and James Capretta, Associate Director for Human Resource Programs at OMB, be called to testify. Mr. Scully's relevance is self-evident. Mr. Badger and Mr. Capretta received cost estimates from Mr. Foster and are likely to have information about the

White House involvement in this matter. Their testimony would, therefore, be critical to establishing key facts about this affair.

These actions are essential if Congress is to fulfill its oversight responsibilities. They are simple and straightforward and will enable Congress to learn why the Medicare cost estimates were withheld and who is actually responsible.

In addition, we are writing President Bush to urge him to clarify what he knew about the Medicare cost estimates, the administration's attempts to suppress them, and the administration's communications with Congress about this issue. The credibility of the White House on all matters of policy is at stake.

These concerns are not limited to the Medicare debacle. As the cost of operations in Iraq have climbed past \$200 billion, American taxpayers have been asking questions regarding whether every dollar spent has been necessary.

Of late, those questions have centered on Halliburton. Even before the invasion of Iraq, there were concerns about Halliburton's contracts. Very quickly, these concerns proved to be justified.

Last year, an investigation found that Halliburton charged American taxpayers \$2.64 per gallon for gasoline shipped into Iraq, which was double the price other suppliers were charging. That gasoline was then sold to Iraqis for as little as 5 cents per gallon.

Recently, the reports of waste, fraud, and abuse have literally been piling up. This week, we learned Halliburton charged taxpayers \$10,000 per day to house its employees in Kuwait's five-star Kempinski Hotel. The same employees could have stayed in air-conditioned tents like those used by American troops for \$600 a day. The company purchased embroidered towels that cost three times that of standard towels. One employee discovered that Halliburton was charging for 37,200 cases of soda every month even though they were only providing 37,200 cans. In effect, Halliburton was charging the remarkable price of \$45 for each 30-can case of soda for which supermarkets charge about \$7. When the employee began making progress in reducing Halliburton's overcharges in this and other areas, she was taken off the accounts.

Most troubling, a former Halliburton truck convoy commander disclosed that Halliburton removed all the spare tires from its brand-new \$85,000 trucks. When the tires went flat, the trucks were abandoned or torched. In addition, there seemed to be near total disregard of maintenance on trucks.

"There were absolutely no oil filters or fuel filters for months on end. I begged for filters, but never got any," the convoy commander said. "I was told that oil changes were 'out of the question.'"

The convoy commander also indicated that convoys of empty trucks

often were sent out. He said Halliburton "would run trucks empty quite often."

Sometimes they would have five empty trucks, sometimes they would have a dozen. One time we ran 28 trucks, and only one had anything on it."

Well, whatever they are putting on the trucks, one thing is clear: The American taxpayer is being taken for a ride.

When other Halliburton employees reported similar examples of waste, fraud, and abuse, they were told, "Don't worry about it. It's a cost plus contract." "Cost plus," evidently, is jargon for war profiteering.

Despite these abuses, none of the Senate committees controlled by the Republican majority have investigated Halliburton's activities in Iraq or indicated that they intend to look into this matter.

Such scrutiny, we are told, could jeopardize the rebuilding efforts.

This attitude could not be more misguided. The danger in our rebuilding of Iraq is that the American people will lose faith in this effort because they feel it is too expensive or that they are being cheated.

There is one way to guarantee that the American taxpayer is not being cheated: that is, for Congress to step up to its constitutional obligations to oversee the actions of the executive branch of government.

Sunlight, it's been said, is the best disinfectant. But for too long, the administration has been able to keep Congress and the American people in the dark.

Medicare and Halliburton represent only the tip of the iceberg.

Still more major allegations of misconduct, such as the outing of the identity of a covert CIA agent for political gain, have been ignored.

And other serious matters, such as the manipulation of intelligence about Iraq, have received only fitful attention.

This is fundamentally wrong. Our constitutional oversight responsibilities should not be driven by political expediency.

Regardless of the party affiliation of the President, there are some matters that are too important to be ignored.

The American people are looking to us to provide leadership.

If no wrongdoing has been committed, let our investigations reaffirm people's faith in the government's credibility.

But if there has been wrongdoing, the American taxpayer has a right to see that those responsible are held accountable.

Ensuring accountability is one of the roles the Framers set out for us. In a way, it is our most solemn obligation, because in fulfilling our task, we preserve the democratic nature of our government.

Not only is a great deal of money at stake, the continuing faith of the

American people in their system of governance is at stake. Safeguarding that democratic system is our responsibility, and it is time we met it.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER (Mr. TALBENT). Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Bond Modified Amendment No. 3384, to include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program and to provide for the disposal of certain excess Department of Defense stocks for funds for that purpose.

Brownback Amendment No. 3235, to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

Burns Amendment No. 3457 (to Amendment No. 3235), to provide for additional factors in indecency penalties issued by the Federal Communications Commission.

Reed Amendment No. 3353, to limit the obligation and expenditure of funds for the Ground-based Midcourse Defense program pending the submission of a report on operational test and evaluation.

Bingaman Amendment No. 3459, to require reports on the detainment of foreign nationals by the Department of Defense and on Department of Defense investigations of allegations of violations of the Geneva Convention.

Warner Amendment No. 3460 (to Amendment No. 3459), in the nature of a substitute.

Dayton/Feingold Amendment No. 3197, to strike sections 842 relative to a conforming standard for waiver of domestic source or content requirement and 843 relative to the consistency with United States obligations under trade agreements.

Warner (for McCain) amendment No. 3461 (to the language proposed to be stricken by Amendment No. 3197), in the nature of a substitute.

Feingold Modified Amendment No. 3288, to rename and modify the authorities relating to the Inspector General of the Coalition Provisional Authority.

Landrieu/Snowe Amendment No. 3315, to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and to provide for a one-year open season under that plan.

Levin Amendment No. 3338, to reallocate funds for Ground-based Midcourse interceptors to homeland defense and combatting terrorism.

AMENDMENT NO. 3338

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided in the usual form in relation to the Levin missile defense amendment. Who yields time?

The Senator from Colorado is recognized.

Mr. ALLARD. I yield 8 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I come to the floor today to strongly oppose the Levin amendment. This amendment would realign critical funds for the ground-based midcourse interceptors. The consequences of that decision, in my judgment, would be devastating. By reallocating those funds, Congress would effectively cripple the deployment and testing of the interceptors in Alaska. Let me hasten to add, that decision to go to Alaska with these interceptors was not a political decision. It was made by the scientists. But I support that decision, and I believe Alaskans do also.

Ballistic missiles are a serious threat to the United States, and our interests, forces, and allies throughout the world are threatened by them. The missiles our enemies possess are growing in range, reliability, accuracy, and number. A missile carrying nuclear, biological, or chemical weapons could inflict damage that would make the tragedy our country experienced on September 11 pale by comparison.

We cannot afford to ignore this threat. We must confront it, if we want to address the challenges that characterize our Nation's new security environment. The new security challenges of the 21st century require us to think and act differently.

With that in mind, the decision was made to field the ground-based midcourse system in Alaska. Alaska's location gives us a strategic advantage. Interceptors launched from Alaska will be capable of protecting all 50 States. If Congress rejects Senator LEVIN's amendment and remains committed to the ground-based midcourse program, the United States will be able to meet any potential threat from a rogue nation or terrorist group.

The Fort Greely interceptors are the centerpiece of our integrated, layered, national missile defense system. The funding contained in the 2005 budget is a downpayment on additional interceptors that will enable us to conduct additional flight testing and maintain industrial base production lines for key components of the ground-based system. Senator LEVIN's amendment cuts this funding.

The amendment also disregards what years of experience have shown—that it is wise to move into a deployment phase before the testing phase of a program has been completed. I remind Congress of the gulf war, when we fielded a number of systems that were under development at that time, including JSTARS. I personally witnessed that test in the deployment phase, in the testing phase, and early deployment of JSTARS in the gulf war. The Patriot missile was also tested in this way.

Over many years we enhanced the Patriot batteries that first saw action by 1991, by implementing a follow-on

enhancement program and replacing the original missile with a completely new interceptor.

Similarly, the B-52 bomber that first flew in 1952 is hardly the same aircraft that dropped the bombs over Afghanistan in the war against terror. The original B-52 gave us early intercontinental bombardment capability, and it was enhanced over time with hardware and software improvements that helped us meet evolving operational challenges. These examples are reminders that a requirement written into a system's development phase can quickly become irrelevant or yield a dead end. That is a lesson we must keep in the forefront of our minds as we confront today's dynamic security environment.

The time to move forward with the deployment of a ground-based midcourse operational capability is now. We must continue to improve the system. It must be allowed to evolve over time and take advantage of the breakthroughs in technology as they occur. Congress should follow the proven wisdom of experience and resist the urge to build to perfection a national security strategy that has never served us well.

That is exactly what this amendment would have us do—turn our backs on the proven wisdom of experience and wait until there is a tragedy to confront the national security threats we know are emerging now.

I urge the Senate to support the ground-based midcourse system and oppose Senator LEVIN's amendment.

Again, this system has been deployed in my State already in the test phase. We should continue that concept.

I yield back any time I have not used.

The PRESIDING OFFICER. The Senator from Colorado has 25 minutes 30 seconds remaining. The Senator from Michigan has 30 minutes remaining. Who yields time?

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment which I am offering does not touch the first 20 interceptors. They are fully funded. They are going to be deployed before they are independently tested. The Senate decided that last week in a number of debates and in a vote on an amendment, the Boxer amendment. Whether it was the right decision or the wrong decision, time will tell, but nonetheless it is the decision and was the decision of this Senate that those 20 interceptors be deployed in those silos in Alaska prior to their being independently tested.

The question before us now is whether the added missiles—21 through 30, those interceptors that are paid for in this bill—are going to be provided or whether we will use that money, \$515 million, for a much greater need, to address a much more immediate threat, and that is the threat of loose nukes, the threat of nuclear fissile material

falling into the hands of terrorists, and also whether we will use at least some of that money to put more into the security of our borders, the security of our ports.

I will start with a CIA assessment that was made not too many years ago. It was made after September 11. There was an unclassified assessment made by the CIA as to what our greatest threat was. They were comparing the missile threat to the nonmissile threat. "Foreign Missile Developments and Ballistic Missile Threats Through 2015," was the title. They were looking at the missile threat. Here is the judgment:

The Intelligence Community judges that U.S. territories are more likely to be attacked with WMD using non-missile means, primarily because such means, 1, are less expensive than developing and producing ICBMs; 2, can be covertly developed and employed; 3, the source of the weapon could be masked in an attempt to evade retaliation; 4, probably would be more reliable than ICBMs that have not completed rigorous testing and validation programs; 5, probably would be much more accurate than emerging ICBMs over the next 15 years; 6, probably would be more effective for disseminating a biological warfare agent than a ballistic missile; 7, would avoid missile defenses. For all of those reasons, we have an assessment that non-missile means of delivery are a more serious threat than a missile means of delivery.

Now, the amendment I offered does not touch those 20 missiles that were part of that test bed announced last year. Last year, the chairman of our committee, Senator WARNER, said this body is authorized in moving ahead on 20 test bed sites, 16 in Alaska and the balance in California. That was the decision that we made last year—a 20-silo test bed site in Alaska and in California.

Now, this year, the administration said they want additional interceptors. It is those additional interceptors on which we are focusing.

My amendment would take \$515 million of the \$1.7 billion proposed for fiscal year 2005 and say let's put that \$515 million into far more needed, immediate purposes; in other words, to try to address this massive fissile material threat, the loose nuke threat, the dirty bomb threat, which everybody says is the most serious terrorist threat we face.

That is what this \$515 million should be spent on; also, security of our borders, security of our ports. Most of the containers coming into this country are still uninspected.

We still do not have a means of determining what is an explosive material at a distance. We must, if we are going to stop terrorists from blowing up themselves and us, be able to identify explosive material at a distance. We don't have that technology. My amendment would add money for that technology.

We had the near destruction of the USS *Cole* because a tiny boat was able to get next to it. If we could identify that explosive material at a distance before the explosion of the car bomb or

the suicide bomb or the little boat that almost blew up the USS *Cole*, we would be making ourselves far more secure. That is the kind of expenditure my amendment would provide. It leaves, I emphasize, \$1.2 billion in funding for interceptors, which is more than we have provided in any prior fiscal year. In 2002, we provided \$1.1 billion. In fiscal year 2003, we provided \$763 million. In 2004, we provided \$1.1 billion for interceptors.

If my amendment is adopted and we use this money to address the loose nuke issue and the other issues I have identified, we would still have \$1.2 billion for interceptors. Now, would there be an effect on testing? No, for two reasons. No. 1, there is no effect of this amendment on the funding for interceptors which are dedicated to flight tests. The only interceptors affected by this amendment are the deployed interceptors, 21 through 30. Those interceptors are not planned for flight testing.

We were told last night, many of you folks say you want testing, but then you cut interceptors that are going to be used for testing. Let me emphasize that none of the interceptors that we cut are going to be used for flight testing; they are not going to be launched. They are going to sit in those silos. They will not be launched. We just received that word, again, from the missile defense folks.

We asked them: Is it still your plan not to launch those interceptors from the silos in Alaska?

Their answer is: That is correct. That is not our plan for testing. We are not going to launch those interceptors. The interceptors used for testing will be used somewhere else. They are not going to be part of this test bed. We are not cutting those three test interceptor missiles that are going to be used for testing.

When we are all done, if this amendment is adopted, there would still be more spent on missile defense than on any weapons system in the history of this country in any single year. So the idea that somehow or other this is a devastating blow to missile defense is simply not correct. It is 5 percent of the missile defense budget request for this year. It is less than one-third of the interceptors, and none of the test interceptors. These are the extra missiles that were not asked for last year when we were assured by Senator WARNER that the test bed was for 20 silos in Alaska, mainly, and 4 in California.

Now, we talk about the greatest threats that we face. It seems to me that it is almost a consensus that the greatest threats we face come from the loose nukes. As a matter of fact, this body just adopted a Domenici-Feinstein amendment, and that amendment said we ought to fund what is called the Global Threat Reduction Initiative, which has recently been announced by Secretary Abraham.

Secretary Abraham, with great fanfare, announced the \$450 million Global Threat Reduction Initiative on May 26.

That is just a month ago—not even a month ago. Speaking to the International Atomic Energy Agency, Secretary Abraham said that this new effort, the \$450 million Global Threat Reduction Initiative, aimed at the loose nukes, aimed at this fissile material that is distributed around the world—any few kilograms or pounds of which fell into the hands of a terrorist could blow up a city—this new effort, according to Secretary Abraham will "comprehensively and more thoroughly address the challenges posed by nuclear and radiological materials and related equipment that require attention anywhere in the world, by ensuring that they will not fall into the hands of those with evil intentions."

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. LEVIN. I yield myself an additional 5 minutes.

Mr. President, the purpose of the initiative was to secure, consolidate, destroy, or return to the United States and Russia nuclear materials from around the world, concentrating on the least secure and the most dangerous materials first. Secretary Abraham committed the United States to dedicate more than \$450 million to this effort. Well, there is no money in the 2005 budget for the effort.

The words are there, the commitment is there, Lord knows the threat is there, but the money is not there. So in our bill, Senators DOMENICI, FEINSTEIN, and others—and I was a cosponsor—offered an amendment which authorized this new initiative about which Senator DOMENICI said the following:

Many of us have worked very hard to put together a program where we and other nations will go to work at ridding the world of proliferation of nuclear products from the nuclear age. We think it is an exciting approach. Eventually, we have to fund it and Presidents have to implement it. But the Senate would be saying today it is good policy to get the world concerned about getting rid of radioactive material from the nuclear age.

This amendment today does what Senators DOMENICI and FEINSTEIN said and this Senate said when we adopted their amendment, which is to fund the initiative. Not just to talk about it, not just to say words which are important, but to actually put dollars behind the words.

As Senator DOMENICI said in offering the amendment, which we adopted, which added this provision in this bill which authorized the Global Threat Reduction Initiative, this amendment:

[It]s aimed—

As his amendment was and is— at expediting global cleanout of nuclear materials and equipment that could represent proliferation risks.

He went on to say:

Even though we are making progress, the focus on terrorism over the last few years has substantially amplified the level of our concern. In the process, we have learned more about the complicated routes through which important equipment technologies, such as enrichment capabilities, has moved to unfortunate destinations.

Our focus on Russia was appropriate a decade ago. But it is very clear today that proliferation must be viewed as a global problem. We must broaden our programs so that they have a global impact, not only focused on the former Soviet Union.

The increased threat of terrorism should encourage us to seek new ways to expedite the management, security, and disposition of materials that could be dangerous to our national security if they were to fall into the wrong hands. These materials include a range of fissile materials, with highly enriched uranium and plutonium being the ones of greatest concern.

My amendment today would ensure that this real and immediate threat to our security is funded, that the money is there.

The money is being transferred from these extra missiles, missiles which have not been tested. If we decide we are going to proceed to deploy 20 untested missiles, so be it, but 21 through 30, not discussed last year when the test bed of the of 20 was described, but added this year, those additional missiles do not come close to being as important to our security as trying to help get rid of fissile and nuclear material that can fall into the hands of terrorists.

Secretary Abraham said, and the words were good:

We will take these steps because we must. The circumstances of a dangerous world have thrust this responsibility on the shoulders of the civilized world. We don't have the luxury of sitting back and not taking action.

We do not have that luxury, Mr. President. We do not have the luxury of not addressing that new global initiative that Secretary Abraham and the administration said was so important. We have a responsibility to look at how we allocate resources and to weigh the greater risks with the available resources.

It seems so obvious to me that when we compare what is provided in an additional 10 missiles, not tested and not to be used as part of a test—we do not touch any test missiles. We do not touch the 20 missiles in the test bed in Alaska and California. When we compare the funding of \$515 million for those additional 10 missiles, those extra 10 missiles not in the 20 silo test bed, with the critical need to obtain this fissile material and to secure it around the world before it falls into the hands of terrorists, it seems to me that the outcome should be very clear. We should put that \$515 million into securing that material, to obtaining that material, to securing our ports, and to doing some of the other homeland defense needs that are provided for in my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used the 5 additional minutes. He has 14 minutes.

Mr. LEVIN. I thank the Chair, and I reserve the remainder of that time.

The PRESIDING OFFICER. The Senator from Michigan reserves the remainder of his time. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 10 minutes.

I rise to strongly oppose the Levin amendment. Senator LEVIN proposes to cut \$515 million from missile defense and shift funds to a variety of homeland security and counterterrorism provisions. I urge my colleagues to oppose this amendment on a number of grounds.

First, it makes a false distinction between missile defense and homeland security. Missile defense is quintessentially homeland security. That is right, missile defense is homeland security. It protects our homeland from long-range missiles and the most destructive weapons on the planet.

Second, it makes a false distinction between missile defense and counterterrorism. Throughout the cold war, we were concerned with the balance of terror. Rogue nations with missiles and weapons of mass destruction will use those missiles and weapons to threaten and terrorize the United States, our allies, and our friends.

Third, it would do serious harm to the Missile Defense Program. The \$515 million cut in the Levin amendment is for the next 10 ground-based midcourse defense interceptors. Cutting these funds would break the production line for these missiles. It would cause the loss of key personnel, expertise, subcontractors, and suppliers, and then they would have to start all over again, with lead-in delays and extra costs to the program.

The Missile Defense Agency would have to reconstitute the production, requalify and recertify subcontractors and suppliers, and it would have to restart production. Losing these funds for a year could result in a long delay in fielding the next 10 interceptors—between 2 and 3 years after we would have fielded them, I am told—and result in restart costs of nearly \$300 million.

Those who oppose missile defense obviously would like to delay. That is what we have been arguing over the last few days. They would like to add costs and then come back and say how this program is not proceeding the way it should. This is an essential program. We should not have delays. We should do everything we possibly can to cut down unnecessary costs because of time delays.

Fourth, it would do serious harm to the defense of the Nation against long-range missile threats. The Missile Defense Agency's assessment is that delaying the next 10 interceptors would leave us critically short of assets in the 2007 timeframe to defend against known and potential threats.

We cannot talk about all the information that is available that informs Senators and how that judgment comes about, but it is available to all Senators, and if they have any questions about that, I urge them to get that information and review it.

And fifth, this amendment is inconsistent with national policy established

in legislation and signed into law by President Clinton. The National Missile Defense Act of 1999 established a national policy to deploy a national missile defense as soon as technologically feasible. It is feasible, and these additional interceptors are important to that effort. The Senate approved that act by a vote of 97 to 3, I remind Members of the Senate.

Furthermore, this amendment would move the funds to accounts that are already well funded. Again, I remind my colleagues in the Senate, this missile defense is homeland security.

I want to talk a little bit about these funds. For example, the President's budget includes \$47.4 billion for homeland security activities, not including ballistic missile defense throughout the Government, an increase of \$6.1 billion, or 15 percent, compared to last year, a \$26.8 billion increase to fiscal year 2002.

Being on the Budget Committee, I had an opportunity to do a comparison. Homeland security is getting far more percentage increase than any other agency the President proposed in his budget. Now we are piling in on top of that.

Funding for the Department's activities to counter terrorism has more than doubled in 3 years to \$10.2 billion. Of that amount, the President's budget request included \$8 billion in DOD programs for homeland defense. The committee's mark added more than \$300 million above the budget request.

All of the programs for which Senator LEVIN proposes to add funds in his amendment were funded either at or above the amount of the President's budget request. Many of the recommendations for increased funding in this measure are simply flawed.

For example, one of the first items recommends an increase of \$50 million in Air Force research and development to be allocated to NORAD for low altitude threat detection and response technology. This item appears to be directed at cruise missile defense, but it is not clearly enough defined to know how the proposed funding increase would be used. A \$50 million increase for ill-defined purposes would not be executable.

I note that the proposal was apparently justified on the basis that the NORTHCOM integrated priority list includes cruise missile defense. This proposed amendment also reduces one of the highest NORTHCOM priorities on its list—that is ballistic missile defense—by \$515 million, again reminding the Members of the Senate that missile defense is homeland security.

Finally, I have a letter that was sent to the chairman of the Armed Services Committee from Admiral Ellis, commander of the Strategic Command at Omaha, NE, the head military integrator for missile defense, who expresses his opposition to any cuts to missile defense funding. I will read this letter for the benefit of my colleagues.

DEAR MR. CHAIRMAN:

I am writing to express concern about possible efforts to cut funding from the President's FY05 budget request for continued fielding of missile defense capabilities, including additional Ground-based Interceptors. As the operational lead for Global Missile Defense, USSSTRATCOM supports the continued appropriate development of missile defense capabilities that will be incrementally fielded and improved under the evolutionary approach of Concurrent Test and Operations. It is especially important to our early success that we have funding support for the production of ground-based interceptors at a rate and quantity sufficient to sustain the evolutionary developmental approach, testing milestones, and our initial defense operational capabilities.

A reduction of interceptor funding would: (1) limit the capability and capacity of the Ballistic Missile Defense System to defend the U.S. against long-range missile attack, and (2) limit the opportunity to gain operational test experience as it will reduce the number of interceptors available to replace deployed interceptors subsequently used in operational testing.

He goes on to say he further appreciates the chairman's support to both develop and provide the Nation with a rudimentary missile defense capability and indicated that this letter was also forwarded to the ranking member of the Senate Armed Services Committee. So the sponsor of this amendment has seen this letter, which is from an individual whom I have had before my committee and somebody whom I highly respect. So there we have it, somebody who is part of STRATCOM giving us a clear reason for why we need to have those additional missiles.

In response to what the sponsor of the amendment said about whether all the missiles are going to be used, that was addressed in a full committee hearing on March 9 in which Senator LEVIN himself, the sponsor of the amendment, asked General Kadish, after he commented about the fact that the missiles would work: How many of the Fort Greeley ones would be launched?

General Kadish answered—and this is not new evidence or new facts that have been brought before the Armed Services Committee or even before the full Senate. General Kadish said: Eventually, all of them.

That response was further pursued by my colleague on the Armed Services Committee, who asked: They would be moved somewhere else, is that it?

General Kadish said: No. Well, they may—this is part of the ongoing planning. That is why we all get frustrated from time to time when we change our plans.

The current plan is to use all of those out at Fort Greeley.

The PRESIDING OFFICER. The Senator has used 10 minutes of his time.

Mr. ALLARD. I yield myself an additional 3 minutes.

Mr. WARNER. Mr. President, reserving the right to object, and I shall not object, will the Chair advise both sides as to the time remaining?

The PRESIDING OFFICER. There is 14½ minutes remaining now on the side of the Senator from Virginia and 14

minutes remaining on the side of the Senator from Michigan.

Mr. WARNER. I thank the Presiding Officer.

Mr. ALLARD. I will respond to the concerns that were raised by the sponsor of the amendment about what he referred to as "loose nukes," and from that same report which he quoted, I would point out that in the report it says the probability that a weapons of mass destruction armed missile will be used against U.S. forces or interests is higher today than during most of the cold war.

This is a real threat, and we should not be saying we have a higher priority on homeland defense or a higher priority on missiles. The fact is we are vulnerable in all areas. We need to address that, and we have been adequately addressing it with our funding for homeland security. Now we need to take care of missile defense and make sure we have adequately taken care of the threat with weapons of mass destruction through missiles that might be launched.

In response to a hearing we had earlier on the need for a missile defense test bed, I will share with my colleagues some testimony by Admiral Ellis, who is the commander of STRATCOM. I asked Admiral Ellis: Do you support the use of the missile defense test bed to provide limited operational capability, yes or no?

Admiral Ellis replies: Yes, sir. Yes, sir.

Then I asked him a further question: Does such a capability contribute to deterrence?

Admiral Ellis says: Absolutely.

Then I responded back: Does such a capability provide a useful strategic option?

Admiral Ellis says: Yes, it does.

Then I further questioned: Does such a capability raise the nuclear threshold?

Admiral Ellis says: It certainly does.

The fourth point I would like to talk about is the funding of the nonproliferation initiative. The biggest portion of Senator LEVIN's proposal adds \$211 million for a new nonproliferation initiative in the Department of Energy, but DOE cannot spend the funding it has already for nonproliferation. Right now, DOE has \$735 million in unobligated balances for nonproliferation programs, and Senator LEVIN's amendment would push that total up to nearly a billion dollars.

In summary, we are on the right track. The Armed Services Committee has received testimony both in my subcommittee as well as in the full committee and the testimony indicates we have a real need in missile defense and we are taking care of homeland security. I urge my colleagues to join me in opposing the Levin amendment.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time?

The Senator from Alabama seeks recognition.

Mr. WARNER. I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, I thank the distinguished chairman of the Armed Services Committee, Senator WARNER, for his leadership. I support his position on this issue that is before us today, as well as that of Senator ALLARD who chairs the Strategic Forces Subcommittee of the Armed Services Committee where this matter is dealt with in depth. Both these Senators have worked on this issue for quite some time and have given it serious consideration. I believe they are correct. Indeed, I believe the Levin amendment runs counter to the policy of this Senate that has been established for some time. It is, I believe, now the fourth amendment of its kind, designed to erode the support and commitment we made to deploying a national missile defense system.

A number of years ago, in 1998 or so, this Senate in a bipartisan way adopted the Cochran-Lieberman amendment that declared it was the policy of the U.S. Congress that we should deploy a national missile defense system as soon as practical—not develop one, not research one, but to deploy it as soon as possible. That passed, I believe, with about 90-plus votes in the Senate and was signed by President Clinton. It represents the policy and commitment of the United States.

Over the years, we have moved toward that goal. We were told it could not be done. We were told a missile could not hit a missile in the air. We were told, yes, there may be a threat out there, but it probably is not very real, and even if it is you can't make the technology work. This is Star Wars. It goes back to some degree to the ridicule that was directed toward former President Reagan for his steadfast belief that this country needed to move from just trying to see how many missiles we can aim at our enemies, see how much threat we can focus on them, to the concept he believed was more peaceful, which would be to develop a system that would allow us to defend ourselves against attack. That is what we voted on, and we voted on it virtually unanimously. I think 90 percent plus of the Senators in this body voted for that amendment.

That is where we are today. Now we have here at the last minute, as this bill moves forward, one more attempt to drawdown money and to spend it on other things. Yes, there are a lot of needs in this country. You can go to education, you can go to health care, you can go to homeland security, you can go to a lot of things we believe we need desperately in America, but we are here to make choices. We made a commitment and a choice to field a national missile defense system.

I will point out that a lot of Americans probably do not know this system is working. The science is being proven

day after day. In fact, in September we will be placing in the ground in Alaska a national missile defense system that can help protect us from missile attack—not just from North Korea, but from an accidental launch. They could be effective in protecting this country, and as we go forward we will continue to improve this system.

As you test and develop this system, spiraling as we are doing now, then we may find we can develop a better radar system, we can develop a system that can be deployed on ships more effectively than what we have today. We may be able to develop a local land-based system. We may improve our computer system. We may be able to improve our guidance systems. We may be able to improve our ability to defeat even the most sophisticated attempts to confuse a national missile defense system. But it does not have to be perfect before we put it into place today. I say we are going to continue to do that.

I believe we are committed to going forward with this. It would be a terrible mistake to cut \$515 million from a system that is on track now to be effective and to be deployed. This will shut down the assembly lines. This will shut down the production that is ongoing. It is going to cost us much more money in the long run. It is not going to be good for our productive system. It is the kind of on-again, off-again political management of the production and deployment of systems that is not healthy for our Defense Department.

I see my time has expired. I thank the chairman for his leadership. I also oppose the Levin amendment.

The PRESIDING OFFICER. The Senator from Alabama yields the floor.

The Senator from Virginia has 5 minutes 5 seconds remaining.

Mr. WARNER. I thank our distinguished colleague from Alabama. He has been in the forefront of this debate for all the years he has been a member of the Armed Services Committee.

At this time, I think it would be fair we allow the distinguished proponent of the amendment to speak for a bit. Then I will follow, and I presume he would like to do a few minutes' wrap-up; is that correct?

Mr. LEVIN. That will be great. I thank my colleague.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. LEVIN. I thank the Chair. I will yield myself 6 minutes.

Mr. President, the threat we are talking about addressing in my amendment is not one of our domestic priorities. As important as those priorities are, it is not transferring money from missile defense to education or health care. It is transferring money from the next 10 missiles, untested, numbers 21 through 30, which were not stated to be

part of that 20-silo test bed which was presented to us last year, instead taking that money and using that money not for my project but for the administration's stated project of trying to address the "loose nuke" issue.

This is a program, this \$450 million program, the administration announced a few weeks ago in Vienna. With great fanfare, Secretary Abraham said we have to address the loose nuke problem around the world. Agreements were signed to counter a nuclear threat; \$450 million to prevent research materials going to terrorists as part of a global cleanup plan.

But there is no money in this program. So the Senate comes along a few days ago, and Senator DOMENICI and Senator FEINSTEIN, with the support, I believe, of most of us—surely mine—say we have to move in this direction. They authorize the program. But still no money. The words are there, but the money is not there.

We are talking about the money for a global program, not cleanup in Russia. That money has already been identified. This is for nuclear material around the world that we and the Russians have to identify and secure. That is what that \$450 million is. There is not a penny in this budget to secure that nuclear material.

The Russia task force of the Secretary of Energy said that the most urgent unmet security threat to the United States is the danger that weapons of mass destruction or weapons-usable material could be sold to terrorists and used against us. That was the so-called Baker-Cutler task force. Then they said the funding that is provided in the Department of Energy budget falls short of what is required to adequately address the threat.

We had the Harvard task force come forward and say the facts are that the amount of inadequately secured bomb material in the world today is enough to make thousands of nuclear weapons, that terrorists are actively seeking to get it, and that with such material in hand a capable and well-organized terrorist group plausibly could make, deliver, and detonate at least a crude nuclear bomb capable of incinerating the heart of any major city in the world. Securing the vast stockpiles of nuclear materials and weapons around the world is an essential priority for non-proliferation, for counterterrorism, and for homeland security. That is the issue we have to face. Are we going to fund this kind of program, or are we just going to talk about it?

The hundreds of millions of dollars which were identified by Senator ALLARD have nothing to do with this effort to secure nuclear material around the world. The money he identified has to do with a program to try to secure plutonium between ourselves and Russia, a program which is currently stalemated. That is something which hopefully can be worked out between the Russians and the State Department. But the money we are talking about

which was so widely proclaimed by Secretary Abraham as being forthcoming has not been forthcoming. There is no money in the budget for it.

It is the loose nuke material that exists around the world that threatens us more than any other single threat, and we don't have any money for it in here. The question is whether we are going to do it or whether we are going to add another 10 interceptors, numbers 21 through 30, add them to the test bed. That is the issue we face. Which is a higher priority for us? Again, I emphasize this amendment does not touch those 20 interceptors which are part of that test bed. We do not touch that. That debate was last week. That is not this amendment.

Last week, we decided we are going to deploy those interceptors. Even though they have not been independently tested, they will still be deployed. Maybe they will work, maybe they will not work, but they will be deployed. OK, that decision was made.

We are talking now about Nos. 21 through 30 and whether that \$550 million is better spent the way it is proposed in this budget, or to address the loose nuke problem around the world, to address our border security, to try to inspect the containers by the tens of thousands that come into this country, to put additional funds into new technologies to address how we can identify explosive material at a distance so we do not face a blowup of a ship like the USS *Cole*, a car bomber, or a suicide bomber. That is the issue, whether we are serious about the effort to address the greatest terrorist threats we face or whether we want to put another \$500 million into another 10 interceptors which have not yet been tested.

How much time remains?

The PRESIDING OFFICER. The Senator has used 6 minutes. The time remaining on the Senator's side is 7 minutes 45 seconds.

Mr. LEVIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to our colleagues, I think the Senator and I can agree on this point that there is no vote on this current 2005 authorization bill of greater significance than the vote we will take momentarily.

I frame this vote as follows: The whole of America watched within the past few days the September 11 Commission, its Chairman, face the cameras and say, in response to the astonishment of the American people about the tragic events of September 11, we didn't foresee it, we didn't plan for it, we didn't fund for it, we didn't train for it, and it happened.

I say respectfully to my colleagues, that is precisely what this vote is all about.

The Senator laid down the priorities of the Central Intelligence Agency. I have them before me. I should repeat this one. They say the possibility that a WMD armed missile will be used

against the U.S. forces or interests is higher today than during most of the cold-war period.

Senator LEVIN and I have been partners for 25 years on this committee. We went through the cold-war era together. That is an astonishingly high expectation. True, the CIA put somewhat greater emphasis on a number of the programs that will be funded should the Senator's amendment pass, but the Senator would acknowledge to me, I think, that the administration, in sending forth this budget, covered those 10 programs. Six of those programs receive more money than asked for in the budget, and the remaining four programs were funded at the budget level.

He points out a most recent program raised by the Secretary of Energy. I share his concern, but the Secretary of Energy said that can be financed through reprogramming, which is a procedure we follow regularly.

In summary, we are at the crossroads momentarily of whether the Missile Defense Program that this Nation has been working on for these many years, that has been acted upon by the Congress in successive sessions, will continue.

While the Senator said we are not dislodging what has been done by the past Congress, I ask, why we should even go forward with those expenses if we are going to stop the program and gap it, gap it for an indeterminate period? Should we be able to put it together again after several years, at a minimum, who can assure the technical workforce that put together the first missiles will be there? Who can say the contractor wants to pick up, once again, the burden of trying to restart a program, given the background of the stop/start by the Congress if this Levin amendment is adopted?

This amendment will spread uncertainty into this program. The world will begin to say: America is not serious about missile defense.

Much of the technology of these programs for missile defense could well be used in future years by other nations that will recognize their vulnerability to the missiles. When we say "vulnerability," it is not necessarily limited to an aggressor firing, it could be an accidental firing. That has happened. I need only point out the tragic submarine experience. Both Russia and the United States have experienced errors with those magnificent platforms, causing death and destruction. Accidents happen even with the best of intent with military equipment.

We see China coming on, we see North Korea. I think there is no dispute as to their potential today.

We must look at ourselves and go back to that refrain of Lee Hamilton: We didn't plan, we didn't foresee, we didn't train, and it happened. A future generation of America can look on this Senate at this very moment and would have to see, henceforth, if this Nation ever experiences the type of attack to

which the Central Intelligence Agency says we are vulnerable.

I urge Members to stay the course and not send a signal that America has stumbled backward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we should stay the course. We have to address the threats that we know are the major threats. We are not doing that. The loose nuke threat in this world is the No. 1 threat against us. That is what we all believe.

Yet a \$450 million program to address those loose nukes is not funded in this budget. There is not a dollar for that program in this budget. We are told now that the Department of Energy will reprogram \$450 million. I would like to see that request come in from the Department of Energy. But we do not have that request, either.

What we do have, what we do know, is that the major threat we face is the loose nuke threat. That is what the experts at the Department of Energy tell us. We surely have to address the less likely threats. I could not agree with that more. We should address threats that are not as likely.

But, my heavens, to put nothing in this budget when we have adopted the Domenici-Feinstein amendment which says we will have this global program—there is no money authorized behind it in this budget. We have adopted the Domenici amendment. Senator DOMENICI is exactly right. This is the greatest threat we face, loose nukes. Loose nukes globally are the greatest threat we face. What he said is someday we have to put the funds behind it. That someday is now. We have to compare that threat which we all believe is the most certain threat against the less likely threat identified by the CIA, which is a missile attack.

Now it has been suggested that maybe we should then totally disband the missile defense we have in Alaska. That is not what this amendment is about. I want to emphasize that because it has been mischaracterized. This does not end missile defense in Alaska. Quite the opposite, it continues the funding for those first 20 missiles.

My dear friend from Virginia said last year that test bed is 20 missiles in Alaska. He asked Senator BOXER a few days ago whether this body last year "authorized moving ahead on 20 test bed sites, 16 in Alaska and the balance in [California]." And Senator BOXER said: "Yes." That is what we decided last year. It would be a 20-silo test bed site.

We do not disturb that in any way. We leave more money in this budget after the \$500 million is put into "loose nukes." We leave more money in there for interceptors than has been in any fiscal year budget. Mr. President, \$1.2 billion is left in the budget this year after my \$500 million subtraction. That is more than was there in 2004, 2003,

2002. Any of those years had less money for interceptors.

So the idea that somehow or other we are destroying a missile defense system—when we leave that test bed in Alaska the way it is, we leave the funding for it exactly the way it is, with 20 silos, the way it was stated to be last year, but what we are saying is: Do not add another 10. Do not add another 10 interceptors, not independently tested. We have been through that argument, but they are not tested missiles.

The money that goes into those 10 missiles can be used for a much greater threat, not just the "loose nuke" threat, but the threats that have been identified by NORAD and by the Northern Command. There are many unfunded needs we have listed from NORAD, including low-altitude threat detection and response technologies.

This is another one from the Navy which we fund. Let me read this because it goes right to the USS *Cole* issue. They have an unfunded program that would procure "mobile and shore Explosive Ordnance Disposal detachments to fill gap in required capability to detect chemical, biological, and explosive hazards during Improvised Explosive Device/Weapons Mass Destruction and Force Protection responses." So the Navy says they have an unfunded program need of \$21 million to try to identify explosives at a distance.

We all know—surely the chairman of our committee knows—what happened with the USS *Cole*. If we could have identified those little boats carrying explosives at a distance, we would not have had the damage and loss of life we had on the USS *Cole*.

So we have these real needs we would fund in my amendment. We have to compare that to the extra 10 interceptors, Nos. 21 through 30, that do not touch that 20-silo test bed in Alaska.

Mr. President, I ask unanimous consent that a number of documents be printed in the RECORD. One would be the NORAD statement relative to their shortfalls, some of which are funded in my amendment. Second would be two editorials, one from the Washington Post and one from the Los Angeles Times.

Mr. WARNER. Mr. President, I will not object, but I would state that the Department of Energy, addressing the "loose nuke" issue, says they expect to spend \$87 million on it this year, and they can't spend any additional money on it. So I think that should be stated likewise.

Mr. LEVIN. If it is \$87 million, despite the \$450 million which the Secretary of Energy announced, that \$87 million is not provided for in this authorization bill.

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

LOW ALTITUDE AIR DEFENSE OF NORTH AMERICA

NORAD is leading the development and employment of capabilities for the air defense of North America. Given the proliferation of advanced technologies and improvised delivery platforms operated by terrorist groups and others, on 13 June 2002 the Joint Requirements Oversight Council directed NORAD to develop the "Low Altitude Air Threat Defense of North America Capstone Requirements Document."

This critical homeland defense effort addresses the increasing gap between the growing danger from low altitude, low observable threats and NORAD's current air defense capabilities.

Such threats include cruise missiles, unmanned aerial vehicles, crop dusters, radio controlled low observable aircraft and ultralights.

Limited capabilities exist for fusing surveillance information and the effective engagement and elimination of these increasingly advanced threats launched from air, land or sea.

Emerging technologies should be examined to enable NORAD to detect, identify, track, engage and assess these threats.

There are two aspects to this NORAD-led multi-year effort, which is supported by U.S. Northern Command and the Joint Theater Air Missile Defense Organization:

a. Develop and write a Capstone Requirements Document. The Capstone Requirements Document will provide the overarching set of "plug and play rules"—called requirements—by which all systems, regardless of Service or interagency origin, are to be developed and/or employed in support of detecting, deterring and defending against low altitude air threats. That is, regardless of agency or Service of origin, the systems necessary for the full-spectrum air defense of North America must be interoperable in order to provide NORAD the actionable information it needs to defend against such low altitude air threats.

b. Complete development and evaluation of a suite of technologies. The following technologies have great potential for the successful detection of and defense against low altitude air threats:

Homeland Defense Battle Management Command and Control architecture—will ensure the requisite interoperability of systems to fuse sensor information and pass actionable information to NORAD command and control centers and defending forces;

Technologies for cruise missile detection and identification, including lightweight radar technologies;

Stratospheric airship;
Maritime surveillance;

Surveillance platforms and other sensors; and
Defensive weapons.

From: Nanette Nadeau.

Sent: Wednesday, May 5, 2004.

To: Evelyn Farkas, (Armed Services).

Subject: Anti-Terrorism/Force Protection.

HELLO EVELYN: Here is the information you requested on Anti-Terrorism/Force Protection (AT/FP). In our earlier conversation, you mentioned the FY05 \$209.2M AT/FP shortfall for Army Forces Command. Please be aware that USNORTHCOM's other components have AT/FP shortfalls as well.

ANTI-TERRORISM/FORCE PROTECTION (AT/FP)

U.S. Northern Command (USNORTHCOM) and its Service Components; people, installations, forward/deployed facilities and equipment are at increased risk of attack based on recent and emerging asymmetric threats. The Command should have the capability to deter and/or mitigate the risks of terrorist acts against people and property whether in-place or deployed. This includes a physical security program to provide detection (alarms/guards), hardening of structures, replacement of current explosive material detection and personal protection gear (various detectors, night vision goggles, etc.). The AT/FP program would also include resources to conduct anti-terrorism exercises, perform training and promote AT/FP awareness. FY05 AT/FP funding lines for USNORTHCOM's Service Components follow.

(In millions of dollars)

	Baseline	Shortfall
Army Forces Command	\$172.4	\$209.2
Marine Forces Atlantic	0.0	26.4
Air Force/Air Combat Command	0.4	14.0
Navy Forces Atlantic	128.7	82.5

Our first action on Thursday morning will be to provide you UNCLASSIFIED information on the FY05 \$13.3M shortfall for Consequence Management.

We appreciate all your support.

Thank you,

NANETTE A. NADEAU,
Chief, Legislative Liaison,
Commander's Action Group.

From: Nanette Nadeau.

Sent: Thursday, May 6, 2004.

To: Evelyn Farkas (Armed Services).

Subject: Consequence Management.

HI EVELYN: Here is the information you requested on consequence management.

CONSEQUENCE MANAGEMENT

USNORTHCOM, through its components, needs to be able to communicate with federal, state and local agencies to begin dam-

age control and minimize the effects of actual or suspected chemical, biological, radiological, nuclear or high explosive incidents, civil disturbances and other events, when directed by the President or Secretary of Defense. Currently, the Army National Guard (ARNG) has only limited capability to establish communications to support civil authorities. This degrades alternate site operations, High Frequency radio transmissions and prevents secure communications required during domestic support operations.

The FY05 consequence management funding profile for ARNG command and control networks follows:

ARNG: Baseline—\$2.4M; Shortfall—\$13.3M.

Hope this helps!

NANETTE A. NADEAU,
Chief, Legislative Liaison,
Commander's Action Group.

DEPARTMENT OF THE NAVY, OFFICE
OF THE CHIEF OF NAVAL OPERATIONS,

Washington, DC, March 1, 2004.

Hon. IKE SKELTON,

Ranking Member, Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SKELTON: In response to your letter of February 9, 2004, I am providing a list of unfunded programs to which additional funding could be applied. While the Navy is grateful for and has benefited from the increased resources recently provided by the President and the Congress, there still remain additional shortfalls that are detailed herein.

The Department's FY 2005 Budget continues to focus on our new defense strategy and emergent challenges of the 21st Century. The resources contained in this budget go far in helping us to maintain heightened readiness in uncertain times, to provide further investment in transformational programs, and to take care of our sailors and their families. However, the Global War on Terrorism and current operations incident to Operation Iraq Freedom continue to stretch our resources in many areas. Additionally, the road to attaining our shipbuilding and aircraft procurement program goals remains exceptionally challenging.

For FY 2005, Naval unfunded programs total \$2.5 billion. These unfunded items are listed under Enclosure (1).

As always, if I may be of any further assistance, please let me know. A copy of this letter is also being provided to Chairman Hunter and Warner, and Senator Levin.

Sincerely,

VERN CLARK,
Admiral, U.S. Navy.

Enclosure.

USN FY-05 UNFUNDED PROGRAM LIST (PRIORITY)

30	CH-46 ERIP Inventory Adjustment	APN	5.0	The CH-46 will be in service longer than initially projected due to V-22 program delays. The Engine Reliability Improvement Program is the engine reliability and performance solution to the H-46 #1 issue over the last 5 years. The program delivers an engine with twice the reliability of today's engine, is ahead of schedule and meets engine demand and operational readiness requirements from OIF. This funding provides (7) ERIP modifications.
31	LHD 8	SCN	106.0	Fully fund LHD 8 SCN shortfall as well as Ship Self-Defense System (SSDS), AT/FP, and Expeditionary Fighting Vehicle (EFV) support on ship. Funds IPVT shortfalls in TPX-42 and GCCS-M interfaces with SSDS Mk2; Implementation of USS COLE SRG recommendations; Collective protection system; Expeditionary Fighting Vehicle integration.
32	LHA(R)	SCN	250.0	Provides funding that will deliver a transitional platform fielding transformational capabilities.
33	5"/54 Upgrades on CGs	RDEN	10.0	As part of the CG Modernization program, upgrades existing 5"/54 gun to interface with upgraded fire control system and SPQ-9B radar. Allows use of Task Force Hip Pocket 5" rounds against small boats. Supports Sea Strike and Sea Shield pillars.
34	ARCI/Advanced Process Build Integration	RDEN	20.0	Additional funds needed to accelerate Acoustic Rapid COTS Insertion (ARCI) upgrades to 13 ships that will not get ARCI upgrades before deployment. Includes Adv. Processor Build (APB) 04 integration which includes High Frequency Tactical Control Sonar, AI&R-SPVA sensor and processing, real time reach back analysis and spectral trackers.
35	CHEM/BIO	MULTI	21.4	Procures systems for mobile and shore Explosive Ordnance Disposal (EOD) detachments to fill gap in required capability to detect chemical, biological, and explosive hazards during Improvised Explosive Device/Weapons Mass Destruction and Force Protection responses. Currently the EOD detachments are limited in this capability. Replaces 2800 CBD respirators that have exceeded service life plus 2-year extension. Allows USN/USMC aircrew to operate in CBRN threat environment until Joint Service Aircrew Mask is fielded in FY09.
36	ESSM on Large Decks	MULTI	34.2	Funds completion of Ship Self Defense System (SSDS) Mk2 and procurement of one CEC system, one SPQ-9B system, and one complete Re-architected NATO Seasparrow Missile System (RNSSMS) including a shipset and installation costs for two Mk29 (ORDALT) missile launchers.
37	AV-8B Engine Life Management Program	RDEN	5.0	The AV-8B Engine Life Management Program (ELMP) improves the F402 engine's safety and reliability to increase the Mean Time Between engine Removal (MTBR) from 275 hours to 800 hours, and to ensure the AV-8B will remain a ready and relevant combat aircraft until transition to the JSF (STOVL). Accelerated Simulated Mission Endurance Testing III (ASMET III) ensures engine test experience remains ahead of Fleet experience. \$2.0M will complete the remaining unfunded portion of the ASMET III test scheduled for FY2005. \$3.0M is required to reinstate the previously cancelled Engine Monitoring System (EMS) plan in FY 2005.

[From the Washington Post, June 11, 2004]
TOO SLOW ON NUKES

The group of eight industrialized nations took a couple of steps at their summit meeting in Georgia this week to prevent the proliferation of nuclear weapons. Urged on by the Bush administration, the leaders of Europe, Japan, Canada and Russia agreed to a one-year moratorium on supplying equipment for producing fissile material to countries that do not already have it. Mr. Bush seeks a permanent ban, which will be discussed in the coming months. The G-8 also announced seven new participants in its program for funding the securing of nuclear materials in the former Soviet Union and agreed to press more non-nuclear countries to accept expanded inspections by the International Atomic Energy Agency. The various initiatives followed several recent steps by the Bush administration—including a new \$450 million program to collect enriched uranium and plutonium from 40 countries around the world—that have added momentum to its efforts to prevent the spread of nukes to nations or terrorist groups.

This program nevertheless looks paltry in comparison with recent developments in the opposite direction. Both North Korea and Iran appear to be continuing with nuclear weapons development, overcoming ineffective containment efforts by the Bush administration and oft-divided groups of its allies. Next week the IAEA board will meet to consider a report that a formal Iranian commitment to freeze work on enriching uranium was never honored. It's not clear that all the nuclear equipment secretly produced and traded by the Pakistan-based network of Abdul Qadeer Khan has been tracked down: Some seems to have disappeared. Evidence has emerged, meanwhile, that North Korea already has exported nuclear technology, to Libya. Though Libya is dismantling its program, there is an obvious danger that North Korea will sell bombs or the technology for them to others. It's easy to fault the ineffective strategies for these threats pursued by the Bush administration or, in the case of Iran, by European governments. But it's also unclear whether any approach, from negotiation to military action, would succeed—though the effort at containment must go on.

What's odd in such circumstances is the relative sluggishness with which the world has attacked the part of the nuclear menace that is relatively easier to deal with, if equally frightening: that of "loose nukes" and the materials needed to make them. All the elements needed to manufacture a nuclear weapon are readily available in global markets, save the fissile core of highly enriched uranium or plutonium—and hundreds of tons of these materials are stored under insecure conditions in the nations of the Soviet Union and other countries. A decade-old U.S. program has safeguarded only 20 percent of the material in Russia and less than that elsewhere. According to a recent report by a team of Harvard University researchers, less fissile material was secured in the two years after Sept. 11, 2001, than in the two years before the attacks.

Though it is working harder at securing the loose nukes, the Bush administration is still giving this effort a fraction of the resources it is spending to deploy a missile defense system against a threat—a rogue state with an intercontinental missile—that does not currently exist. At the current rate of work, it will take 13 years to secure the remaining bomb-grade material in the former Soviet Union and more than a decade to collect it from other countries. Mr. Bush's challenger, Sen. John F. Kerry (D-Mass), has laid out a plan to complete the same job within

four years. The president could help his own political cause as well as U.S. security by matching that commitment.

[From the Los Angeles Times, May 30, 2004]
A BIGGER PERIL: DIRTY BOMBS

During the Cold War, the United States, under the Atoms for Peace program, and the Soviet Union actively exported nuclear materials abroad to friendly countries. The justification was that they were helping to promote the peaceful use of nuclear energy. Now the U.S. and Russia are reviving efforts to retrieve uranium before it ends up in a terrorist dirty bomb detonated in a major city.

On Thursday, in a deal that followed a welter of new terror warnings from the Justice Department, Energy Secretary Spencer Abraham signed a \$450-million agreement with Russia to retrieve nuclear materials.

Information about contributions to the global nuclear black market by top Pakistani scientist Abdul Qadeer Khan has prompted the administration to revive its lagging non-proliferation efforts. In a Feb. 11 speech, President Bush warned that "terrorists and terror states are in a race for weapons of mass murder, a race they must lose."

Yet, as a new Harvard University study obtained by the Washington Post reports, not enough is being done against such weapons. Less fissile material was put in safekeeping in the two years after Sept. 11 than in the two years preceding it. More than 40 countries could supply materials for an atomic weapon. The U.S. has spent billions since 1992 to secure nuclear materials, but bureaucratic wrangling has stalled many programs inside Russia. According to the General Accounting Office, even rudimentary safety measures to deter the theft of dangerous materials are lacking at many Russian nuclear labs. What's more, the Energy Department's own auditors warned in February that substantial caches of uranium produced here were "out of U.S. control."

Abraham's initiative states that the U.S. will retrieve radiological material it has sent abroad and earmarks \$100 million to aid Russian efforts. According to Atomic Energy Minister Alexander Rumyantsev, Moscow will remove uranium from 20 Soviet and Russian-built reactors in 17 countries. Russia also promises not to complete Iran's Bushehr nuclear power plant without a guarantee that spent fuel will be sent to Moscow.

Though Abraham's move is a welcome one, the Bush administration continues to waste far larger sums on a missile defense system intended to defend the country against nuclear missile attacks from rogue states or terrorists. For 2005, the administration's funding request is more than \$10 billion, about 22 times the cost of the Energy Department effort. Yet most experts agree that groups such as Al Qaeda are far more likely to produce dirty bombs than nuclear missiles. It makes more sense to invest in preventing nuclear materials from falling into the hands of terrorists than to pour billions into a system that has succeeded only in what amounts to rigged testing.

The Abraham initiative deserves credit as a cost-effective program against an immediate danger. Missile defense, on the other hand, is most effective as a profit center for the defense industry.

Mr. LEVIN. Mr. President, the Washington Post editorial says:

What's odd in these circumstances is the relative sluggishness with which the world has attacked the part of the nuclear menace that is relatively easier to deal with—

And they are comparing it to the North Korean transfer of technology; and that is the "loose nukes" and the

materials that are needed to make them.

The Post editorial says:

... [T]his Bush administration is still giving this effort a fraction of the resources it is spending to deploy a missile defense system against a threat—a rogue state with an intercontinental missile—that does not currently exist. At the current rate of work, it will take 13 years to secure the remaining bomb-grade material in the former Soviet Union and more than a decade to collect it from other countries.

Mr. WARNER. Mr. President, I would make an offer to my distinguished colleague, if he wishes to advance an amendment on the issue of the "loose nukes," to work with him to see whether, in this bill right now, we could take that one change, if you feel it is inadequately funded.

Mr. LEVIN. There is no funding. It is not just inadequate, we do not have funding for that \$450 million amount.

The PRESIDING OFFICER. All time on the amendment is expired.

AMENDMENT NO. 3457, AS MODIFIED

Mr. WARNER. Mr. President, I ask unanimous consent that the Burns second-degree amendment be modified with the technical changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3457), as modified, is as follows:

At the end of the matter proposed to be inserted, add the following:

(C) ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), is further amended by adding at the end the following:

"(F) In the case of a violation in which the violator is determined by the Commission under paragraph (I) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

"(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

"(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

"(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

"(iv) The size of the viewing or listening audience of the programming.

"(v) Whether the obscene incident or profane language was within live programming not produced by the station licensee or permittee.

"(vi) The size of the market.

"(vii) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, CS Docket No. 97-55, 13 F.C.C. Rcd. 8232 (1998)), and, with

respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.”

“(G) The Commission may double the amount of any forfeiture penalty (not to exceed \$550,000 for the first violation, \$750,000 for the second violation, and \$1,000,000 for the third or any subsequent violation not to exceed up to \$3,000,000 for all violations in a 24-hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

“(i) whether the material uttered by the violator was recorded or scripted;

“(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

“(iii) whether the violator failed to block live or unscripted programming;

“(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program; and

“(v) whether the violation occurred during a children’s television program (as defined in subparagraph (F)(vii)).”.

AMENDMENT NO. 3338

Mr. WARNER. Mr. President, I am sure my colleague would want to ask for the yeas and nays on his amendment.

Mr. LEVIN. Mr. President, I thank my good friend.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, prior to the vote going forward, it is my understanding the majority has been consulted, and the distinguished Democratic leader, following these votes, wishes to offer his amendment dealing with veterans health benefits.

Mr. WARNER. Mr. President, I certainly want to accommodate the leadership. But I spoke earlier this morning outlining what I understood was going to be the sequence of events in the morning. We certainly want to accommodate the distinguished Democratic leader, but one of our Members, for very special reasons, has to be absent this afternoon. He is a member of the commission on WMD, and he wished to rebut Senator DAYTON’s amendment, which would be a very short period of time this morning.

Mr. REID. How long does the Senator from Arizona wish to speak?

Mr. WARNER. I would say 15 minutes.

Mr. REID. The votes will probably be completed shortly after 11 o’clock. We at least hope that is the case.

Mr. WARNER. The two votes.

Mr. REID. Mr. President, I meant to say 12 o’clock, which does not leave much time for the Democratic leader.

Mr. WARNER. Could the Democratic leader then be recognized immediately after the luncheons?

Mr. REID. We would ask, then, that the Democratic leader be allowed to lay down his amendment, and that he would complete the debate at some subsequent time. And then if Senator MCCAIN—

Mr. WARNER. In other words, if I understand the request now, it is simply to come in and be recognized for the purpose of laying down the amendment so it is in the queue, and then we will proceed with the Dayton amendment and those matters we originally scheduled?

Mr. REID. That is right. I do not know about the Dayton matter originally scheduled.

Mr. WARNER. Apparently my leader would like to address this issue. We want to be cooperative and supportive of the procedural aspects of it. Could we proceed at least through the first vote and then, in that interim period, be able to provide an answer?

Mr. REID. That is fine. I will be happy to do that. But I see no prejudice to anyone if he is allowed to lay down his amendment.

Mr. WARNER. I share that, but any manager has to be cognizant of the needs of his respective leader. So we will proceed to the first vote, with an understanding there will be a modest period in between to hopefully resolve this issue.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3338. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—44

Akaka	Dorgan	Lautenberg
Baucus	Durbin	Leahy
Biden	Edwards	Levin
Bingaman	Feingold	Lincoln
Boxer	Feinstein	Mikulski
Breaux	Graham (FL)	Murray
Byrd	Harkin	Pryor
Cantwell	Hollings	Reed
Carper	Inouye	Reid
Clinton	Jeffords	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Wyden
Dodd	Landrieu	

NAYS—56

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

The amendment (No. 3338) was rejected.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask that the vote that is about to be taken be deferred in recognition of a need by the distinguished Democratic whip.

AMENDMENT NO. 3409

Mr. REID. Mr. President, I ask unanimous consent that the pending order be set aside and if there is a pending amendment that it be set aside, and I be allowed to offer for Senator DASCHLE amendment No. 3409.

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

Mr. WARNER. Mr. President, we return to regular order.

Mr. REID. Mr. President, does that amendment need to be reported?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DASCHLE, proposes an amendment numbered 3409.

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

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

The amendment is as follows:

(Purpose: To assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation)

At the end of subtitle G of title X, add the following:

SEC. 1068. FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.

(a) IN GENERAL.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

“§320. Funding for veterans health care to address changes in population and inflation

“(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

“(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to—

“(A) 130 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c), minus

“(B) the amount appropriated for those purposes for fiscal year 2004.

“(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (c) for fiscal year 2004:

“(A) The sum of—

“(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

“(ii) the number of persons eligible for health care under chapter 17 of this title who

are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

“(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

“(3)(A) For purposes of paragraph (2)(B), the term ‘per capita baseline amount’ means the amount equal to—

“(i) the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (c), divided by

“(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

“(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

“(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

“(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

“(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

“(2) Amounts made available pursuant to subsection (a) are not available for—

“(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

“(B) grants under subchapter III of chapter 81 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“320. Funding for veterans health care to address changes in population and inflation.”.

Mr. WARNER. Regular order.

AMENDMENTS NOS. 3235 AND 3457

The PRESIDING OFFICER. The Senate will resume consideration of amendment No. 3235.

Under the previous order, the Burns second-degree amendment No. 3457 is agreed to.

The amendment (No. 3457) was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBAC. Mr. President, I ask unanimous consent that Senator BYRD be added as a cosponsor to amendment No. 3235.

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

AMENDMENT NO. 3464 TO AMENDMENT NO. 3235

Mr. BROWNBAC. Mr. President, I call up amendment No. 3464, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The journal clerk read as follows:

The Senator from Kansas [Mr. BROWNBAC] proposes an amendment numbered 3464.

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

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

The amendment is as follows:

(Purpose: To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language)

Strike page 1 line 2 through page 3 line 3 and insert the following:

SEC. . . BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A) or (B)” and inserting “subparagraph (A), (B), or (C)”.

(c) EFFECTIVE DATE.—This section shall take effect 2 days after the date of enactment of this section.

Mr. BROWNBAC. Mr. President, I ask for the yeas and nays on this amendment. This is the decency amendment that has been widely discussed.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3464. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—99

Akaka	Campbell	Dayton
Alexander	Cantwell	DeWine
Allard	Carper	Dodd
Allen	Chafee	Dole
Baucus	Chambliss	Domenici
Bayh	Clinton	Dorgan
Bennett	Cochran	Durbin
Biden	Coleman	Edwards
Bingaman	Collins	Ensign
Bond	Conrad	Enzi
Boxer	Cornyn	Feingold
Brownback	Corzine	Feinstein
Bunning	Craig	Fitzgerald
Burns	Crapo	Frist
Byrd	Daschle	Graham (FL)

Graham (SC)	Leahy	Roberts
Grassley	Levin	Rockefeller
Gregg	Lieberman	Santorum
Hagel	Lincoln	Sarbanes
Harkin	Lott	Schumer
Hatch	Lugar	Sessions
Hollings	McCain	Shelby
Hutchison	McConnell	Smith
Inhofe	Mikulski	Snowe
Inouye	Miller	Specter
Jeffords	Murkowski	Stabenow
Johnson	Murray	Stevens
Kennedy	Nelson (FL)	Sununu
Kerry	Nelson (NE)	Talent
Kohl	Nickles	Thomas
Kyl	Pryor	Voinovich
Landrieu	Reed	Warner
Lautenberg	Reid	Wyden

NAYS—1

Breaux

The amendment (No. 3464) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3465 TO AMENDMENT NO. 3235

The PRESIDING OFFICER. Under the previous order, Senator DORGAN is recognized to offer an amendment.

Mr. REID. I send the amendment to the desk on his behalf.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, proposes an amendment numbered 3465 to amendment No. 3235.

The amendment is as follows:

In the amendment, strike all beginning on page 1, line 2, through page 3, line three, and insert the following:

SEC. . BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) PURPOSE.—The purpose of this section is to increase the FCC’s authority to fine for indecent broadcasts and prevent further relaxation of the media ownership rules in order to stem the rise of indecent programming.

(c) FINDINGS.—The Congress makes the following findings:

(1) Since 1996 there has been significant consolidation in the media industry, including:

(A) RADIO.—Clear Channel Communications went from owning 43 radio stations prior to 1996 to over 1,200 as of January 2003; Cumulus Broadcasting, Inc. was established in 1997 and owned 266 stations as of December 2003, making it the second-largest radio ownership company in the country; and Infinity Broadcasting Corporation went from owning 43 radio stations prior to 1996 to over 185 stations as of June 2004;

(B) TELEVISION.—Viacom/CBS’s national ownership of television stations increased from 31.53 percent of U.S. television households prior to 1996 to 38.9 percent in 2004; GE/NBC’s national ownership of television stations increased from 24.65 percent prior to 1996 to 33.56 percent in 2004; NewsCorp/FOX’s national ownership of television stations increased from 22.05 percent prior to 1996 to 37.7 percent in 2004;

(C) MEDIA MERGERS.—In 2000, Viacom merged with CBS and UPN; in 2002, GE/NBC merged with Telemundo Communications, Inc., and in 2004 with Vivendi Universal Entertainment; in 2003 News Corp./Fox acquired

a controlling interest in DirecTV; in 2000, Time Warner, Inc., merged with America Online.

(2) Over the same period that there has been significant consolidation in the media industry the number of indecency complaints also has increased dramatically. The largest owners of television and radio broadcast holdings have received the greatest number of indecency complaints and the largest fines, including

(A) Over 80 percent of the fines proposed by the Federal Communications Commission for indecent broadcasts were against stations owned by two of the top three radio companies. The top radio company alone accounts for over two-thirds of the fines proposed by the FCC;

(B) Two of the largest fines proposed by the FCC were against two of the top three radio companies;

(C) In 2004, the FCC received over 500,000 indecency complaints in response to the Superbowl Halftime show aired on CBS and produced by MTV, both of which are owned by Viacom. This is the largest number of complaints ever received by the FCC for a single broadcast;

(D) The number of indecency complaints increased from 111 in 2000 to 240,350 in 2003;

(3) Media conglomerates do not consider or reflect local community standards.

(A) The FCC has no record of a television station owned by one of the big four networks (Viacom/CBS, Disney/ABC, News Corp./Fox or GE/NBC) pre-empting national programming for failing to meet community standards;

(B) FCC records show that non-network owned stations have often rejected national network programming found to be indecent and offensive to local community standards;

(C) A letter from an owned and operated station manager to a viewer stated that programming decisions are made by network headquarters and not the local owned and operated television station management;

(D) The Parents Television Council has found that the "losers" of network ownership "are the local communities whose standards of decency are being ignored;"

(4) The Senate Commerce Committee has found that the current fines do not deter indecent broadcast because they are merely the cost of doing business for large media companies. Therefore, in order to prevent the continued rise of indecency violations, the FCC's authority for indecency fines should be increased and further media consolidation should be prevented.

(d) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A)

or (B)” and inserting “subparagraph (A), (B), or (C)”.

(e) NEW BROADCAST MEDIA OWNERSHIP RULES SUSPENDED.—

(1) SUSPENSION.—Subject to the provisions of paragraphs (d)(2), the broadcast media ownership rules adopted by the Federal Communications Commission on June 2, 2003, pursuant to its proceeding on broadcast media ownership rules, Report and Order FCC03-127, published at 68 FR 46286, August 5, 2003, shall be invalid and without legal effect.

(2) CLARIFICATION.—The provisions of paragraph (1) shall not supersede the amendments made by section 629 of the Miscellaneous Appropriations and Offsets Act, 2004 (Public Law 108-199).

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 3465) was agreed to.

AMENDMENT NO. 3466 TO AMENDMENT NO. 3235

(Purpose: To protect children from violent programming)

The PRESIDING OFFICER. Under the previous order, Senator HOLLINGS is recognized to offer an amendment.

Mr. REID. I send an amendment to the desk on behalf of Senator HOLLINGS.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HOLLINGS, proposes an amendment numbered 3466 to amendment No. 3235.

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

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 3466) was agreed to.

AMENDMENT NO. 3235

The PRESIDING OFFICER. Under the previous order, the Brownback amendment, as amended, is agreed to.

The amendment (No. 3235) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. The Burns amendment, likewise.

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

AMENDMENT NO. 3457

Mr. BURNS. Mr. President, I am pleased that amendment No. 3457 was accepted by unanimous consent in the Senate today. While I fully support the underlying Brownback legislation, I have offered a second-degree amendment to protect the interests of small broadcasters who should not be punished for events outside of their control. The amendment agreed upon simply calls on the FCC to consider the size of the stations in question as well as whether they had anything to do with producing the offensive content in question.

I applaud the efforts of my colleague from Kansas, Mr. BROWNBACK, for his

leadership on the issue of broadcast decency, and I am fully supportive of his legislation. This legislation gives the Federal Communications Commission the tools they need to go after those responsible for exposing our children to indecent material.

With the recent trend of indecent events in the media, it is time to raise the current fine levels in order to prompt stations to more carefully screen their programming. These higher fines are appropriate for most stations. However, if the fines are too high for a local Montana broadcaster, it could well force them to close up shop.

In Montana, we have numerous stations that are so marginally profitable that the only reason they remain on the air is because the good citizens of their communities refuse to let them go dark.

For example, in Scobey, MT, townspeople regularly buy “stock” in KCGM because the community is so small that, in the words of manager Dixie Halvorsen, “there is no reason for anyone to buy advertising in this station. We have but one local market, one drug store, and one feed store. They buy time with us because they want their local news and their local high school sports and the local legion baseball and the local weather . . .”

Plentywood is much the same. KATQ has a local advisory board that oversees the operation of the station. It is made up of members of the business and non-profit community to ensure that their local stations remain on the air.

Nearly two-thirds of the radio stations in Montana are small market “mom and pops.” In Libby, MT, Duane and Peggy Williams operate KLCB-AM and KTNY-FM with the help of several part-time stringers and some high school students. Libby has a depressed economy and is a Superfund site. When the EPA held meetings and hearings with all of us in the Congressional delegation, along with the Governor and other State and Federal officials, Duane and Peggy interrupted their entire programming for the day to cover the issue.

It is not at all inconceivable that during these hours of live broadcasts, an upset citizen might utter a word or phrase that could be considered indecent under this provision of the law. An excessive fine would mean the end of Duane and Peggy's stations and dreams and the end of local radio in Libby.

And there are hundreds, perhaps thousands, of people like Duane and Peggy who do not deserve such treatment for simply trying to do what is best by their communities.

Examples such as this are why I introduced the amendment that was agreed to today. This amendment outlines mitigating factors that the Commission shall consider when determining the degree of a fine that will help shield smaller stations from an unnecessarily strong financial blow.

I thank Mr. BROWNBACK for taking the lead on this important piece of legislation, and I am pleased that my colleagues have recognized the importance of the small-market station amendment.

Mr. TALENT. Mr. President, today I rise to make a few remarks about my vote today for Senator BROWNBACK's amendment regarding broadcast indecency. I supported this amendment as modified by the Burns second-degree amendment because it includes protections for small market stations. Combined, the Burns and Brownback amendments would curb the broadcast of indecent material without unjustly penalizing local broadcasters who unknowingly transmit it.

I have spoken with Missouri broadcasters who worry that the stand-alone Brownback legislation would subject them to large fines for merely transmitting a program containing indecent material, like that contained in the Superbowl halftime show, without their knowledge of the indecency. Combined, the Burns-Brownback amendments would not place broadcasters in this situation since it requires the Federal Communications Commission to consider several factors including knowledge in determining whether to levy a fine, and how much that fine should be.

Under current law, local broadcasters are essentially liable for everything that comes across their airwaves, even a Janet Jackson-type incident that they are downstream from and have had no opportunity to review. This quasi-strick liability standard is simply not fair, and that is one reason why I believe the law should be changed.

The Burns amendment in particular corrects this unfairness by requiring the FCC to consider factors in assessing fines including whether the material was scripted or recorded and whether the violator had a reasonable opportunity to review the script or recording, thereby demonstrating that the violator had knowledge that the indecent, obscene or profane material would be aired or, otherwise, had a reasonable basis to believe that live or unscripted programming would contain indecent material. In determining culpability, the FCC would be required to consider mitigating factors including whether the licensee had a reasonable opportunity to review the programming or had reason to believe it may contain obscene, indecent, or profane material. I believe these provisions address local broadcasters' concerns and protect them from arbitrary FCC enforcement.

I support the Burns-Brownback amendments because of these provisions, but I am still concerned about the phenomenon of congressional overreaction to current events. Like many other parents, I feel that this year's Superbowl halftime show contained indecent material and that those responsible should be held accountable. After the Superbowl, hundreds of Missou-

rians contacted my to share similar views. There seems to be a tendency among elected officials to respond to such a strong outpouring of support by not only trying to fix the problem, but by trying to fix it in a way that swings the legislative pendulum too far in other directions, to over-regulate. I do not believe that these amendments as combined go too far, but if they do I want to hear from Missouri broadcasters and work with them to address their concerns.

I thank Senators BURNS and BROWNBACK for their hard work on this legislation, and for addressing my concerns.

Mr. WARNER. We are moving along quite well. All are in agreement with great cooperation on both sides. We are about to proceed to the amendment, the "Buy America" from our colleague on the committee. The Senator from Arizona on this side is ready.

Mr. REID. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. Senator DAYTON indicated he wishes to speak for a short period of time. The Senator from Arizona does not usually speak very long. Does the Senator have any idea how long he will talk?

Mr. MCCAIN. No longer than 10 or 15 minutes.

Mr. REID. We can complete all debate on this amendment. Senator DAYTON said he would not speak for more than 5 or 10 minutes following the Senator from Arizona, and that would complete debate on the amendment.

Mr. WARNER. Except the Senator from Virginia would like about 3 minutes to wrap up at the conclusion.

Mr. REID. Totally appropriate.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent I be allowed 15 minutes for my substitute, the Senator from Minnesota be given 10 minutes in response, and the Senator from Virginia, 3 minutes, followed by a rollcall vote.

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

The Senator from Arizona.

AMENDMENT NO. 3461

Mr. MCCAIN. Yesterday, Senator WARNER called up a substitute amendment. I ask unanimous consent the substitute amendment be called up for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending.

Mr. MCCAIN. My reasons for offering this substitute amendment are simple. It will be very harmful if we allow the Dayton amendment to be adopted in its original form. It is harmful to the Department of Defense, our soldiers in uniform, our domestic defense industry, and, not least, the American taxpayer.

The amendment I am offering in the form of a substitute would grant waiver authority for the application of a domestic source or content requirement with a country that has signed a dec-

laration of principles with the United States. This substitute amendment aims to assure that the Department of Defense, charged with protecting our national security, is not limited in its ability to carry out the functions the American public is depending on it to do.

The Dayton amendment would give preferential treatment to U.S. suppliers and does not accomplish the more important objective, which is to provide our troops with the best product for the best price. It may not sound like much on first consideration, but it would have far-reaching consequences on national security efforts and violate many of our trade agreements with respect to defense procurement.

Despite the good intentions of the proponents of the "Buy America" amendment, if it passed in its current form, it could have consequences to our Nation, impacting jobs and our economic prosperity. Further, it would harm our relationships with our allies and coalition partners and our collective prosecution of the war on terror.

As for the international considerations of the Dayton amendment, it is isolationist and go-it-alone. Currently, the United States enjoys a trade balance in defense exports of 6 to 1 in favor with respect to Europe, and 12 to 1 with respect to the rest of the world. I don't think there is any doubt if we restricted what we would buy from other nations, they would then, in return, respond. If we pass the Dayton amendment without modifications, our allies will retaliate, and the ability to sell U.S. equipment as a means to greater interoperability with NATO and non-NATO allies would be seriously undercut. Critical international programs such as the Joint Strike Fighter Program and the Missile Defense Program would likely be terminated as our allies reassess our defense cooperation.

There are many examples of a trade imbalance that I can point to. I mention one government: The Dutch Government, over a 4-year period, purchased \$2.5 billion in defense equipment from U.S. manufacturers, including air refueling planes, Chinook helicopters, Apache helicopters, F-16 fighter equipment, missiles, combat radios, and various equipment. During that same period, the United States purchased only \$40 million of defense equipment from the Dutch. So there is a \$2.5 billion procurement by the Dutch Government for American equipment and \$40 million of equipment of the United States bought by the Dutch. Recently, the Defense Ministers of the United Kingdom and Sweden pointed to similar situations in their country.

In every meeting regarding this subject I am told how difficult it is to buy American defense products because of our protectionist policies and the strong "Buy European" sentiment overseas. The Ambassadors of the United Kingdom, Netherlands, and Denmark, allies that provided forces in

Iraq, recently sent letters to the Armed Services Committee expressing their strong support for the underlying title 8 in the Defense Authorization Act.

The letters support the Commission on the Future of the National Technology and Industrial Base, the conforming standard for waiver of domestic source or content requirements, and consistency with U.S. trade obligations under trade agreements.

Over the last few years we have sold 18 variants of aircraft, 19 types of missiles, as well as ground and naval equipment, through the Foreign Military Sales Program. These defense systems were manufactured in 39 States across America. Companies such as Raytheon, Lockheed Martin, Bell, Northrop Grumman, Missile Research Corporation, Sikorsky, Pratt & Whitney, General Dynamics, American General, and American Truck Corporation are contributing to the trade surplus we have in the defense technology market.

I want to point out also that in fiscal years 2003 and 2004 there was \$482 million worth of military equipment purchased in the State of Minnesota; \$482 million, Lockheed Martin; and Raytheon, 20 Stinger missiles. Lockheed Martin, by the way, sold those weapons systems to Japan, and Raytheon, the Stinger, to Turkey.

I will read from a couple letters we have received from various countries and the U.S. Chamber of Commerce and others on this issue.

There is no one under more assault than the British Prime Minister for his continued unwavering support of our effort in Iraq. The British Ambassador wrote:

If approved, the measures proposed under Title VII would be an important step forward towards improving interoperability across the full range of our mutual defence cooperation.

The Netherlands Ambassador says:

Although not directly related to the above referenced proposals, allow me to share with you the idea that in our perception, part of the discussion which is seen by some as the danger posed by foreign dependency can be satisfied by bilateral Security of Supply agreements which can be negotiated as more detailed arrangements under a Declaration of Principles. . . .

As you know, Mr. President, we have Canadian troops fighting alongside Americans in Afghanistan.

The amendment offered by Senator DAYTON sends the wrong message to U.S. allies by deleting language in the Committee's bill that would encourage and support international defense cooperation and ultimately benefit U.S. taxpayers and American troops.

Every nation that is working with us and fighting alongside the United States is deeply concerned about this issue. It is hard for me to understand why we would want to propose legislation which would put this impediment to our relationship with our allies right now, when we are desperately seeking more cooperation and more effort on behalf of freedom.

The Danish Ambassador says:

. . . it would be very difficult to understand and explain if Denmark were to face new restrictions in the industrial cooperation with the U.S. Especially in light of our participation in Iraq since the beginning of the military operations and the continued presence of 500 Danish troops—one of the largest contingents in both absolute numbers and certainly in proportion of population.

We are in tough times right now. The last thing we need to do is throw sand in the face of our allies, particularly our European allies who are fighting alongside us in Iraq and Afghanistan, Bosnia, Kosovo, and other parts of the world. I would hope that the substitute would be agreed to, and I would point out again the U.S. Chamber of Commerce, as well as the National Defense Industrial Association and the Aerospace Industries Association, the Secretary of Defense, and others have spoken strongly on this issue.

Let me quote from the U.S. Chamber of Commerce letter:

On behalf of the U.S. Chamber of Commerce, the world's largest federation, representing more than 3 million businesses, I am writing to express serious concerns for two Buy American-related amendments for consideration during Senate debate on the National Defense Authorization Act. These sections represent important steps in Department of Defense transformation plans as it is filed.

So I would hope we would also understand the Senate needs to go into these negotiations with a strong position, given the position of the House Armed Services Committee authorization. So I hope we will adopt the amendment. I ask for its enactment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3197, AS MODIFIED

Mr. DAYTON. Mr. President, I ask unanimous consent that the amendment be set aside, and I call up my amendment 3197 and ask unanimous consent that my amendment be modified with the changes that are at the desk.

Mr. WARNER. Mr. President, reserving the right to object, the modifications are at the desk. We have examined them, and there is no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 3197), as modified, is as follows:

Beginning on page 172, strike line 11 and all that follows through page 176, line 12.

Mr. DAYTON. Mr. President, I thank the chairman for his concurrence.

Mr. President, I want to say at the outset, as I said yesterday, but in the absence of my colleague from Arizona, I have the utmost respect for him and also for those who take a different position on this issue. But I am a little perplexed at the dire consequences that are being asserted if my amendment were to be adopted, because my amendment simply strikes language that is in the bill before the Senate which is itself modifying current law.

My amendment simply takes us back to current law. My amendment simply takes us back to the principles and the policies and the standards and the law in the Buy American Act, which has been in effect in this country for 70 years. So I am astonished that these dire consequences are being asserted on something that has been in existing law for 70 years, that has benefited companies represented by the U.S. Chamber of Commerce and the National Defense Industrial Association, that may have certain members that have exported jobs and instead set up bases of operation in other countries, including those affected by this amendment.

So there may be those who have that particular financial interest for their own companies involved, but, overall, as the Senator from Arizona pointed out, national defense and military equipment are areas of our trade where we enjoy a surplus. So it seems evident that the policies and the laws of this country affecting both "Buy American"—which provides exemptions for the Secretary of Defense in just the circumstances that the Senator from Arizona cited: if there are not products available that are of the right quality, if there is a delay in obtaining them, if the prices are not competitive, if there are any factors at all that would harm our ability to provide for our national defense or to supply our fighting men and women who serve us so heroically around the globe—if there were anything at all that were an impediment to them getting the best equipment, getting the most advanced equipment, in a timely basis, at a competitive price, then the Secretary of Defense, under the current law, is entitled and has the authority to make a waiver and grant an exception.

But this "Buy American" law has said—for 70 years, under six Democratic administrations and five Republican administrations, until this administration started to object to it—try to buy American because if you buy American, you strengthen America by supporting American companies producing products in the United States of America, employing American citizens, providing jobs in this country.

It is this administration which seemingly has very little concern about that job base. Given that we have lost, since President Bush took office, in the last 3½ years, over 2½ million manufacturing jobs in this country—that is, 2½ million Americans who were holding those jobs when President Bush took office, who are now without those jobs. Maybe some have found lesser paying service sector jobs, but many of them are unemployed and have been for a long time. Under those circumstances, you would think this administration would be unwilling to adopt any violations of the Buy American Act that would have the consequence of costing more American manufacturing jobs or not recovering some that would otherwise be possible.

to be recovered for the benefit of American citizens, for the benefit of American companies. But evidently that is not a concern.

I appreciate that Senator MCCAIN has, by his proposed substitute amendment—and I would support that if my own were not successful—reduced the number of countries that are going to be given this special treatment, this special advantage under the existing armed services language—section 842 that I propose to strike—and has stated that the countries that will be given this special exemption are those that have signed statements of principle with the United States rather than memoranda of understanding regarding U.S. purchases from those countries.

I am a little perplexed that the Senator from Arizona cited letters in support of his position from the countries of Canada and the Netherlands because, according to the information I have been provided, those two countries do not have statements of principle signed with the United States, so they would not be included. In fact, they would now be excluded by Senator MCCAIN's proposed substitute amendment. As I understand it, the countries that have signed these statements of principle include Australia, Norway, Denmark, the United Kingdom, Sweden, Spain, and Italy. I am pleased that the number of countries then that would be exempted from "Buy America" are only 7, as opposed to 21 before, but those are still 7 countries, frankly, that enjoy, on an overall basis, a sizable trade surplus with the United States.

In other words, this country, if you take all goods and services, imports far more products from those countries, buys more products made in those countries than we export to those countries. One of the few exceptions to that is the sale of military equipment. That is to our advantage. That means we are exporting more than we are importing. That means we have more jobs generated in the United States to produce those goods and products than we are importing in return. But on an overall basis, taking all products—commercial, industrial, agricultural, and services—we are paying more money to import goods and services from those countries than we are exporting.

So why are we willing to sacrifice one of the very few sectors in which we enjoy a trade surplus and give that up by agreeing to buy the same amount of product from them as we sell to them in this one sector and then leaving all others aside? If we want to take that approach, if we believe, as those countries do, that these kind of reciprocal agreements are valuable to them, as they are, because they provide jobs in those countries, why don't we make that requirement for everything we import from those countries? Or better yet, why don't we make that agreement for everything we import all over the world? Because as the latest figures show, we are running a world trade def-

icit that now exceeds on an annual basis \$550 billion a year. That is \$550 billion that leaves the United States to buy foreign products. Here we are, in one of the few sectors where we enjoy an export surplus, prepared to give that up on the basis of getting contracts or selling products to those countries.

I can understand why those countries who wrote those letters of support would do so because that kind of agreement benefits them. But we are not making laws—or we should not be—and we are not making trade policies—or we should not be—that benefit Canada, the Netherlands, Denmark—with all due respect, important friends and allies as they are—any more than they pass laws or make trade policies that benefit the United States to their own disadvantage. So if they are not prepared to do so, and they should not, why would we do so when we should not?

My goal is not to change current law; my goal is to stay with current law. It is to strike the language in this bill that would create these additional exceptions, that would allow other companies in other countries to gain contracts that are for goods and services that are now produced in the United States by American companies, employing American workers, paying taxes in American communities that benefit our schools, our local governments, our State and Federal Government, but, most importantly, that provide jobs for American citizens, the same as current law. I am not asking for any more protectionism. I am not asking for any more of anything affecting trade policy or trade agreements than exists under current law. I am simply asking my colleagues not to go further.

I ask my colleagues—at a time when we have lost over 2.5 million manufacturing jobs under President Bush and his administration—not to go further, not to cost us more manufacturing jobs, but to take a stand on behalf of those who are working in American industries today, those who want to return jobs to American industries tomorrow. Let's stick with current law. That is what my amendment does.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes.

Mr. WARNER. Mr. President, to go directly to the comments the Senator just made, as he and I were in our colloquy the other day, I pointed out that at the present time the United States, in the last fiscal year, sold \$63 billion in defense sales and only purchased \$5 billion. My point is, the Senator is going after the wrong target, the wrong segment of the industry by this amendment, because it will create greater loss of jobs if we go after that trade surplus that is in defense right now. That is why we plead with our colleagues to leave this sector of trade untouched. I believe it is very important we do that.

The second thing that concerns me, and it is somewhat technical, in drawing up this bill, I gave specific instructions to the staff to preserve the sanctity of that part of "Buy America" which I and I think everybody in this Chamber supports, the Small Business Act, where 23 percent of the dollars for small businesses have to go, the shipbuilding, the blind and the handicapped, and the Berry amendment. Yet when the Senator modified his amendment, this section up here was taken out. That is caught up, and takes it out also.

It seems to me it is important for the Senate to reaffirm the sanctity of those four categories of trade as being purely "Buy America" and let them stay. But the Senator has taken out the work of the committee when we put it in there. That is what troubles me.

Lastly, we have here another communication from the Secretary of Defense of Great Britain, who is so explicit, he says:

... efforts by Administration officials to introduce unnecessarily restrictive language into US/UK cooperative armament and research MOUs are a potentially serious blow to US-UK relations in the defence equipment co-operation field. They would put us under pressure domestically—

That is, before the parliament, their parliament would now begin to examine this tremendous trade surplus that we have with relationship to Great Britain

—to review our own policies and to consider whether we are prepared to continue to place significant defence contracts with US suppliers in the face of what could only be seen as a demonstrably uneven playing field. The mutual operational, technological, and industrial benefits we have enjoyed over years of equipment cooperation could quickly evaporate with both of us being losers, and with obvious political ramifications.

I say to my good friend, I recognize his intention to try and help America save jobs, but his amendment addresses the wrong sector of trade. He could do serious damage to a surplus we are generating with additional jobs in the United States as it currently exists.

I yield the floor.

The PRESIDING OFFICER. All time on the amendment has expired.

VOTE ON AMENDMENT NO. 3461

The question is on agreeing to the amendment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 54, nays 46, as follows:

The result was announced — yeas 54, nays 46, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—54

Alexander	Crapo	Lieberman
Allard	DeWine	Lott
Allen	Dole	Lugar
Bennett	Domenici	McCain
Bingaman	Durbin	McConnell
Bond	Ensign	Miller
Brownback	Enzi	Murkowski
Bunning	Fitzgerald	Nickles
Burns	Frist	Roberts
Campbell	Graham (SC)	Santorum
Cantwell	Grassley	Sessions
Chafee	Gregg	Shelby
Chambliss	Hagel	Smith
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Jeffords	Thomas
Craig	Kyl	Warner

NAYS—46

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Graham (FL)	Nelson (NE)
Biden	Harkin	Pryor
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Byrd	Johnson	Rockefeller
Carper	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Voivovich
Dodd	Levin	Wyden
Dorgan	Lincoln	
Edwards	Mikulski	

The amendment (No. 3461) was agreed to.

AMENDMENT NO. 3197

The PRESIDING OFFICER. Under Senate precedent, the accompanying Dayton amendment to strike is moot.

Mr. ENSIGN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3467 TO AMENDMENT NO. 3315

Mr. ENSIGN. Mr. President, I call for regular order with respect to a Landrieu amendment numbered 3315 and offer a second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3467 to amendment No. 3315.

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

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

The amendment is as follows:

(Purpose: To provide a fiscally responsible open enrollment authority)

On page 9, strike lines 12 through 22, and insert the following:

(8)(A) The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(i) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to

participate under chapter 73 of title 10, United States Code;

(ii) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(iii) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(B) Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(C) In this paragraph, the term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

Mr. WARNER. Mr. President, if I might, on the resumption of the Senate consideration of this bill, that will be following the taking of the annual picture. At this time, the understanding is Senator DASCHLE will be recognized for the purpose of bringing up his pending amendment. I inform the Senate of that situation.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:23 p.m., recessed until 2:41 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Democratic leader is recognized.

AMENDMENT NO. 3409

Mr. DASCHLE. Mr. President, I ask for the regular order with respect to amendment No. 3409.

The PRESIDING OFFICER. The Senator has that right. The amendment is now pending.

AMENDMENT NO. 3469 TO AMENDMENT NO. 3409 (Purpose: To assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation)

Mr. DASCHLE. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3468 to amendment No. 3409.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the 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. Mr. President, in 1898, as the Spanish-American War drew to a

close, then-COL Theodore Roosevelt warned his Rough Riders about the reception they would receive once they returned home:

The world will be kind to you for 10 days. Everything you do will be all right. After that, you will be judged by a stricter code.

We have come a long way in the treatment of our veterans, and our recent commemoration of Memorial Day, our dedication of the World War II Memorial, the observance of the 60th anniversary of D-day, attest to the gratitude our Nation feels toward the men and women who have defended our freedom. Ultimately, the real test of our gratitude, however, is not found in parades or ceremonies. The real test is whether we honor our promises and provide our veterans with the help and benefits they need.

Sadly, we are not meeting that test. In recent years, large numbers of veterans have seen their health care delayed or denied outright. The reason is clear: Our system for funding the VA is broken. The VA's enrolled patient population has grown 134 percent since 1996, while appropriations have risen only one-third as quickly.

The President's task force to improve health care delivery for our Nation's veterans, created by President Bush through Executive Order 13214, reported a significant mismatch in VA between demand and available funding. That mismatch is translated into lengthy waiting lists, forcing hundreds of thousands of veterans to wait for months, even years, to see a doctor, increased out-of-pocket payments resulting in veterans paying six times more for their health care than when this President took office, from \$200 million in 2001 to an expected \$1.3 billion next year, and new enrollment restrictions.

Last year, Secretary Principi ruled that 200,000 priority 8 veterans could no longer enter the VA health care system. If nothing is done, the Congressional Budget Office now predicts the number denied access through this one policy will grow to 1.5 million by the year 2013. The Bush administration refuses to acknowledge the system is broken and preaches a policy of "demand management."

Let's be clear, demand management means taking any and all steps necessary to restrict the number of veterans treated by the VA, including rationing care, sending the bill collectors after veterans, and blocking enrollments. The principle of demand management says to the veteran: Take your health concerns somewhere else because we cannot help right now.

That is not a policy, that is a disgrace, and it is time we reject that principle that governs the care we offer our veterans today. Veterans have a fundamental right to health care, and we have an obligation to ensure that the VA has the resources to provide them. The answer to the VA health care crisis is simple: We need a new funding system that will allow us to provide health care to every American

who served in the Armed Forces of the United States.

My amendment today would spell out that objective in the law. The amendment would remove veterans health care from the annual politics of appropriations cycles. Instead, veterans health care would be funded like other vital programs, including military retirement, Social Security, and Medicare.

Each year, the Veterans Health Administration receives funding from two sources: First, an annual discretionary amount which remains unchanged from year to year locked in at the funding level for fiscal year 2004; second, an annual sum of mandatory funds. This amount would adjust each year to reflect changes in demand from veterans and the rate of health care inflation.

At the end of 2 years, Congress will be required to revisit the decision, and the GAO would study whether this system has functioned according to plan and whether the funding formula should be refined. Congress would then be required to update the law to reflect the lessons learned after 2 years of actual operation.

In effect, we would be creating a 2-year trial and then deciding how to refine the model and move forward. Meanwhile, every veteran who needs health care would receive it. President Bush's own task force recommended such a system saying: "The Federal Government should provide full funding . . . through a mandatory funding system" or other modifications to the current appropriations process.

I reemphasize, that was the President's own task force on this system. The Committee on Veterans Affairs in the House of Representatives offered its own bipartisan endorsement of mandatory funding earlier this year.

A February 25 letter signed by Republican chairman Chris Smith and Democratic ranking member Lane Evans stated:

Rather than supporting administration proposals that could reduce demand . . . and shift costs to other parts of the Federal medical system, the committee recommends treating spending on veterans programs the same as spending on Social Security and Medicare.

Leading veterans organizations have also joined in an unprecedented coalition to fight for health care budget reform. The American Legion, AMVETS, the Blinded Veterans, Disabled American Veterans, the Jewish War Veterans, the Military Order of the Purple Heart, Paralyzed Veterans of America, the Veterans of Foreign Wars, Vietnam Veterans of America—they have all banded together to work toward a system that guarantees health care for our veterans.

I believe their coalition, the Partnership for Veterans Health Care Reform, has identified a compelling solution to the VA funding crisis, and I have pledged my support in making it a reality. South Dakota veterans associated with these groups have joined in enthusiastic support.

This is not an abstract debate over numbers for my friends back home. These veterans have sat on waiting lists, these veterans take the phone calls from the VA's new bill collectors, these veterans have friends and neighbors who are prohibited from enrolling in the current VA health system.

Earlier this year, these South Dakota veterans were moved to action. Nearly 500 veterans from nearly 50 communities in every corner of our vast State signed a petition urging us to adopt mandatory funding for the VA.

South Dakota's American Legion CDR Wayne Vetter brought me this powerful statement, and I sent a copy to the White House. I am sorry to report that I have not yet heard a response from the President or anyone in the White House with regard to this statement.

It is time that we recognized that health care for those who return from war is a cost that follows directly from our Nation's military operations.

Ask any veteran. The burden of military service lives long after the parades are over and the medals and ribbons have been stashed in a closet. There are no more fundamental needs for these men and women than access to quality, affordable health care. Our veterans once kept this country safe and strong. Today they need a health care system to keep them strong. We must adequately fund the system that provides that care.

We can eliminate the annual budget problems in Washington and create a system where veterans can rely on the VA to be there when they need it. We have done it for military retirees. We have done it for Social Security recipients. We have done it for Medicare. We ought to do it for veterans.

The debt we owe our veterans must be something that lasts beyond the parade, beyond the ceremonies, beyond the 10 days of gratitude Teddy Roosevelt told his Rough Riders to expect. The debt is unending and our willingness to repay that debt must be unending as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my distinguished friend, the Democratic leader, I think the Senate Armed Services Committee, working in conjunction with the Senate Appropriations Committee in a bipartisan way, over a series of years now, has addressed, together with the participation of the Committee on Veterans' Affairs, a number of issues which have substantially improved the ability of the veterans to meet their obligations to their families and to themselves for the balance of their natural lives.

For 2 consecutive years and again this year, the distinguished Senator from Nevada brought forth a provision for concurrent receipts, which is an improvement in the bill on that. Senator LANDRIEU, together with two other col-

leagues, Senators SNOWE and ENSIGN on this side, have now perfected an amendment which is going to help the widows as they meet—and perhaps those of the male sex who are recipients of the retirement benefits of a female veteran—as a consequence of this bill, each of those will be able to expect to have greater certainty as to the amount of money in terms of their retirement at that juncture in life when Social Security becomes available to the surviving spouse in that situation.

As to the impression that the Senate, and particularly the Armed Services Committee, has not been very forthcoming in fulfilling what each of us believe in our hearts is that tremendous debt of gratitude to veterans and their families, I suggest the record states the Senate has worked its job and, in conjunction with the House, these matters have now become matters of statutory guarantee.

The distinguished Democratic leader has proposed an amendment which requires a combination of discretionary and mandatory funding for veterans health care. The modification includes a requirement for a Comptroller General report by January 31, 2007, on the funding achieved by the amendment, and provides for an expedited review of a joint resolution of Congress to implement the Comptroller General's recommendations.

The modification directs mandatory spending by the U.S. Treasury in the amount of \$300 billion over 10 years. I want to repeat that. The modification directs mandatory spending—that is a very significant legislative initiative—by the U.S. Treasury in the amount of \$300 billion over the next 10 years.

Every Member of the body joins with Leader DASCHLE in recognizing the need to continue to provide adequate funding for the health care of veterans in this country. I would point out that, to my knowledge, funding for veterans programs has increased significantly in the past 3 years under the cognizance of the Congress. Spending for veterans health care has gone up 34 percent since the year 2001, and I believe my colleagues Senator NICKLES and Senator BOND are both prepared to address the funding of health care for our Nation's veterans when they soon approach the floor to actively debate this amendment.

The Senate budget resolution includes \$29.1 billion for veterans health care, an increase of \$1.4 billion, or 5 percent, in 2004.

In light of these increases, in this Senator's opinion, any future significant increases for veterans health care warrant careful consideration by the Congress. Such consideration would be limited by this amendment, which mandates funding based on a per capita formula.

For Federal budgeting purposes, the VA health system, as the DOD system, is discretionary, as juxtaposed against mandatory. Now that is what we are talking about, changing the manner in

which we have been funding veterans health care these many years. It seems to me the discretionary program has worked well. It has served the veterans' needs and should remain as a matter of law.

The amendment does not create an entitlement to VA health care. It replaces the current system of discretionary funding, which has no ceiling, with a formula-based approach which combines discretionary and mandatory funding.

I have been informed that experts on veterans health care believe the proposed formula is flawed, that it will have the effect of turning the VA health care system into a kind of glorified HMO, with every incentive to enroll the young and healthy and cut corners on the care needed by the old and the sick. These incentives are contrary to the commitment of this Nation to the health care needs of our veterans.

Treating the VA health care budget as mandatory rather than appropriated discretionary funding will hurt the ability of Congress to ensure accountability within the system and consistency of benefits throughout the country.

The modification attempts to control the outcome of the appropriations process by, in effect, establishing a cap in the amount appropriated by Congress in future years equal to the amount appropriated in fiscal year 2004, which is \$28.3 billion. It further yields to the Comptroller General the responsibility of determining whether adequate funding for veterans is achieved, and how to fund these programs in future years.

Neither the original amendments, numbered 3408 or 3409, nor the modification proposed by the Senator from South Dakota is relevant to the Defense authorization bill. I hesitate to put that to my colleagues but it is clearly a fact. The only relevance is the unity of spirit is that of each of us in this chamber, and indeed I think the Congress, to share in supporting our veterans nationwide.

These funding proposals contained in this amendment require the careful deliberation of Congress to the appropriate committee of jurisdiction, the Committee on Veterans' Affairs, prior to further action by this body.

I yield the floor so my colleagues can address the subject.

THE PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I rise in strong opposition to the Daschle amendment. I strongly share the Senator's goal of improving health care and benefits for our Nation's veterans. I think for a number of reasons this is a misguided approach and will not achieve the desired goal of assuring access for all veterans.

I speak to this with a good deal of experience. Currently, I am chairman of the Appropriations VA-HUD Subcommittee. This is the committee that funds the VA. Since 1995, I have been in the leadership as either the chairman

or the ranking member, and I can assure my colleagues that throughout that timeframe VA medical care has been a top priority on a bipartisan basis for that committee. The VA has received from that committee very strong support for medical care.

Since 1998, VA medical care has increased by \$11 billion, and since 2001 it has increased by \$7.3 billion, or 34.7 percent. That is a huge increase, and we made those increases because there were needs. Under the appropriations process, we can respond to those needs. That is why I think the Daschle amendment may have some questionable long-term implications.

Under the current system of discretionary appropriations, the Congress has the flexibility to make the necessary funding adjustments on an annual basis to respond to the challenging health care needs of veterans and to ensure proper accountability with the system so that veterans' needs are being adequately addressed.

Under the mandatory system proposed by the Senator from South Dakota, there would be a fixed funding system based solely on enrollment levels and a contrived inflationary index. Further, discretionary appropriations would be capped at the 2004 appropriations level for VA medical care. Let me go back and take a look. Here is something. I am reading from a chart that has been prepared by the Budget Committee. It shows, going back to 1993, that in that year, for example, the Consumer Price Index, CPIU, hospital and related services, was up 8.37 percent. The CPIU medical care was up 5.97 percent. But VA medical care was up 9.1 percent in the appropriated accounts. In other words, if we had been using either of those formulas, we would have gotten less under the formula than we actually got appropriated.

Of the last 10 years, there were 4 years—1996, 1997, 1998, and 1999—when the index would have provided more. But overall, as I said, let's go back to 2002. Then the highest index on medical care was 4.72 percent. The budget was increased 7.6 percent. In 2003, the hospital and related services index went up 7.36 percent, but the VA medical care budget increases in the appropriations bill went up 12.3 percent. That is almost a 5-percent higher rate of increase under the appropriations formula.

I think that shows the flexibility with which the appropriations process works. But there are other things we have to do in the appropriations bill. First, the funding formula creates an artificially fixed level. It doesn't reflect the unique medical care needs of veterans. The VA system was specifically created to respond to the unique needs of veterans who suffered health problems born on the battlefield. VA provides special services for veterans who have been exposed to environmental hazards or toxic substances or suffered spinal cord injuries or loss of limbs. This is especially evident in our

veterans returning from Iraq and Afghanistan, many of whom we have met in Walter Reed Hospital to see the care they are getting in the regular military hospitals.

But our veteran population is aging. They are going to need special long-term care services not accounted for under the Daschle funding formula. Veterans in need of nursing home care are expected to increase from some 640,000 to over 1 million by 2012 and remain at that level until 2023.

More importantly, I think the mandatory funding option eliminates the strongest tool of the Congress, the purse strings, to ensure accountability within the VA health care system. We are fortunate that the VA now has a very strong leader who is a great administrator and who is thoroughly committed to the needs of veterans, Secretary Tony Principi. He has made tremendous strides in improving the VA health care system because he demands the VA be accountable and responsive to the needs of veterans. Nevertheless, I have seen years where the VA has not had the same kind of leadership that it has under Secretary Principi. I believe it is necessary and was necessary at previous times that Congress have the ability to ensure the VA system is held accountable and makes the necessary reforms so they can provide timely, quality health care services to our Nation's veterans.

Even the President's task force acknowledges that providing sufficient funding to the VA will not by itself guarantee timely access. Let me give an example. Over 10 years ago, we were able to push successfully for improvements to health care access by forcing the VA to open more community-based outpatient facilities so veterans would not be forced to drive hours to receive medical care. I know how important that is. In my home State of Missouri some veterans would spend a whole day driving to the veterans hospital in Columbia, MO, or St. Louis or Kansas City. We found by adopting a system of community-based health care clinics we could provide the services, the primary care services, the pre-op services, in a setting that was less expensive. We could take them in a hospital that is more accessible and save much time and energy for the veterans, while ensuring they get the health care they need. We have been able to successfully push the VA to develop a comprehensive capital needs assessment, known as CARES, to realign the VA care and medical infrastructure so the system is modernized and located closer to where veterans live.

Many people have fulminated against the CARES process because its purpose is to look at unneeded veterans facilities. I have heard some statements that are totally unwarranted, saying that the CARES project is going to take away needed facilities, needed care for veterans.

To the contrary, the whole concept of CARES was one that we pushed in our

Appropriations Committee and that the previous administration, the Clinton administration, adopted. The General Accounting Office had found that the VA is currently wasting \$1 million per day on unneeded and empty buildings. That comes right out of the medical care budget. When you have a huge hospital that is 10-percent full, the costs are astronomical for serving that small population.

Under the CARES process, those services will be moved to a more appropriate structure, and the funds will then be used to provide services, whether it is community outpatient services or some other specific kind of service or just putting more money into the medical professionals to make sure the veterans get the health care they deserve.

The GAO had found that more than 25 percent of veterans enrolled in VA health care, over 1.7 million veterans, live over 60 minutes driving time from a VA hospital. Under the Daschle system, Congress would no longer have the ability to force the VA to make the reforms necessary, as outlined under its CARES program, to improve care and access for our veterans. Instead, the system could build in waste and failure to be responsive to the needs of those who are supposed to benefit from the system.

The third problem with the amendment is that the VA cannot spend all of the additional funds contemplated in the Daschle amendment due to infrastructure and hiring concerns. The VA has an outdated and aging infrastructure. That is why we are pushing the CARES program. In many cases, VA does not have the space to accommodate the needs of patients and health care workers. We need to make sure that money is funneled into providing those facilities to meet the current and future needs of veterans rather than the facilities designed to meet the needs of veterans 40 years ago when their needs were very different and their locations were very different.

In some hospitals, patients are forced to wait in hallways because of the lack of waiting area space. As mentioned earlier, CARES will address these infrastructure needs, but it is going to take years to implement fully the CARES restructuring process. Further, many of my colleagues know that there is a severe nursing shortage in this country. In some facilities, the VA is having a difficult time retaining and recruiting qualified nurses. The VA is also seeking physician pay reform legislation because it is currently restricted in what it can pay for doctors, which hurts the VA's ability to recruit and pay doctors. Those are aspects on which we have to continue to work.

Last, the Daschle amendment imposes a set ceiling on VA health funding as opposed to the current system which has no ceiling and allows Congress to provide more funding as necessary.

As I said at the outset, we provided a 34.7-percent increase in VA health care

funding since 2001. If the Daschle amendment had been in place using the available indexes, the likelihood would be that there would be at least 10-percent less funding that would be going to the VA as a result of the fixed mandatory funding system.

In closing, I urge my colleagues to oppose the Daschle amendment. Members can oppose the Daschle amendment and be concerned about the needs of veterans and help us work to make sure veterans get the health care they need, continuing to support our efforts in the Senate, in the Appropriations Committee, to get the kind of funding we need. We have done so on a bipartisan basis. I intend to continue to work to do so.

However, we are going to have to have the flexibility to make sure we hold the VA accountable, to make sure they provide the services, and that they make the changes necessary.

Funding is critical. I certainly agree with that. I am proud to say we have succeeded in providing that funding over the past several years. Funding, however, is not the sole antidote for the problems addressing the VA health care needs. We must ensure that the VA system remains responsive and accountable to our veterans.

I fear adoption of an amendment such as this would be an empty promise to our Nation's veterans who have special needs and demand a health care system that is accountable and responsive to their needs. Our system of checks and balances has played a critical role in transforming the VA health care system which is now underway to ensuring that we will be able to meet the health care needs of veterans well into the 21st century.

The Daschle amendment significantly reduces the role of Congress in ensuring improvements in reforms to the VA health care system so it is more accountable to the needs of the veterans. By capping the discretionary amount of appropriations at the 2004 level, our hands would be tied in making adjustments to the funding needs of our veterans. This is especially dangerous considering the hundreds of thousands of troops currently deployed across the globe fighting the war on terror and in Iraq. I strongly believe in putting the needs of veterans first.

Those needs are not best served by these amendments which would, in my opinion, based on my experience working with the system, hurt our ability to meet that goal. That is why I close by urging my colleagues not to support the amendment by the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are ready to vote. It is my understanding the leader wanted to have some votes today. We are ready to vote.

It is my further understanding after the next vote in relation to the Defense bill now before the Senate, he wanted some votes on judges. We are ready to do that.

Until Senator WARNER appears, 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. Without objection, it is so ordered.

AMENDMENT NO. 3414

(Purpose: To provide for fellowships for students to enter Federal service, and for other purposes)

Mr. REID. Mr. President, I ask the pending amendment be laid aside and I ask that amendment 3414, which is at the desk, be reported. I offer the amendment on behalf of Senator AKAKA.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. AKAKA, proposes an amendment numbered 3414.

Mr. REID. Mr. President, I ask unanimous consent that the 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. REID. I ask unanimous consent the amendment be laid aside.

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

AMENDMENT NO. 3387

Mr. REID. I ask that amendment 3387 on behalf of Senator LEAHY be reported.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEAHY, proposes an amendment numbered 3387.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TREATMENT OF FOREIGN PRISONERS

SEC. . POLICY.—(a)(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter "prisoners") humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190-8, Section 1-6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(b) **REPORTING.**—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth: (A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and (B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and the reason(s) for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(c) **ANNUAL TRAINING REQUIREMENT.**—The Department of Defense shall certify that all federal employees and civilian contractors engaged in the handling and/or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

AMENDMENT NO. 3469

Mr. REID. Mr. President, I send an amendment to the desk in relation to that amendment.

Mr. WARNER. Can I ask, is this a modification to the Leahy amendment?

Mr. REID. Yes.

Mr. WARNER. I have to interpose an objection.

Mr. REID. There is no objection in order.

Mr. WARNER. Fine; I understand.

Mr. REID. Is there?

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

Mr. REID. The amendment has to be reported first.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3469 to amendment No. 3387.

The amendment is as follows:

(Purpose: To direct the Attorney General to submit to the Committee on the Judiciary of the Senate all documents in the possession of the Department of Justice relating to the treatment and interrogation of individuals held in the custody of the United States)

At the appropriate place, insert the following:

SEC. ____ REQUEST FOR DOCUMENTS AND RECORDS.

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from

January 20, 2001, to the present, and in the possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

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 that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Mr. President, we will have a period for consideration of the bill for the purpose of debate only. No amendments will be offered until we clarify how we might resolve our parliamentary situation.

I have to say our distinguished chairman has done an outstanding job in getting us to this point, as has our ranking member. I am very concerned that as close as we are to completion, we have not been able now to move forward. We have only had two votes on this bill so far today. It is now 4 o'clock. I have laid down an amendment. I am willing to do a side-by-side, if necessary. We have other legislation pending.

I was told we cannot have a vote on my amendment because the Senator from Massachusetts, Mr. KERRY, is in town, and we cannot allow him to parachute down and have a vote. I think that is very unfortunate. He is here to vote, and I would think we would accord every Senator the right and opportunity to vote on this amendment and whatever other pending legislation.

We can finish this bill. We have already agreed under unanimous consent to finish this bill for debate purposes by the end of the day. All we have left are whatever amendments are going to be offered between now and 6:30 p.m. We are so close. I only hope we consider the admonition of both of our managers, that we work together as we have for the last many days now to complete our work.

Let's have a vote on the veterans amendment, let's have a vote on the other pending legislation, and let's move forward with these amendments in the same good faith we have demonstrated to date. We could have been far more confrontational with regard to unrelated amendments. We have not done that. At the urging of Democratic leadership, we have withheld many of those amendments. I hope we would show the same good faith as we complete this bill.

Senator KERRY ought to have a chance to vote. There ought to be an

opportunity to dispose of these amendments. How ironic it is that we are the ones who appear to want to finish, and certainly our manager wants to finish, but there are those on the other side, for whatever reason, who are unwilling, reluctant to allow us the votes that are pending on the amendments that have now been laid down.

I urge reconsideration of that point of view at this point. It is counterproductive. It says all the wrong things about the desire to complete our work before the end of this week with all we have to do. I urge my colleagues to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I must respectfully say to my good friend, the Democratic leader, that I have to take a different view with regard to the situation on Senator KERRY. I listened to, I thought, most of the conversations, and I do not feel that is the situation. I have tried, and I propose trust in our colleagues on the other side.

I say I was negligent in allowing the first-degree amendment to come up and be second degreed. I felt it was another first-degree amendment being offered. It was not announced as a second-degree amendment. I tried to interject, but the parliamentary situation did not allow me to get a quorum call in to ascertain the situation.

What is past is past. But I do not want it to stand that on this side of the aisle I see a lot of attempt to block, whether it is KERRY or anybody else, from making votes here.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I am not sure to which second-degree amendment the distinguished chairman is referring.

Mr. WARNER. It was a Leahy amendment.

Mr. DASCHLE. If we can get a vote, we can certainly accommodate the Senator from Virginia. All we are looking for is a vote. It does not have to be on this particular amendment. If he wants to offer a second-degree amendment, we are certainly willing to look at ways with which to accommodate the majority in that regard. But a vote is important. It is relevant, of course. It ought to be offered.

As to the Kerry matter, I do not know if the distinguished chairman heard—he was standing here—Senator FRIST noted to me as he was standing here that he did not want to accord Senator KERRY the opportunity to vote today, knowing, of course, Senator KERRY was here today.

We can work through these issues if we can demonstrate a little more patience and a little more good will, and we can get the job done.

Mr. REID. Mr. President, will the leader yield for a question?

Mr. DASCHLE. I will be happy to yield.

Mr. REID. In years past, when Senator Dole was running for President,

when he was still here, we went out of our way to make sure Senator Dole had the opportunity to do whatever he wanted to do. If he wanted to vote on one, two, three, or four items, we made sure he had that same opportunity. It was the same with Senator MCCAIN when he was running. We went out of our way to make sure when they were here they were protected.

Will the distinguished Democratic leader agree this is somewhat unusual that Senator KERRY, who feels this veterans amendment is important—he is a distinguished, decorated veteran. He feels he should be here to vote on the amendment. Isn't that somewhat unusual?

Mr. DASCHLE. First of all, I share the recollection of the distinguished assistant Democratic leader. Yes, we did accommodate those who had to travel for purposes of national campaigns in past elections. One would think we would do so in this case. We are trying to govern. We have the campaigns to run. One would hope we could keep the campaigns off the Senate floor.

It is ironic that some in the majority who have been pressing to get this legislation done now keep us from getting it done for that reason. We have wasted a couple of hours here. We could have finished this amendment and moved on. I think everybody agrees we need to finish this legislation. No one has worked harder at it than the distinguished chairman. But now we are being told we cannot do that. I did not know it was finished unless it involves giving Senator KERRY a chance to vote. It is not the right thing to do. We know that.

I hope we come to our senses and get on with getting the business of the Senate done.

Mr. WARNER. Mr. President, before this colloquy started—I think we have pretty much completed it, and we have different perspectives—we encouraged those Senators to come up and debate those amendments which are at the desk so we could have debate on them, but no further amendments in the first and second degree would be sent to the desk. I think that is a gentleman's understanding.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, one of the points I am disappointed in and concerned about is I do not want the Senator from Virginia—he and I have worked together for two decades—I do not want the Senator from Virginia to think in any way that I tricked him or misled him or deceived him. That is why during the time we were here together I said I would be willing to withdraw the second-degree amendment.

The Senator from Virginia must understand that the amendment will come up again because we have a right to offer that amendment, and whether it is offered by me, Senator LEAHY, or by whomever, it will be offered at some subsequent time.

I get the feeling, in talking to the Senators who were representing the majority, that simply because we were going to require a vote on this there would not be any more movement on this bill, and that is not productive. So my point is the offer is still there. The Senator from Virginia should understand that I would be willing to withdraw the second-degree amendment that is in my name but the Senator should understand that it will recur at some subsequent time.

Under the rules, there is no way it can be stopped, and even though the Senator was not aware of my offering the second-degree amendment, and I told him in privacy why I did this—I did not hide anything about why I did it when I did it, and I have no reservation about having done it—perhaps having disappointed the Senator from Virginia I would be happy to withdraw that, recognizing that at some subsequent time we are going to have a vote on it. The best way to do it would be to acknowledge at this time that there would be a vote on it and have a vote on whatever the Senator might want to do, if he decides to second-degree the Leahy amendment and have the Leahy first degree and second degree voted on, because that is ultimately what will happen if we are ever going to finish this bill, unless cloture is invoked.

So I would like a comment from the distinguished chairman as to whether he would want me to do that.

Mr. WARNER. At this point in time I think we better go back to the original posture of the agreement we reached that we would at this point in time this afternoon just continue debate on matters pending at the desk.

Mr. REID. I want the Record to be clearly spread with the fact that if the Senator from Virginia feels that I misled, deceived, or tricked him in any way that I will withdraw my amendment. So the Senator understands that.

Mr. WARNER. I do not wish to use any of those words. All I recall very clearly when I quickly came on the floor, the Senator had the floor, Senator BOND had yielded the floor to the Senator from Nevada—I thought he was managing—and the Senator from Nevada said he wanted to send up amendments on behalf of Senators AKAKA and LEAHY. I said, fine, that is within the rules, and that the Senator did but he did not indicate that there would be a third amendment in the nature of—

Mr. REID. So all the Senator has to do is say he wants me to withdraw my second-degree amendment and I will be happy to do that, recognizing that if I do not offer it somebody else will at some subsequent time.

Mr. WARNER. I understand clearly the Senator has the same rights as all Senators as it relates to this amendment, but at this point in time our side is trying to deliberate the posture we are in and I am going to have to remain on the floor. Others will come

and send for me when I am ready to make my contribution, but at this time I have no other colleagues on the floor so I am just going to remain. I suggest we just go ahead and debate those matters at the desk.

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

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

The 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. Without objection, it is so ordered.

Mr. REID. Mr. President, the amendment I offered dealing with a request for documents and records basically says:

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from January 20, 2001, to the present, and in possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

Because of my longstanding work with the Senator from Virginia—I started out as a new Senator on the Environment and Public Works Committee and he was the chairman of the subcommittee there and he always looked after me and extended to me more courtesies than probably he should have, and all my dealings with the Senator from Virginia have been most courteous; I think he is really a gentleman and I know he is too proud to say that he wants me to withdraw this—and because he has not asked me to withdraw it because I think down deep he thinks that I perhaps did something I should not have done, I do not want anything to occur—I am doing this as a personal thing between the Senator from Virginia and the Senator from Nevada, but of course, as I indicated, I or somebody else will offer this at some subsequent time.

AMENDMENT NO. 3469 WITHDRAWN

Mr. REID. I ask unanimous consent that amendment No. 3469 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. I understand there is a general agreement that we will at this point in time not be sending any additional amendments to the desk, but Senators will debate those that are pending and debate those that may be offered at some point during the course of the day.

Am I not correct on that?

Mr. REID. Of course, this agreement would only go until 6:20.

Mr. WARNER. That is understood.

I ask unanimous consent that between now and the hour of 6:20, the Senate proceed to allow Senators to speak for up to, say, 15 minutes with regard to pending amendments or amendments that they may intend to offer.

Mr. LEVIN. Reserving the right to object, I assume that if we can work something out and amendments can be disposed of between now and 6:20, that would then be accomplished.

Mr. WARNER. We will take each one and examine it on its own individual basis.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have an amendment that is just listed in the understanding on Iraq. I have talked both with the chairman of the committee and the ranking member of the committee, and I was prepared to offer it and debate it during the course of the afternoon and to indicate a willingness to enter into a time agreement. It is a very important amendment. I will be glad to follow what the arrangements are between the chairman of our committee and the ranking member of the committee as a way to proceed. It is somewhat difficult with an amendment of this kind of importance to have only 15 minutes and others come during that 15 minutes. I guess we will get a chance to develop it further, but I want to speak to the amendment now and then follow the recommendations of the floor managers as to when we will come back and either debate this or work out a suitable time, because it is an important amendment.

I will take a moment of the Senate's time to express, quite frankly, my appreciation to the Senator from Nevada in offering the amendment that he had, which he did a few moments ago as a member of the Judiciary Committee. We know there are four committees which are in one way or another looking at the prisoner abuse scandal and tragedy. We have the Intelligence Committee that is looking at it. They are very much tied up with the 9/11 Commission that has made its report. We had the Foreign Relations Committee that had not had hearings on it. We have the Armed Services Committee under the leadership of Senator WARNER, which has done a first rate job trying to work through this whole dilemma. He is recognized by the members of the committee, and by others, as someone who has worked toward trying to find the facts on this situation. And there is the Judiciary Committee. We have seen in the published reports a number of memoranda were developed by the Justice Department as to the responsibility that the Executive has under these circumstances of recommending, roughly, under his ability as Commander in Chief, that he may very well be immune from any kind of rules, regulations, or orders

that he might support in terms of the treatment of prisoners.

That concept runs counter to the view of 500 constitutional lawyers who issued a press release raising very serious constitutional issues and questions.

What the Judiciary Committee has been attempting to do is to review the various recommendations that have been developed by the Justice Department and the other agencies. It has been an interagency effort. This is not just the Justice Department advising the President on a matter of an Executive order. As a matter of fact, it was very clear during the hearing of the Judiciary Committee that the Attorney General did not claim executive privilege. But there was the incident where the Attorney General said that even though he is not claiming executive privilege, and even though he is not quoting a statute that might make him exempt from making these documents available, he still was refusing to make them available.

We had a brief discussion during the course of the committee hearing as to whether that was contempt of Congress. We are not trying to get into that whole situation. We are just trying to find out what these documents said in the interagency agreements that were being developed.

Now we are told this afternoon that approximately 3 of the documents of the 23 that were actually requested are available to the committee. Two of those are already on the Internet.

This is a matter of enormous importance and consequence. The American people see on television and hear on the radio and read in the newspapers about prison policy over there. We have recommendations made by the Justice Department, and there is a refusal to cooperate with the Congress. It is entirely appropriate that this institution have access to that material. That was the purpose of the amendment that was offered by the Senator from Nevada. It was entirely appropriate. I find it very necessary. There are many important matters in this Defense authorization bill. But it certainly seems this is a matter of very important consequence.

I believe the amendment still has great importance and relevance. I think the Senate ought to know what the Senator from Nevada was involved in is not only an honorable position but also a necessary one. But as he pointed out, we are now trying to move the process forward in terms of the Defense authorization bill.

I ask if I can have the full amount of time now to address the substance. Do I understand we have 15 minutes? Could I ask for 15 minutes? I ask consent for that.

The PRESIDING OFFICER. The Senator is entitled to 15 minutes.

AMENDMENT NO. 3377

Mr. KENNEDY. I thank the Chair. Mr. President, at an appropriate time I will call up amendment No. 3377. I ask unanimous consent the Senator from

West Virginia, Mr. BYRD, be added as a cosponsor to this amendment.

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

Mr. KENNEDY. Mr. President, on June 30, sovereignty in Iraq will be transferred to the interim government. For the sake of the Iraqi people and our nearly 140,000 troops in Iraq, we all hope that the interim government will succeed, that its appointment begins a new stage in Iraq in which the security situation will improve at long last for our troops, and that we will no longer see a continuation of the administration's flawed policy that has generated so much turmoil in the past year and so many casualties for our forces.

Unfortunately, the violence continues. Twenty-two American soldiers have been killed in the 22 days since the announcement of the interim government. More than 450 American soldiers have been wounded in that period.

Even with the transfer of sovereignty and the recent United Nations resolution on the Iraqi transition, the key question is, when will the violence stop? When will the international community join us in securing and reconstructing Iraq? Or will the bulls-eye remain on the back of every member of our armed forces in Iraq?

The amendment I am offering today with Senators LEVIN, BYRD, LEAHY, DAYTON, and FEINGOLD seeks answers to these questions.

Our amendment requires the President to tell the American people whether or when the administration's policy will bring more international troops, police, and resources to Iraq. That's what we owe to our forces. That's what we owe to their families. And that's what we owe to the American people.

The amendment requires the President to submit a report to Congress on the administration's plan for the security and reconstruction of Iraq no later than 30 days after the date of enactment of the bill.

The report must address whether and when the administration's strategy of working with the United Nations and other nations will bring more international troops, police, and resources to Iraq and provide relief to the men and women of our armed forces. It must assess the administration's strategy for strengthening the Iraqi police and military, its reconstruction efforts, and its progress toward democratic elections. And it must provide an estimate—an estimate—of the number of American troops we anticipate will be in Iraq at the end of next year.

Two subsequent reports will provide updated assessments—one 6 months after the bill becomes law and the other just before the end of 2005.

This week, President Bush will travel to Ireland for a summit between the United States and the member nations of the European Union. He will also attend a NATO summit in Istanbul. We all hope he will succeed in persuading the international community to join us in a more significant way in Iraq.

Unfortunately, the likelihood of that happening—even with the transfer of sovereignty and a new UN resolution—is far from clear. At best, the administration now expects that our allies in Iraq will not withdraw any of their current troops from the coalition.

On June 7, just a day before the UN approved the resolution supporting the interim government in Iraq National Security Advisor Rice said:

I don't expect that there will be a large infusion of more foreign forces. In fact, I think that what you will see, is that some of the countries that have had particularly difficult situations, some of our coalition partners, will find this resolution makes them capable of staying the course.

On June 10, after the G-8 Summit, President Bush said that he didn't:

... expect more troops from NATO to be offered up. That's an unrealistic expectation. nobody is suggesting that.

Those were his words.

On June 13, Secretary of State Powell said the same thing:

We're not expecting major additional contributions of troops from our NATO allies beyond the 16 nations that are already involved.

The message from the administration is loud and clear: We'll stay the course, but we don't expect any more international troops. America will continue to be the only major military presence on the ground in Iraq.

American soldiers have been bearing a grossly disproportionate share of the burden for far too long.

No policy in Iraq can be considered effective if it fails to bring in the international community in a way that reduces the burden on our men and women in uniform, and takes the American face off the military occupation in Iraq.

As General Abizaid told the Armed Services Committee on May 19—there are not enough troops from other nations in Iraq. The “effort needs to be not just American, but it needs to be international.”

The administration had a brilliant plan to win the war, but it had no plan to win the peace. That failure has been putting a severe strain on our military and their loved ones left behind in America.

Mr. President, 830 American soldiers have paid the ultimate price in Iraq.

More than 5,130 soldiers have been sounded.

America has nearly 90 percent of the troops on the ground, and more than 95 percent of the killed and wounded have been Americans.

The war is now costing us \$4.7 billion every month.

In fact, the burden on U.S. troops has been increasing, since first Spain, then Honduras, Nicaragua, and El Salvador pulled their troops out of Iraq.

More than a quarter of the current forces in Iraq are reservists, as are nearly half the current forces in Kuwait. Eighteen percent of our active duty Army is serving in Iraq, and 16 of our 33 combat brigades are serving there.

The Army is now under a stop-loss order that prevents troops from leaving active duty while deployed to Iraq, and for another 90 days after returning to their home bases.

The average tour of duty for a reservist recalled to active duty is now 320 days—ten months. According to the Department of Defense, the average tour of duty for a reservist during the first Gulf war was 156 days. In the deployments in Bosnia, and Kosovo, it was 200 days.

An Army brigade commander recently spoke about the exasperation of our soldiers: “A soldier just said to me, ‘what happened to the volunteer force? This is a draft.’”

Others in the military leadership have spoken out on the strain on the military.

On January 21, LTG James R. Helmly, head of the Army Reserves, discussed the effect on reservists. He said, “the 205,000 soldier force must guard against a potential crisis in its ability to retain troops.” He said that serious problems are being masked temporarily because reservists are barred from leaving the military.

The same day, LTG John Riggs also spoke of the strain. He said, “I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.”

On February 5, GEN Peter Schoomaker, the Army Chief of Staff said, “There is no question that the Army is stressed.”

On June 2, GEN Franklin L. Hagenbeck, the Army's deputy chief of staff in charge of human resources and personnel, said that the Army is “stretched.”

These are the cold, hard facts. They cannot be glossed over. If we continue to go it alone, the mission is impossible. The need is urgent to bring in the international community in Iraq in a major way. It may well be that only a new President in the White House will be able to persuade other nations to trust us enough to participate in the difficult and dangerous mission.

In fact, the need for international participation was abundantly clear before we went to war. As former Secretary of State James Baker wrote on August 25, 2002, “The costs in all areas will be much greater, as will the political risks, both domestic and international, if we end up going it alone, or with only one or two other countries.”

Last July, by the unanimous vote of 97-0, the Senate approved an amendment urging the President to consider requesting formally and expeditiously that NATO organize a force for deployment in post-war Iraq similar to the NATO forces in Afghanistan, Bosnia and Kosovo.

We also asked the President to consider calling on the United Nations to urge its member states to provide military forces and civilian police to promote stability and security in Iraq, and provide resources to help rebuild and administer Iraq.

President Bush says that the administration is working with the international community. But what are the

results? Are more nations sending troops, police, and resources? When will the American face be taken off the occupying force? When will Iraq be more secure? When will more American soldiers return home? How long, and how heavy will the burden be? Will the President obtain additional foreign commitments for troops and resources at the Summits with the European Union and NATO in the coming days or will he return empty-handed once again?

The American people and our soldiers serving in Iraq deserve to know the results of the administration's efforts to work with the international community.

All we are asking in this amendment is a progress report from the President on the administration's efforts to work with the international community. All we are asking is how many troops we expect to have in Iraq in coming months.

Given the high stakes, the President should provide the information. Our troops deserve it, America deserves it, and the Iraqi people deserve it.

I will mention past precedent for this proposal because we will hear from those opposed to it that we do not really have as much time as we should, 30 days after the bill is passed. We are going to be, hopefully, concluding this bill. It will take the better part of the month prior to the time we recess for the August break to be able to conclude, I expect, the conference. The President may sign that then.

The PRESIDING OFFICER. The Senator has spoken for 15 minutes.

Mr. KENNEDY. Can I get 5 more minutes?

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

Mr. KENNEDY. I understand the Senator from Vermont is eager to talk. I will conclude and come back to this, if I can have 4 more minutes to conclude.

I draw the attention of Members to the precedence in 1995; the Defense authorization bill required assessing the implication of the U.S. military readiness, the participation of ground forces in Bosnia. It had to include 11 estimates of the total number of forces required to carry out the operation, estimates of the duration of the operation, estimates of the cost, and how many Reserve units would be necessary for the operation. This was true in 1997; this was true in 1998; it was true in 1999. There are all kinds of precedents for this.

We are entitled to this information. This amendment will make sure we will be able to receive it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will say that I agree with the second-degree amendment the Senator from Massachusetts has temporarily withdrawn. Obviously it will be reoffered. The reason I agree, Congress not only has done a very poor job of oversight; with some

exceptions, the administration has taken advantage of that and made it a practice to deny oversight cooperation to Congress.

The stonewalling in the prison abuse scandal has been building to a crisis point. Today, finally, after huge pressure, the White House has released a small subset of the documents that offer glimpses into the genesis of this scandal. All should have been provided earlier to Congress. We know a lot has been held back, and remains hidden from public view.

While this is a self-serving selection on the part of the administration, it is at least a beginning, a tiny beginning, a tiny baby step. But if we want the Judiciary Committee and the Senate to find the whole truth, we will need much more cooperation and extensive hearings.

The documents released today raise more questions than they answer. I will give some examples, speaking now of the documents released today.

The White House released only 3 of the 23 documents that members of the Senate Judiciary Committee requested and tried to subpoena last week. In having released only 3 of the 23 we asked for, I point out that 2 of the 3 were already available on the Internet. Where are the other 20 documents we asked for? They have given us one that was not already on the Internet. Where are the other 20?

The White House released a Presidential memorandum dated February 7, 2002, directing that al-Qaida and Taliban detainees be treated humanely. Did the President sign any directive regarding the treatment or interrogation of detainees after February 7, 2002, more than 2 years ago? More specifically, did the President sign any directive after the United States invaded Iraq in March of 2003?

The latest document released by the White House is dated April 16th, 2003. Why is that, when many of the worst abuses that we know of occurred months later, in the fall of 2003. Why has the White House stopped with memoranda produced in April 2003?

I live on the side of a mountain in Vermont. I know that water flows downhill, but so does Government policy. Somewhere in the upper reaches of this administration a process was set in motion that seeped forward until it produced a scandal.

All of us want to put the scandal behind us, but to do that we have to know what happened. And we cannot get to the bottom of this until there is a clear picture of what happened at the top. We need to keep the pressure on until we get honesty and answers. So I will support Senator KENNEDY's second-degree amendment when it is offered.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. LEAHY. Yes.

Mr. KENNEDY. Would the Senator agree with me it is time for the administration to level with the American people on this issue?

Mr. LEAHY. Mr. President, I would agree with the Senator from Massachusetts, it is time to level with the American people. We tried to subpoena these records last week. We were rebuffed on a party-line vote, with many on the other side saying: But they are going to be forthcoming. We now get 3 out of 23 documents, 2 of which were already on the Internet.

When are they going to be forthcoming? We want to understand what happened. As I said, if you are going to get to the bottom of what happened, you have to start at the top. President Bush has said he wants to get to the bottom of this. I agree with him, but I think we have to start at the top to find out what happened there. And simply prosecuting some corporals and sergeants and privates does not get to the bottom of what happened.

Mr. KENNEDY. Finally, if the Senator will yield, I remember our ranking member being at that hearing. The Attorney General was asked whether he was asserting executive privilege, and he said no. Then it was pointed out by members that there are times when the Attorney General does not have to respond because it is spelled out in statute that he does not have to respond. But that was not the case. So it is a circumstance that the Attorney General of the United States felt he would not respond to these requests on the basis of his own actions.

Would the Senator not agree with me that there is no one who is above the law in the system of jurisprudence in the United States of America? The continued unwillingness to provide these documents is certainly going to prolong the agony of the administration in terms of its willingness to cooperate with the committee. And would he not agree with me it is better to get that material here and get the instance behind us?

I remember—if the Senator will permit me to continue—I had the good opportunity to meet the new President of Iraq. I asked him about the prison scandal. I asked: What can the United States do in order to deal with this issue? He said: It is very clear. You have to complete the investigation for which your country is noted. You have to complete the review and hold those accountable who are responsible. When that happens, Iraqis will take a new look at this country.

Would the Senator not agree with me that was good guidance and good advice, and that it ought to be followed, and that it is going to be impossible to follow as long as they refuse to cooperate with the committee?

Mr. LEAHY. Mr. President, the Senator from Massachusetts is absolutely right. I also had the good fortune to meet with the new interim President of Iraq. I actually asked him a similar question, and what the Senator from Massachusetts says is absolutely so. He said: Get it all out. He spoke of making it as transparent as possible. He said: The United States has always had a

reputation of being honest, of being a democratic nation, of admitting our mistakes, and, of course, of being proud of those things we have accomplished that we can be so proud of. If we want to maintain that credibility, get it all out.

The Senator from Massachusetts said that in our system, nobody is above the law. I thank God that is so, that the Founders of this country were wise enough to set in place a system where nobody—nobody—was above the law. We have demonstrated this over and over again throughout our history as a nation. Anybody who has tried to step above it, the checks and balances stop that.

What the administration can do is so easy: Answer the questions. The Attorney General refused to answer our questions. But he did not do it on the basis of any of the very limited reasons that a question might be refused—either because the information being sought is classified, which requires us to go into closed session, or because the President has asserted executive privilege, which the President did not in this case.

They have sent up 3 of the 23 items we requested. Two of the 3 items were already on the Internet. But at least we are one item forward. Let's get the rest of the information and documents up here, and then let the Senate do what it should do: Let the various committees actually ask questions and seek answers.

Mr. President, I see my good friend from Pennsylvania on the floor seeking recognition, so I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition on the pending legislation, I ask unanimous consent that I may speak up to 10 minutes as in morning business.

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

(The remarks of Mr. SPECTER are printed in today's RECORD under "Morning Business.")

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. WARNER. 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. SCHUMER. 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. SCHUMER. Mr. President, I ask unanimous consent to address the Senate for 5 minutes.

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

Mr. SCHUMER. Mr. President, I join my colleague and ranking member on the Judiciary Committee, the Senator from Vermont, as well as my colleague, the Senator from Massachusetts, in expressing support for the amendment we

will vote upon either tonight or tomorrow, and to express my displeasure that the documents that we have received are so inadequate in terms of what we have requested.

The first point I will make is, don't let anybody think that because this is a thick pile, it really has the nub of the matter. It does not.

The bottom line is that I would say that an ounce of disclosure is going to buy this White House a pound of problems. These documents raise more questions than they answer. The White House is better off coming clean and releasing all relevant and nonclassified documents.

In the Judiciary Committee, we have asked the administration for 23 specific documents as a starting point. Of the 13 the White House released today, only 3 are among those we asked for; 3 out of 23 is not a very good average. It is not even a good batting average, and we are pretty lenient there when we are above a third.

It seems painfully clear that this administration devised a strained—some would say tortured—new definition of torture. Then someone in the administration authorized the use of new “interrogation techniques” that would have run afoul of the old definition of torture but under the new definition were permissible.

Anybody who thinks those line soldiers at Abu Ghraib were acting on their own initiative must have his head in the sand.

It is absolutely unacceptable that the actions of a few in our military and our Government have brought shame on the 99.9 percent of our troops who serve us so honorably and well and are fighting for the freedom of the Iraqi people.

We must not compound that error by letting a few soldiers at the bottom of the line take the fall if authorities higher up gave them the green light.

This matter must be pursued no matter where it leads, no matter how high it goes. If anyone at the Cabinet level or in the White House opened the door to the kind of abuse we saw in those pictures from Abu Ghraib, it is time to own up to it.

The credibility of the administration is on the line and the release of a handful of documents simply doesn't do the job.

I will repeat that it is not enough to release a few inches of documents. The White House should publicly disclose all relevant and nonclassified documents. Relevant classified documents should be provided to the Judiciary Committee and Armed Services Committee so we can get to the bottom of this.

Mr. President, I am aware of the difficulties in these situations. We are in the post-9/11 world, a brave new world. Sometimes things do have to change and be adjusted. We don't know where the balance should be exactly. That is the difficulty. But one thing I know for sure is that there should be debate as to what methods of interrogation

should be allowed and used because that deals with the fundamental balance of security and liberty, and that is the balance the Founding Fathers focused on probably more than any other. That is the balance; they wanted open debate.

So the thing I am sure of is not where you draw the line. I think anybody who says that is certainly making a mistake. Rather, the thing I am certain of is, if there is open debate and discussion between the executive and legislative branches, which is what the Founding Fathers most certainly intended, we will almost inevitably end up in these most serious and delicate matters with a very good solution.

The problem, of course, is this: The Justice Department and the Attorney General have a penchant for secrecy. They have avoided at all costs open debate and discussion. The results almost always inevitably boomerang on them, and they end up having to backtrack anyway, but in a way that doesn't do justice and do right for the people they represent and for America and the world.

So the bottom line is this: At the end of the day, if we don't know who authorized what, when it was authorized, and whether it explains why the detainees at Abu Ghraib were treated the way they were, then the job is simply not done.

I thank my colleagues from Vermont, Massachusetts, Wisconsin, and Illinois for their leadership on this issue and encourage my colleagues to support this amendment.

I yield back the remainder of my time, and 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. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Wisconsin.

AMENDMENT NO. 3400

Mr. FEINGOLD. Mr. President, first, I will call up my amendment, and I ask that it then be set aside.

Mr. WARNER. Mr. President, there is a UC in effect which indicates there will be no more amendments that will be taken up at the desk. The Senator can speak to any amendment that is pending or another matter, but as far as transactions with the Presiding Officer at this time, they are not in order.

Mr. FEINGOLD. Mr. President, I understand, and I wish to speak about an amendment that will be offered later, amendment No. 3400. It is an amendment I am cosponsoring with Senators MURRAY, DAYTON, CORZINE, DURBIN, and LAUTENBERG.

My amendment would bring a small measure of relief to the families of our brave military personnel who are being deployed for the ongoing fight against terrorism, the war in Iraq, and other

missions in this country and around the world. It is actually an amendment the Senate adopted unanimously to last year's Iraq supplemental spending bill, and I hope my colleagues will join me in supporting this measure again this year.

The men and women of our Armed Forces undertake enormous sacrifices in their service to our country. They spend time away from home and from their families in different parts of the country and different parts of the world and are placed in harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their dedicated service.

The ongoing deployments for the fight against terrorism and for the campaign in Iraq are turning upside down the lives of thousands of Active-Duty National Guard and Reserve personnel and their families as they seek to do their duty to their country and honor their commitments to their families, and, in the case of the Reserve components, to their employers as well. Today, there are more than 160,000 National Guard and Reserve personnel on active duty.

Some of my constituents are facing the latest in a series of activations and deployments for family members who serve our country in the military. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

Recently, many of those deployed in Iraq have had their tour extended beyond the time they had expected to stay. Sometimes this extension has played havoc with the lives of those deployed and their families. Worried mothers, fathers, spouses, and children expecting their loved ones home after more than a year of service must now wait another 3 or 4 months before their loved ones' much anticipated homecoming. The emotional toll is huge. So is the impact on a family's daily functioning, as bills still need to be paid, children need to get to school events, and sick family members have to be cared for.

Our men and women in uniform face these challenges without complaint, but we should do more to help them and their families with the many things that preparing to be deployed requires.

During the first round of mobilizations for operations in Afghanistan and Iraq, military personnel and their families were given only a couple days' notice that their units would be deployed. As a result, these dedicated men and women had only a very limited amount of time to get their lives in order. For members of the National Guard and Reserve, this included informing their employers of the deployment. I commend the many employers around the country for their understanding and support when their employees were called to active duty.

In preparation for deployment, military families often have to scramble to arrange for childcare, to pay bills, to contact their landlords or mortgage companies, and take care of other things we usually deal with on a daily basis.

The amendment I will be formally offering later today will allow eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to be able to use their Family and Medical Leave Act, FMLA, benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as childcare.

I do not want you to just take my word for it. Here is what the National Military Family Association has to say in a letter:

The National Military Family Association has heard from many families about the difficulty of balancing families' obligations with job requirements when a close family member is deployed. Suddenly, they are single parents, or, with the grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with predeployment briefings and putting legal affairs in order.

In that same letter, the National Military Family Association states:

The military families, especially those of deployed servicemembers, are called upon to make extraordinary sacrifices. This amendment offers families some breathing room as they adjust to this time of separation.

Let me make sure there is no confusion now about what this amendment does and does not do. This amendment does not expand eligibility for FMLA to employees not already covered by FMLA. It does not expand FMLA eligibility to Active-duty military personnel. It simply allows those already covered by FMLA to use the benefits they already have in one additional set of circumstances, and that is to deal with issues directly related to or resulting from the deployment of a family member.

I was proud to cosponsor and vote for legislation that created the landmark Family and Medical Leave Act during the early days of my service to the people of Wisconsin as a Member of this body. This important legislation allows eligible workers to take up to 12 weeks of unpaid leave per year for the birth or adoption of a child, the placement of a foster child, to care for a newborn or newly adopted child or newly placed foster child, or to care for their own serious health condition or that of a spouse, a parent, or child. Some employers offer a portion of this time as paid leave in addition to other accrued leave, while others allow workers to use accrued vacation or sick leave for this purpose prior to going on unpaid leave.

Since its enactment in 1993, the FMLA has helped more than 35 million

American workers to balance responsibilities to their families and their careers. According to the Congressional Research Service, between 2.2 million and 6.1 million people took advantage of these benefits in 1999 through 2000.

Our military families sacrifice a great deal. Active-duty families often move every couple of years due to transfers and new assignments. The 10 years since FMLA's enactment has also been a time when we as a country have relied more heavily on National Guard and Reserve personnel for more and more deployments of longer and longer duration. The growing burden on these service members' families must be addressed, and I think this amendment is one way to do so.

This legislation has the support of a number of organizations, including the Wisconsin National Guard, the Military Officers Association of America, the Enlisted Association of National Guard of the United States, the National Guard Association of the United States, the Reserve Officers Association, the National Military Family Association, and the National Partnership for Women and Families. The Military Coalition, an umbrella organization of 31 prominent military organizations, specified this legislation as one of five meriting special consideration during the Iraq supplemental debate.

We owe it to our military personnel and their families to do all we can to support them in this difficult time. I hope this amendment will bring a small measure of relief to our military families.

Mr. President, I urge my colleagues to support the amendment when we have the opportunity to vote on it. I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

Mr. PRYOR. 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. PRYOR. Mr. President, I rise to speak about amendment No. 3264, which I have offered. It accomplishes three important goals. First, it recognizes and honors the dedication and sacrifice of American military personnel killed and injured in combat and the heroic efforts of our medical teams through a sense of the Senate.

Secondly, it eases the stress of families who are attempting to follow the whereabouts of loved ones injured in combat by requiring the Secretary of Defense to establish a tracking system for wounded personnel.

Third, it authorizes \$10 million to modernize medical combat equipment to support our medics in their fight to save lives.

Supporting my amendment tells the 5,138 military personnel who have been

injured in Iraq that we care. It begins to address this harsh reality of war by providing the care soldiers and marines deserve and the resources combat medics need.

I have heard from distraught Arkansas families—I am sure many of my colleagues have heard from families in their States—who felt left in the dark after a loved one's injury because they were not given adequate details of their condition or whereabouts. Congress can alleviate that anxiety by establishing a tracking system to keep families better informed. We can also help save lives and reduce combat injuries by ensuring that our military medical teams have the equipment they need to provide critical frontline treatment. I cannot think of a better investment.

On June 14, 2004, I introduced S. 2516, the Service Act for Care and Relief Initiatives for Forces Injured in Combat Engagements Act of 2004, or, as we call it, SACRIFICE. The RECORD includes a full statement on the provisions of that bill. My amendment is almost identical to the SACRIFICE bill.

Currently, the SACRIFICE amendment has 11 cosponsors. Many Arkansians asked me about the partisan working environment in the Senate. I want to go on record stating that the SACRIFICE amendment has had bipartisan support from Senators SESSIONS, CHAMBLISS, GRAHAM of South Carolina, REED of Rhode Island, NELSON of Nebraska, NELSON of Florida, DOLE, CORNYN, COLLINS, CLINTON, and LINCOLN. The amendment also has the support of the Disabled American Veterans and the Veterans of Foreign Wars. I have been working with the cosponsors and the staff of the Senate Armed Services Committee to refine the language of the amendment.

I am deeply grateful for the support and assistance I have received from Members on both sides of the aisle. I want to specifically thank Rick DeBobes, Arun Seraphin, Gary Leeling, Judy Ansley, Dick Walsh, and Elaine McCusker for the many hours they have spent on this amendment and for their very precious and wise counsel.

I understand there may be an opportunity for the managers to accept my amendment. I appreciate that consideration. I am also hopeful that we can work out an agreement. I thank Chairman WARNER and Senator LEVIN for their consideration of this very important issue. It is an honor for me, as a freshman Senator in my first Congress, to serve under the leadership of Chairman WARNER and Senator LEVIN. Their aid in helping me address a problem my constituents are experiencing firsthand with such productive interaction amongst both parties is truly a testament to the dedication of the members and the staff of the Armed Services Committee. We owe that to their leadership, and I appreciate it very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I want to congratulate the Senator from Arkansas. He has added a new dimension to the Senate. He is someone who is thoughtful, and above all he is so concerned about the partisan contentiousness in the Senate, and he has spoken to Senator DASCHLE and me and others about the need to do something about this. I want the Senator from Arkansas to know how much we appreciate his being the good Senator that he is and being concerned about what is going on here on the Senate floor.

We have worked on this bill—I do not know, but I think this is about the 12th day. Some of those days were Mondays and Fridays, so I really do not know how many real days we have had to work on this bill, but it has been a long, tedious process to work through more than 300 amendments. We can see light at the end of the tunnel.

When the majority learned the minority was going to offer an amendment calling for the Attorney General to divulge certain information, as a result action was brought to a standstill. I have some difficulty understanding that, but I believe that on difficult amendments the majority and minority should face it and just vote on them rather than bring legislation to a standstill, but the decision has been made to not do anything on this legislation.

At first glance, I thought I did not agree with what the majority was doing, but they have done this in the past and that is what they want to do, and we just have to live with it. It has been brought to my attention, though, that a bus pulled up in front of the Senate, and now the Republican Senators are at a reception at the White House. I do not know how many of them but enough that there is nothing being done here. We are trying very hard to finish this bill and we are not doing anything because the Republican Senators are at the White House for a reception? If, in fact, we had been told that, we could certainly have had people offering amendments and have no votes during that period of time. We do that on many occasions. But I think this legislation is not turning out as well as I thought it should, which has been handled so well by the two managers of this bill.

The distinguished chairman of the committee thought I should not have offered a second-degree amendment because he thought he should have that right. Perhaps he was right. So I withdrew my amendment and we are in the position where we would be if I had not offered that amendment. That is the status of the Senate today.

But as I have said and others have said, including Senator LEAHY, that is an amendment we will need to vote on before we finish this legislation. At 6:20, the managers are going to offer all amendments that have not even been agreed upon, voted upon, or somehow that are on the list that haven't been offered. The way things are going we

could end up with quite a few amendments to vote on because each of those amendments do carry with them the potential of having a second-degree amendment offered to each one of them. If we wind up with 15 amendments that haven't been offered, we could wind up with 30 votes. I hope that is not the case.

We have also been told there is a need to vote on judges. I understand the reason for that. We will have to take that into consideration over here.

My only point is after the reception is over, which should be around 5 to 6, maybe we could get back to working on this most important legislation. I think it has not accomplished what we need to accomplish here by simply bringing the Senate to a standstill this afternoon. Since the Senate picture was taken, we haven't done anything. We might just as well have stayed here and had other poses, I guess.

I hope we can work our way through this little situation we have here. We have some amendments. Senator KENNEDY's amendment, I am sure, will require a little more debate. Most of the amendments have been debated. People have come over, those who are going to offer amendments, and stated their positions.

I recognize the importance of this legislation. As we speak, in Iraq and Afghanistan we have men and women who are actually on the firing lines. I don't know how many in Iraq have been injured or killed today. We know what happens every day. We know in Baghdad there are scores of attacks by these terrorists. Iraqis are being killed every day. This bill is an important piece of legislation. I think we all need to recognize that.

Yesterday, when I was here at my desk, my BlackBerry went off. I looked at it and it was CNN breaking news, to report four American soldiers had been shot. They had been found dead, shot multiple times in the head. There were 2 other soldiers killed and 11 who had been wounded in that same action.

What we do here is extremely important. There is nothing that we do during the year more important than this Defense authorization bill. I hope we can finish it because there is no reason we should not be able to. I hope the majority will not prevent us from completing action on this bill because we have requested a vote on the Leahy amendment.

Let me read again what this amendment says. The purpose is:

To direct the Attorney General to submit to the Committee on the Judiciary of the Senate all documents in the possession of the Department of Justice relating to the treatment and interrogation of individuals held in the custody of the United States.

That is directly related to this Defense bill.

I read the purpose. The amendment says:

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from

January 20, 2001, to the present, and in the possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

This is directly related to what is going on in Iraq, what is going on in Afghanistan, and other trouble spots in the world.

I hope after a very short debate we can bring this before the Senate, vote on it, and complete the other issues on this bill, some of which are contentious, some of which are not. Most of them are not. We could dispose of them in a few minutes.

But it is not as if this has nothing to do with this legislation. We on this side have been very careful. Even though we had a number of Senators who wanted to offer amendments dealing with unemployment compensation, overtime, minimum wage, and things of that nature, we decided not to put them on this bill because of the importance of this bill. But this amendment which Senator LEAHY or someone will offer at a subsequent time is directly related to this legislation.

I hope during this quiet time the staffs are able to clear a lot of amendments. That will save us a significant amount of time. The staffs of this committee are as good as any staffs we have in the Senate. I am sure if it is possible to clear those, they will be cleared.

But I hope in clearing these amendments we will get back to where we were prior to the Senate picture that was taken at 2:15.

The PRESIDING OFFICER. The Senator from Illinois, Mr. DURBIN.

Mr. DURBIN. Mr. President, I rise to speak to the Reid amendment, which I understand has been formally withdrawn at this moment but certainly is the topic of consideration and discussion.

Mr. REID. And will come back.

Mr. DURBIN. It will return, according to the Senator from Nevada, for the consideration of the Senate.

That amendment by Senator REID of Nevada would require Attorney General Ashcroft to provide the Judiciary Committee with all the documents in the Justice Department's possession relating to the treatment and interrogation of detainees.

This is an extremely serious issue for America. Literally, the world is watching us and asking whether the United States will stand behind its treaty obligations in this age of terrorism.

It is clear that our enemies do not respect the rules in their relentless quest to kill Americans. The barbaric treatment of Nicholas Berg and Paul Johnson have reminded us all of that fact.

But this is what distinguishes the United States from the terrorists we fight. There are some lines we in the United States will not cross. Torture is one of them. We have said repeatedly, since the time of President Abraham Lincoln, that torture is inconsistent with the principles of liberty and the rule of law that underpins our democracy.

Two weeks ago, Attorney General Ashcroft appeared before the Senate Judiciary Committee as our Nation's chief law enforcement officer. He said on the record that the administration opposes torture and that torture is not justified or, in his words, productive. But he refused at that time to provide us with the Justice Department memos dealing with coercive interrogation tactics.

I asked him repeatedly: Attorney General Ashcroft, under what legal or constitutional basis would you deny this committee copies of these memos?

I asked him if he was asserting executive privilege on behalf of the President. He said he was not.

I asked him if he could identify any statute by which he would be absolved from his duty to respond favorably and positively to a request by the Senate Judiciary Committee for these memos, and he could not cite any statute.

At one point he said he personally believed that it was not appropriate to produce these memos. I responded by saying that, as interesting as that may be, the Attorney General's personal beliefs are not the law. It is the law which governs us.

Now, at the eleventh hour, today, in an effort to defeat the growing pressure to release these memos, the White House has provided Congress with a number of documents, including one of the Justice Department's torture memos. But a quick review of the documents provided reveals they have given us only a small part of what we have asked for. Just last week the Senate Judiciary Committee considered a request for some 23 documents of the Department of Justice related to interrogation techniques and torture. That request for subpoena was defeated in the Senate Judiciary Committee on a party-line vote, 10 to 9, all Republicans voting against disclosure of the documents, all Democrats voting in favor. We take a look at the documents produced voluntarily by the White House today and find only 3 of the 23 documents subject to the subpoena have actually been produced.

But the Justice Department's torture memo, which has been produced after it was leaked on the Internet for all to read, is a memo which we now know raises very troubling questions and completely contradicts statements made by Attorney General Ashcroft before the Judiciary Committee. It makes it clear if Congress and the Senate are to meet their obligation under the Constitution, we must ask harder questions and we must dig deeper.

In the memo, the Justice Department makes unprecedented assertions about

executive power, assertions that I believe violate basic constitutional principles. The Justice Department concludes the torture statute, which makes torture a crime, does not apply to interrogations conducted under the President's Commander in Chief authority.

At the hearing 2 weeks ago before the Senate Judiciary Committee, Attorney General Ashcroft said unequivocally it was not his job to define torture. He went on to say, it is not the job of the administration to define torture. He said that is the job of Congress.

Sadly, as we take a look at this Department of Justice memo produced long before the Attorney General's testimony, we find on page 13 the following statement, and I ask listeners to reach their own conclusion as to whether what I am about to read from Attorney General Ashcroft's memo on interrogation is an attempt to define torture. I quote from the Department of Justice memo dated August 1, 2002:

The victim must experience intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function would likely result.

How can anyone read those words and reach any other conclusion but that the Department of Justice in August of 2002 issued this memorandum defining torture. That, of course, is something the Attorney General said was not their job. He is right; it was not their job. But it was done, anyway.

They also claim torture must involve "intense pain or suffering of the kind that is equivalent to the pain associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result."

Ask yourself the obvious question: Why did the Department of Justice produce this memo? Who asked for it? Was it the intelligence agencies of the U.S. Government? The White House? We honestly do not know the answer to that.

If this opinion by the Attorney General's office was at the request of some other agency of Government, we should know that. We should know which agency of Government said to the Attorney General, we need an advisory opinion, we need your best guess as to how far we can go in interrogation techniques.

Although the Attorney General said to us repeatedly, the law speaks for itself—when he said that, he was referring to our laws, our Constitution, the treaties we have entered into—in fact, the Attorney General and his Department of Justice decided the law was not enough. They needed to add very graphic and specific definitions such as the one I read.

Now, of course, there is an important and underlying issue here. Under our Constitution, which we have all sworn

to uphold—not only Members of Congress but members of the President's Cabinet—the President does not have the authority to choose which laws he will obey or to make his own laws. There is no wartime exception to our Constitution.

Article I, section 1 of the Constitution says all legislative powers are vested in Congress. Article II, section 3 of the Constitution says the President shall take care that the laws be faithfully executed. Article VI provides that laws made by Congress and treaties ratified by the Senate are the supreme law of the land.

Retired RADM John Hutson was a Navy judge advocate for 28 years. From 1997 to the year 2000 he was the judge advocate general, the top lawyer in the Navy. He rejects the Justice Department interpretation of torture law, saying:

If the president's inherent authority as commander in chief trumps domestic and international law, where is the limit? If every sovereign can ignore the law, then no one is bound by it.

The Supreme Court considered a similar question related to the Justice Department position. President Truman, faced with a steel strike during the Korean war, issued an Executive order to seize and operate the Nation's steel mills. In the historic Youngstown steel case, the Court found the seizure of the steel mills was an unconstitutional infringement on Congress's lawmaking power and that it was not justified in wartime as an exercise of the President's Commander in Chief authority.

Justice Hugo Black, writing for the majority, said:

The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times.

It seems clear the Justice Department memo was the basis for a Defense Department memo that makes very similar arguments about torture. For example, the Department of Defense memo argues the statute outlawing torture does not apply to the detention and interrogation of enemy combatants by the President pursuant to the Commander in Chief authority.

The difficult question we have to answer is this: What have these memos produced by the Department of Justice wrought? We know, now, because of the graphic illustration of the abuses at Abu Ghraib prison, that soldiers in the uniform of the United States of America performed some horrible and shameful acts for which no one has made any excuses. Even the President has said that does not represent America. What they did was clearly wrong.

The important and obvious question for all to ask as a follow-on is, Was this an incident involving the conduct of a handful of officers or did it represent a policy promulgated by this Government, supported by memoranda from

the Department of Justice and those from the Department of Defense? Therein lies the critical question.

Last week, President Bush was asked about the Justice Department torture memo and he said he did not remember if he had ever seen it; he said he issued an authorization that conformed with U.S. law and treaty obligations, and he would not say whether he would authorize the use of torture but that we should be "comforted" by the "laws on the books."

The President is correct; the law is very clear. The United States is not permitted to engage in torture or cruel, inhumane, or degrading treatment. But I am not comforted because we don't know if the administration followed the Justice Department interpretation which would allow the President to set aside these laws. We have gone too far.

We have to follow the paper trail to determine who requested the memos and what was done in response to them. We need to find out whether the legal arguments contained in these memos were used to justify the use of torture at Guantanamo, at Abu Ghraib, or any other facility controlled by the United States of America. We need to know whether the President or anyone else in this administration authorized the use of torture as defined by the Department of Justice memo.

The Senate has an obligation to the Constitution and the American people to answer these questions. The only way to do that is to obtain all of the relevant documents.

The great challenge of our age in combatting terrorism while remaining true to the principles which our country is based upon is to make certain we respect liberty and the rule of law. We must not sacrifice freedom and the rule of law at the altar of security. We must respect the freedoms protected by the Bill of Rights. Our laws must not fall silent during time of war.

I urge my colleagues to support the Reid amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. Mr. President, I thought I might take advantage of this moment while so many of the Republicans are at a White House reception to share a few thoughts about a bill we are obviously not going to be able to vote on today.

Sixty years ago, Franklin Roosevelt signed the GI bill. He showed us in doing so how to honor our veterans and he launched the greatest expansion of the middle class in our Nation's history. Never before has an act of legislation and the vision of and the investment by one President done so much for so many Americans.

President Roosevelt said that on the day it became law, the signing of this bill "gave emphatic notice to the men and women in our Armed Forces that the American people do not intend to let them down."

Today, throughout the day, the Senate has had an opportunity to make

history in the spirit of Roosevelt and his commitment to the Greatest Generation. Senator DASCHLE's amendment, which he tried to bring up earlier, would take an important step toward the full mandatory funding of veterans health care. It would say to the 500,000 veterans closed out of the VA health system in the last 2 years: You are welcome. There is care for you.

In the 10th year of its enactment, it will provide care to 3 million veterans who otherwise will be shut out of the system, and it will end the practice of rationing health care for those who have already given so much to this country and who have had an expectation that health care will be there for them.

Now, last night, in the normal course of business in our Senate, I was informed by the minority leader that his amendment would proceed today and that he would, under the normal procedures of the Senate, bring it up in an effort to have an early vote. I cancelled my events and I returned here hoping to be able to vote on this important issue. There was no request for lengthy debate. There has been—I know the Senator from Virginia will agree with this—no effort to delay this bill. In fact, the minority leader has expressed every good intention to try to move forward as fast as possible on this bill.

Under the normal courtesies of an institution that runs on courtesy, normally, it is absolutely consistent with the rules and traditions of the Senate that time might be made available to a minority leader to offer an amendment and for a vote to be ordered. But, evidently, this is not a normal time for those courtesies in the life of the Senate. I regret that for the Senate and for the country and for veterans. So today we could have acted and have honored 26 million Americans who wore the uniform and provided important funding for them.

More than a decade ago, Senator DASCHLE and I worked to help veterans exposed to Agent Orange receive the recognition, the care, and the benefits they deserved. I am very happy to join him today in supporting this amendment, whenever it will come up, in whatever way I can, whether I am here or not here. I will support this effort in the days, months, and in the years ahead to provide to our veterans the resources they deserve and increasingly have been denied.

Yes, there have been increases in the veterans budget, but the test is not whether you have increased the budget, the test is whether you are meeting the need. And the need is not being met.

I am honored to stand with the veterans who are backing Senator DASCHLE's amendment. The VFW, the American Legion, AMVETS, the Paralyzed Veterans Association, Disabled American Veterans, the Blinded Veterans Association, Jewish War Veterans, the Military Order of the Purple Heart, and Vietnam Veterans of America—all of them would have loved to

have seen the Senate do its business today when it could have.

That is a distinguished group of veterans. A lot of courage, a lot of honor, a lot of kindness comes from the men and women who belong to those organizations. They are Americans whose opinions and guidance I trust. And they deserve to be heard.

In this time of great sacrifice, it is even more important that we show our veterans we honor them and respect them. We have to do so with more than words. We have to show them by our actions and our deeds.

During a time of war, a time when tens of thousands of Americans are asked to fight and possibly die for their country, our message ought to be loud and clear: When you come home, your country will take care of you because you took care of us.

This is an important issue to our country, to our veterans, and to the men and women in harm's way in Iraq, Afghanistan, and around the world—today's service members who will be tomorrow's veterans.

I have been around here long enough not to worry about these kinds of things. This day will pass and others will come. But Americans will measure how we do our business, and they will measure the seriousness of purpose and the courtesies we extend to each other. So while this vote may not take place while I am here, my support will never wane and my commitment to veterans will never be diminished. I regret whatever rationale has entered into this decision that we cannot proceed for a very simple vote on a very straightforward issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia, Mr. WARNER.

Mr. WARNER. Mr. President, I say to my good friend—and we have been good friends for many years—you made reference to President Roosevelt and the GI bill. With my very humble and modest naval service in the last year of World War II, I was a beneficiary of that.

But I would say to my good friend, I am proud of what our Senate has done over the past several years to assist veterans. This is another matter that is now pending and has yet to be resolved.

I see the distinguished Senator from Nevada, who has been in the forefront with colleagues on my side on the issue of concurrent receipts. Prior to that, I worked with my good friend from Michigan on TRICARE for Life. I could enunciate others.

We are about to have a vote here sometime, perhaps tonight or tomorrow. The Senator from Louisiana and the Senator from Nevada and the Senator from Maine are trying to close that gap when a retiree's widow, in most instances, reaches the eligibility for Social Security. Oftentimes there is a very significant dropoff.

So we have done a lot in this body. I know well of my old friend's career in

the Navy. I was Secretary of the Navy, as you well know, and Under Secretary at the time the decorations you earned through your valor and your courage came before the Navy Department for approval. While I do not have specific recollections—I had to deal with many during those difficult days of a very stressful and tough period in American history; and how well both of us remember that—as far as I know, I participated in some way and look with a sense of pride on approving those decorations. Whether I was Under Secretary or Secretary, it was right in that period of time. We chatted about that in years past.

But as to the events of this day, I would say this is my 26th year in the Senate, working with Senator LEVIN, and I would ask the Senator to step back. If you had the totality of the picture, the majority leader was hopeful, and we have not lost that hope, of continuing through the night and tomorrow to get our final vote on this bill. Much remains to be seen at the hour of 6:20, when we will have the opportunity to look at the amendments our colleagues still feel require their attention.

But in that context, it was at the hour of 6:20 when we would have that body of information to give us some clear indication as to what time agreements we could make with the Daschle amendment, time agreements with a number that are pending at the desk. I certainly, speaking for myself—we are not trying to preclude our colleague from his rightful duty to participate today in the affairs of the Senate in any way, but we have to move ahead with not only this bill but the appropriations bill, which is soon to follow. My understanding is, it was to be brought up immediately, assuming this bill were voted on finally tomorrow.

But then there was another impediment, as I understand, regarding debt limit and some other things—which I admit I am unfamiliar with—which then indicated to the majority leader, for whom I have great respect, Senator FRIST, who wants to operate in a sense of fairness: Was he not able, as majority leader, to guide the package of legislation, both authorization and appropriations, which he felt necessary?

So I am not suggesting the Daschle amendment could not perhaps at a later time tonight be brought up and voted on.

I say to the Senator, I recognize the tough schedule you have, but I would not want to say that I feel on this side there is any conspiracy in this area, certainly from my perspective.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. One of my good friends on the other side of the aisle is the senior Senator from Virginia, and I am a good friend with the junior Senator, too. I will say to him that I respect the position he has been put in. I have been here 20 years. I know how this place works and how it negotiates. I know

exactly what the conversation was in the well of the Senate earlier.

I have no illusions about where we find ourselves now. I am not complaining. I am just here to make my statement of support. I will continue to do what I am doing because I believe we can do better by veterans in this country. I will continue to take that issue to the country over these next days.

We have an opportunity to make a choice today. If we don't, then we will continue to talk about this issue over the next months, and the American people will make a choice in November.

Mr. WARNER. Would my colleague address what is a major concern with this Senator. I say this with total humility. I am a veteran and possibly could benefit someday by what this package contains. I don't know.

Mr. KERRY. I suspect under the health care and benefit plans the Senate gives itself, the Senator won't need this.

Mr. WARNER. Well, I don't know, Senator. I am just trying to say that the Senate is looking at this in terms of its fiscal impact. This is somewhere between \$200 and \$300 billion.

Mr. KERRY. Mr. President, not this particular proposal.

Mr. WARNER. Well, I believe it is involved.

Mr. KERRY. Mr. President, that is if you did the full funding. This is a compromise that has been worked out which is a lesser amount of money, recognizing the significant amounts that are available.

Be that as it may, we are talking over 10 years. The last tax cut for people earning more than \$200,000 a year was over \$1.2 trillion. So it is a question of where the rubber meets the road. You have veterans over here who served their country who have a need for health care, and you have a lot of wealthy Americans over here who don't particularly have a need for a new tax cut. This is a place for choices. All we are asking is for a choice to be made.

I thank the Senator from Virginia and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the distinguished junior Senator from Massachusetts leaves the floor, I wish to say this, from a total Nevada perspective, how proud we are of the campaign he has been running in Nevada. The Senator from Massachusetts has run all positive ads. The people of Nevada recognize that and, as a result of that, all the polls show him ahead at this time.

I compliment the Senator. When he comes to Nevada, he is totally open to the press. Each time he comes he answers any questions that the people have to ask him. The press is there. For example, last time he was there, he not only did a press conference but he was on individual programs, Ed Bernstein's show, for example, John Alston, where he was answering any questions they had to ask him.

I compliment the Senator from Massachusetts from a Nevada perspective for the type of campaign that has been run. Positive campaigning is something that is so necessary. We have far too much negative campaigning. We need to make ourselves available to questions of the press. We should not hide ourselves from the press. Senator KERRY has not done that, which makes us in Nevada feel very good.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I looked at the cost to the American taxpayers for TRICARE for Life, and that is \$3.9 billion a year. The concurrent receipts were \$22 billion in the 2004 cycle. Through this administration, in veterans funding, there has been a 34-percent increase in funding for health care since 2001. Overall spending for health care has doubled since 1993. So I am not going to take second place to anyone with regard to the achievements we have had in this body by way of trying to care for our veterans. I feel very strongly about that.

My military career is very modest: service in World War II and service in Korea in the Marines. I have served with the courageous ones, the ones who lost life and limb. I am not going to take second place to anybody in my trying to work hard to support proper recognition for them and what they have achieved. I am just one of the lucky ones who had the opportunity to serve alongside these veterans and work with their families. For 5 years as Secretary of the Navy, I worked with families in that stressful period of time in Vietnam.

I feel so strongly to be a supporter of the veterans' causes, not for political reasons. Some vote for me; some don't. That is all right. The important thing is that this Nation takes them to heart, particularly at this time when, at this very moment, who knows which veteran, which service Active-Duty man in Iraq or Afghanistan, where all of us have visited those battlefields, might have his or her life taken, life or limb. I feel ever so strongly about it. Day or night they are in my mind.

I see others desiring to speak so I shall yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to make a couple comments on one of the pending amendments, the so-called Daschle amendment dealing with veterans. In many cases, this amendment is more about helping politicians than it is helping veterans. We have done a lot to help veterans—we being the Members of this body, Members of this Congress. I want to go to the facts.

Just look at history. In 1993, we were spending less than \$15 billion. If you look throughout the next several years, the year 2000, it still increased only to about \$17 billion, \$18 billion. Since then, in the last 4 years, we have gone up from about \$18 billion to now we are about \$28.5 billion. So we have

had a dramatic increase in the last few years, frankly, in large part due to President Bush's requests.

Those are the facts.

If you want to gauge our support for veterans on how much money we are spending, we see a relatively flat, very slow growth during the Clinton years and a very rapid increase under President Bush's last 3 years.

Now we have an amendment that says, we know this is discretionary, as it always has been. Appropriators take care of discretionary items. As alluded to by Senator BOND, we have had big increases because we had some demands, and the appropriators and budgeteers met those demands. Now we have an amendment that says: Let's throw that away, an amendment that will increase spending by \$300 billion.

It also increases the deficit by \$300 billion. Some of the people who say they are in favor of this say they believe in pay-go. They make speeches: We want pay-go. But they don't pay for this amendment. So this amendment would increase the deficit by \$300 billion.

Then I look at the way it is written, and it is one of the worst amendments, as far as putting something together from a fiscal standpoint, that I have ever seen. It says: Let's take the 2004 discretionary figure and freeze it; for the next 10 years we will freeze it. Then we will set up a new entitlement, not based on the number of veterans receiving care but on the number of people who are eligible to receive care. On the eligibility side, we will come up with some type of per capita contribution and figure it all out. CBO estimates over 10 years it will cost \$300 billion.

We are spending a little less than \$30 billion a year right now, but we are going to multiply that based on the number of people who might be eligible.

Senator WARNER is eligible but my guess is he doesn't receive all of his health care in a veterans hospital. My father-in-law is eligible but he doesn't receive his health care under veterans. A lot of people in the military served with great distinction but they don't receive their health care through the VA health care system.

I don't know who designed this new formula. This kind of amendment belongs on the budget, not on a DOD authorization bill. This is really amending the budget, saying we are going to take a discretionary item and turn it into a mandatory item, and we have decided to grab some kind of fictitious name based on the number of people eligible, not the people who are in the system, not the people who are likely to receive the care, and pluck it out of the air and say: Here is what we are going to do.

And then it also says GAO, after a couple of years, if they don't like it and think it is enough, we will set some other kind of process on automatic pilot to have Congress vote on it

in the next 10 days or so. It is just a ridiculous way to fund a department or to take care of veterans.

I am all in favor of taking care of veterans. Senator WARNER alluded to the fact that we have done a lot for veterans in the last few years. You bet we have. Last year, concurrent receipts—I believe there was an amendment agreed to, and the ultimate cost was \$22 billion. Senator WARNER agreed to an amendment last week to expand that almost another billion dollars. We did TRICARE for life. We did Service Members Group Life Insurance. We did expanded benefits for former POWs, auto and housing grants, and veterans buying first homes. We increased the VA home loan guarantee up to a maximum mortgage of \$240,000. We did the Montgomery GI bill to assist transitioning from military to civilian, and we enacted a 52-percent increase in education benefits. I can go on and on. We have done a lot. It is expensive. So this line will continue to increase.

Then I look at this amendment. It doesn't really say anything about need. It comes up with a very awkward formula, almost like an HMO-type thing, and says, by the number of eligibles, we are going to figure out so much money and multiply it and throw it in. That will not meet veterans needs. In the appropriations process, we have committees that have hearings. What do you need? What is pressing? We vote and appropriate money. We have had a faster rate of increase in veterans care than in almost any other area in the Federal budget.

The amendment we have pending before us has a budget point of order, and appropriately so. It would increase the deficit by \$300 billion over and above the budget. Maybe some people don't care about deficits. This Senator does. This amendment is not paid for. It violates pay-go. For those people who voted for pay-go, they should say this is not paid for. They make speeches in their States and say, I believe we should have pay-go. This doesn't meet that test.

At the appropriate time, I will make a budget point of order, and I hope our colleagues will sustain that. I might also note that I am keeping a record of all the budget points of order that have been made and the number of people who vote to waive those points of order. Since last year's budget was adopted, we have had amendments to increase spending and increase the debt by over \$1.4 trillion. This amendment will just be a couple hundred billion dollars on top of that. We are keeping a running log.

In the last month, there was an amendment to make IDEA an entitlement. We made a budget point of order and defeated that. That would have increased the debt by \$87 billion. A week or so before that, there was an amendment to expand retroactively unemployment compensation that would have increased the deficit by \$9 billion. We defeated that. A week before that,

there was an amendment on trade adjustment assistance, and it would have cost an additional \$6 billion. None of these amendments were paid for, and we defeated them. So in the last month, I think we have had three votes that would have increased spending—i.e., the deficit—by over \$100 billion. The amendment we will be voting on will increase the deficit by a couple hundred billion dollars. Again, I hope my colleagues will show a little sanity and say, let's try to really help veterans, let's not try to help politicians. Let's sustain the budget point of order on this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Delaware.

Mr. BIDEN. Will my colleague yield for a couple questions?

Mr. NICKLES. I am happy to yield.

Mr. BIDEN. Mr. President, I ask my colleague, the chairman of the Budget Committee, how big was the deficit in the budget you brought to the Senate floor, the budget you voted out of committee?

Mr. NICKLES. I would have to look at the figures. The baseline scored by OMB was 521. The baseline scored by CBO was 477. The figure we had before us in the budget resolution, I would want to check. CBO is in the process of revising that. We use CBO scoring. My guess is it would be significantly less than the 521 by OMB, and 477 by CBO, and we now expect, if we stay with the projections—i.e., the spending figures that we had assumed in the budget resolution, 821 on discretionary spending—the debts would probably be in the neighborhood of not 477 but closer to 420, in spite of the fact that I know my friend from Delaware made a speech last week saying he thought it would be 600. It would be closer to 420.

Mr. BIDEN. We are already starting off with the Senator recommending a vote for a budget that has \$400 billion-plus.

Mr. NICKLES. I am not sure. I think the Senator from Delaware has the floor. I don't want him stating—

Mr. BIDEN. I ask the Senator if he wants to respond to that comment.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. Mr. President, I am happy to debate my colleague, or any colleague, on the budget. We spent several days debating the budget. I am more than happy to debate it. I will tell my colleague that we basically have assumed a freeze in nondefense, non-homeland security in the budget resolution. I hope we will be able to enforce that freeze. I have been very vigilant in trying to enforce the budget.

We have made about 80 points of order to contain the growth of spending, most all of which have been sustained. There were very few votes by our colleagues on the Democrat side, with the exception of Senator MILLER, and I thank him and compliment him for that. Since we were successful in sustaining those budget points of

order, we have saved Federal spending to the tune of in excess of over \$1.3 trillion. I happen to have these votes, and I happen to have a chart that shows the votes, just like this vote. CBO scores this vote—if this amendment were to be adopted—saying it would increase spending by \$300 billion. It basically doubles VA. I hope we will be successful. That will be scored on the running chart I am keeping. I mentioned over \$100 billion of additional spending. We defeated that in the last month using budget points of order.

I hope we will defeat this amendment, and it will save \$300 billion-plus and I think make us a lot more responsive. I happen to believe we are making a serious mistake to put everything into that side of the equation.

I mentioned discretionary spending of \$821 billion, which is our budget figure. We are going to be spending \$2.4 trillion. Two-thirds of the budget is now entitlements. One-third is discretionary spending. I believe we would have a better control, better oversight if we would keep more in the discretionary side. This is the opposite of that effort.

I yield the floor.

Mr. BIDEN. Mr. President, I say to my friend, I didn't want to debate it. I was trying to get the facts. The facts are that, notwithstanding what he suggested he has saved by budget points of order, he brought a budget to the Senate floor that is in deficit over \$400 billion.

Mr. NICKLES. Will the Senator yield?

Mr. BIDEN. Surely.

Mr. NICKLES. To inform my colleague, the budget also would reduce the deficit by half in 3 years. That is not easily done when you have a \$400 billion deficit. So please keep that in mind as well.

Mr. BIDEN. Again, I am not here to debate this. The facts are that he brought a budget to the floor of the Senate that is over \$430 billion, and some believe it is over \$500 billion in deficits. I agree with my friend that we should be careful about putting in entitlements. Entitlements, in a sense, if you think about the effect on the budget—I know the Presiding Officer is a former Governor—there are two types of expenditures: direct expenditures and tax expenditures.

My friend also wants to essentially, in layman's terms, make an entitlement of the tax cuts; in other words, make them permanent. They do not want to make permanent the ability of veterans to have what this amendment calls for. I understand that. It is a logical argument. I do not begrudge that. I think it is an intelligent argument to make.

I want to point out this is about values and priorities. If you want to know what a country values, if you want to know what a company values, if you want to know what a nonprofit values, look at its budget, and you will know. You will know what it values, on what it puts the highest value.

I can understand one can make the argument, and there is truth to the argument, that tax cuts spur the economy, everything gets better, and it works out better. I got all that. Believe it or not, after 30 years here, I figured that out, and there is some truth to it. Really, this is a values debate, not wanting to put something permanently into the law that is an entitlement in the case of what veterans now and in the future would be entitled to. It is not a lot different fundamentally in its effect on the actual budget, the numbers in the budget, than essentially making permanent tax cuts from now infinitum. And they are big numbers.

Again, the disagreement is real, genuine, and intellectually is defensible, but it is a difference of perspective. The reason the Senator from Delaware comes to the floor, very seldom my colleagues will notice, is that in this case, when you think about a budget that I voted against—I do not support the budget, I do not support the priorities within the budget by the Budget Committee—to turn around and say that when I vote not to sustain a point of order that somehow I am the one increasing the budget, it is a little bit like my saying to you: Here is the deal. What we are going to do in the family, we are going to have one car, drive it 22 miles a week, and not drive it any further than that. We are not going to turn the thermostat up over 60 degrees. And, by the way, we are going to build a new swimming pool in the backyard.

If I do not get a vote on that—it seems to me when I come along and say we should be able to drive the car to church more often because the kids are not going to church because the church is 14 miles away, we should have more money for gas in the car, we should not have built the swimming pool—we do not get a chance to do that.

I get a budget, which is legitimate, shoved on me because you guys run the show, the Republicans run the show. I got that. I understand it. I do not complain about that. More people voted for Republican Senators than Democratic Senators. But the idea that somehow when I suggest we should have a different priority and seek to change the budget I am busting the budget when, in fact, what has happened is the priorities that the chairman of the Budget Committee has placed in the budget—and very successfully, and he has led that committee very successfully and he has led it unanimously; there are no diversions on his side from what he proposes—is a little bit disingenuous in terms of the average person listening to this.

It is as if I have to accept we are building a swimming pool instead of providing more gas in the car to get the kids to church. So I want to get more gas in the car to get the kids in church. I do not want to build a swimming pool. I do not want to do that.

The only vehicle I have as a Senator is to vote for changing the budget that I do not want. What these are attached

to is we say: What you put down in the budget, these tax cuts and the way they work and you are seeking to make them permanent, all those things, they are not my priorities. So the way I want to pay for that is I do not want to build a swimming pool.

Now, you have built a swimming pool, but what I do not want to do is keep it open because it costs me a lot of money to keep it open. The money I can save by not filling the pool, not having a pool service come, not having to buy the chlorine, not having to buy the equipment is enough money for me to get the gas to get the kids to church on Sunday. That is what I want to do. That is what I am doing here.

The fact is, the difference between 1993 and now is we are at war. My friend will say a lot of veterans who are going to benefit from this proposal are ones who are not at war now. One of the things we are trying to do in an All-Volunteer Army is make it more appealing for people to get into the service, to stay in the service, so that, in fact, when they volunteer to get in this Army, there are benefits that flow from it. They make enough sacrifices already in this Volunteer Army.

We had trouble getting money early for bulletproof vests for these guys. I was just in Iraq, and I met a young man in Kuwait. Our generals introduced him to us. We had dinner, and they said: These are the heroes; these are the kids who drive the transport trucks from Kuwait City all the way up to Baghdad. Do my colleagues know what they are doing because we have not provided them what they need? They have been given the authority to augment their vehicles any way they want. I was joking with them. A lot of them are becoming spot welders. They are literally getting scrap metal and welding it to their vehicles. They are given the authority to do what they want because they are getting shot dead.

We were out there, and these kids were on this incredibly dangerous mission. We said: Do the mission, but we realize you have to improvise.

So they are telling me: I got this piece of steel, and I put it on my side door and welded it on. What I wanted to do was get some underneath so that when the bombs blow up, they don't blow through the seat. It is amazing.

My point is, we are asking these kids to do all this. Right now in category 7 and 8, there are 400,000 veterans seeking VA help who are told: Don't apply. To the best of my knowledge—I do not claim to have a real expertise in this area—but there are 90,000 veterans under the present system waiting for admission to get into veterans hospitals, and there are 40,000 who wait 2 to 6 months just to get a doctor to sign off on them qualifying to get prescriptions from their local VA hospital at the lower price.

Whether or not this proposal that has been put forward is the answer to any of this, I cannot guarantee, but there is

something wrong in Denmark. Something is wrong here. Something is not working. If you wonder if I am telling the truth, go home and ask your Democratic- or Republican-registered veterans. Ask them if they are happy with the way things are working right now. Find out how many of those 400,000 people are told do not apply, and 90,000 are trying to get into the hospital.

Again, I acknowledge, based on the fact we decided to build a swimming pool in this budget instead of doing this, this will increase the deficit. I got it. Just like the administration budget initially proposed did not even include money for Iraq. Does anybody think \$25 billion is going to get us through next year in Iraq? Raise your hand. Come to the floor and tell me. Anybody. I want you to stand here and go on record and say: I believe that \$25 billion is going to cover the nut in Iraq and Afghanistan for next year.

Let's get a little truth in budgeting here. I understand the Senator. I got it. I respect him. He has made a basic value judgment. He believes very strongly—and there is some evidence for his belief—that if, in fact, we have these massive tax cuts, the bulk of which go to the wealthiest, it will, in fact, trickle down. He will argue—and there is some evidence to it—that some of it has already started to happen, and the best way to help veterans, poor folks, IDEA folks, and all those folks is get the economy roaring. That will bring in more revenue. I got it. That is a legitimate argument. But the basic fundamental argument we have is the die are not even cast. The table has been set, and I either sit down and sup at the table when I do not like the menu and refrain from trying to change the menu, or I attempt to change the menu.

So this notion that the VA health care system is in good shape, that we have done so much for veterans—which we have done more—we are creating a whole heck of a lot more veterans now, a whole heck of a lot more, and the need is going to increase more because we are at war and we are likely to be at war for a while.

Again, I do not want to belabor the point. I respect my friend, the chairman of the Budget Committee. I respect the fact he has little choice but to ask us to vote for a budget that is already, by his standards, \$435 billion or so out of whack. I respect that.

I respect the fact that he believes, notwithstanding the fact that his own outfit points out a significant portion of that deficit last year and this year relates to the tax cuts, we will earn it all back; we will be able to cut the deficit because of the economic growth and all of that. I have that. But I have also been through this once before. I went through this once before in the Reagan era. It did not work then. Reagan came back and raised taxes. I do not think it is going to work now.

I will yield the floor with one final comment.

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

Mr. BIDEN. Was there a time? There is a time. Well, I respect that, and I thank my friend from Oklahoma. We just have a difference in our priorities and the way in which we value our value system.

I thank the Chair.

The PRESIDING OFFICER. The hour being 6:20, the managers are recognized.

Mr. WARNER. Mr. President, on our side we have taken about 40 amendments from our list, I say to my good friend from Michigan, and of the 40, roughly 19 of them are being prepared to be put in a package for the Senator from Virginia to forward to the desk in accordance with the UC. I say almost all of them, except one or two, we have been working on with the Senator's staff, and we have modified the amendments to conform with what we believe will be acceptable on the Senator's side. So as I send my package to the desk, they will be in a modified form. Logistically, I simply need the time in which to do the modification, and I presume the Senator from Michigan would desire to do pretty much the same thing.

Mr. LEVIN. Before we accept modifications, however, we would have to look at the modifications. They may be fine, by the way, but we need to look at them.

Mr. WARNER. Mr. President, all the modifications are somewhere within the Senator's system. The Senator from Michigan is on notice as to what they are. The corollary situation is we have been notified as to a lot of their modifications. So I say most respectfully to my two colleagues on the other side, if we could put in a quorum call we could quickly resolve the status of the modifications on our side, and to the extent the Senator has knowledge of the status of the modifications on his side, reciprocally what we understand—

Mr. REID. Will the Senator withhold?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to the distinguished leader, the chairman of the committee, 6:30 is coming. I ask unanimous consent that the quorum call go into effect and that the two managers of the bill still have 10 minutes to offer these amendments when the quorum call is called off.

Mr. NICKLES. Reserving the right to object, I wish to speak for a few minutes. I did not complete my remarks in the last debate.

Mr. WARNER. I say to my colleague, he has the right to object, but we really are trying to structure this.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. I am wondering if it would be agreeable to the two managers of the bill that the 6:20 time will now become 6:40?

Mr. WARNER. I think that is an excellent idea. We can make it 6:45.

Mr. LEVIN. More than agreeable.

Mr. WARNER. Would the Senator from Oklahoma need 10 minutes to finish his remarks in the intervening period?

Mr. NICKLES. Five minutes will be fine.

Mr. WARNER. At which time the Senator will put in a quorum.

Mr. NICKLES. That would be fine.

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

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I enjoyed having a little colloquy with my very good friend, Senator BIDEN. I just want to put in the RECORD a couple of facts. One, the deficit under the budget resolution we had estimated is \$474 billion. I believe it will come in significantly less than that, possibly \$420 billion to \$440 billion. I am not sure. The budget resolution was for 2005, and that figure is \$367 billion, considerably less than what OMB was estimating this year at \$521 billion or CBO at \$477 billion. So the budget resolution shows over \$100 billion in deficit reduction by 2005, and also \$255 billion in 2006. So it goes down by over \$100 billion in over 2 years. That cannot be done unless there is some constraint on the growth of spending.

That being said, we had significant assumptions for growth in VA. Total spending in 2004 for VA was growing from \$61.45 billion in budget authority to \$70.8 billion, about a 15-percent increase just in 2004 to 2005 in VA. Now, that is a lot, especially when one assumes or if one knows that we are basically going with a freeze in nondefense spending. That means other things have to be cut to make room for veterans. We have done that in our budget, and we have shown probably a greater percentage increase in veterans care than almost any other section of the budget.

So I wanted to state for the record, when I heard my friend saying—last week I think he said it was \$600 billion, and I said I think it is going to be more like \$420 billion. In the budget resolution for 2004, we estimated \$474 billion. I believe it will be much less than that. For 2005, we were assuming \$367 billion. I hope it will be less than that. For 2006, it will be \$255 billion, with revenues coming in now greater than anticipated because the economy is working and because the tax cuts we passed did stimulate the economy. The stock market and the NASDAQ are up 40 or 50 percent since the tax bill we passed last year and the tax cuts.

I heard my colleague say it is because we want tax cuts for the wealthy. The only tax cuts we assumed in the budget resolution were extending what I call family friendly tax cuts: the tax credit per child staying at \$1,000 per child instead of going to \$700; marriage penalty relief, so married couples who have taxable income up to \$58,000 will pay a 15-percent rate instead of a 25-

percent rate; and an expansion of the 10-percent bracket. Those are all family friendly. A lot of veterans want those tax cuts, too.

There are a lot of allusions to, we really need higher taxes so we can spend more for veterans. Veterans want these tax cuts. A lot of veterans have children. A lot of veterans are married and want to eliminate the marriage penalty, at least if they have incomes up to \$58,000. That is where the bulk of the tax cuts we are trying to pass this year are. That is what we assumed in the budget.

So I wanted to make those few points. We hope to get the deficit down. I believe if we pass the budget, or if we adhere to the discipline we recommended in the budget, we will have the deficit down by over \$100 billion. We will not if we adopt amendments that call for this program to double or another program to double and call it all an entitlement. That is a great way to have runaway spending.

This amendment is very irresponsible, and I would urge my colleagues to vote to sustain the budget point of order.

I yield the floor, and 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. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENTS NOS. 3433, 3179, 3239, 3429, 3220, 3319, 3293, 3198, 3431, 3373, 3403, 3325, 3280, 3441, 3442, 3443, 3444, AND 3445, EN BLOC

Mr. WARNER. I ask unanimous consent to authorize the managers of the bill to offer en bloc amendments from the filed list on my side of the aisle. I send to the desk a list of 22 such amendments out of some 40 that we have designated as being filed by Republican Senators, just slightly over half. I note the unanimous consent provides an exception for the managers' amendment which has to be cleared on both sides.

The PRESIDING OFFICER. The amendments are now pending. The Senator from Michigan.

AMENDMENTS NOS. 3157, 3378, 3367, 3423, 3286, 3204, 3303, 3327, 3328, 3329, 3330, 3203, 3311, 3310, 3400, 3399, 3365, 3300, 3388, 3336, 3337, 3339, 3201, 3377, 3289, 3234, 3264, 3355, 3351, AND 3242, EN BLOC

Mr. LEVIN. In accordance with the terms of the unanimous consent agreement, I call up the amendments contained in the list that I now send to the desk and ask they appear separately in the RECORD, that the reading of the amendments be waived. There are 31 amendments here out of a list of 77.

The PRESIDING OFFICER. The amendments are now pending.

(The amendments are printed in the RECORD under "Text of Amendments.")

Mr. LEVIN. Mr. President, I have been informed that the last item on this list, item No. 3242, may have al-

ready been agreed to, which in this case if it has already been agreed to, I ask it be deleted from the list.

The PRESIDING OFFICER. It will be deleted from the list.

Mr. LEVIN. Under that circumstance.

And I ask these be ruled to be pending amendments.

The PRESIDING OFFICER. They are pending amendments.

Mr. WARNER. That is provided for by the unanimous consent request; am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. The amendments of the Senator from Virginia are pending at the time the Senator from Michigan sent his list.

The PRESIDING OFFICER. Correct.

Mr. LEVIN. Well, if the Senator from Virginia would yield, the only reason I made reference to that is that the Senator from Virginia had made reference to that fact, or that the Presiding Officer more accurately said the amendments of the Senator from Virginia were now pending. I just wanted the same ruling.

Mr. WARNER. That is fine.

In addressing my colleague from Michigan, I speak to the Senate in its entirety, if you will give the managers of the bill a period of time to look through this, we might be able to quickly advise the Senate as to those we think we can accept. They will require some modification because in the procedure each side has voiced its own suggestions as to how they will be modified and shortly after we indicate to the Senate those amendments which we require would require more debate and possibly a recorded vote.

Mr. LEVIN. Mr. President, if the Senator will yield, I fully agree with his proposed course of action. I am wondering if he might suggest what that period of time might be.

Mr. WARNER. Mr. President, I would like to think a 30-minute time period, so about 7:20. I can ask for a quorum call until such time.

Mr. LEVIN. That would be fine with us.

Mr. WARNER. We will be able to advise the Senate as to the status of it.

The PRESIDING OFFICER. The assistant Democratic leader.

RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess until 7:20 this evening.

There being no objection, the Senate, at 6:51 p.m., recessed until 7:20 p.m. and reassembled when called to order by the Presiding Officer (Mr. TALENT).

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Resumed

Mr. WARNER. Mr. President, I realize colleagues are perplexed over the lapse of time here, and I assure you, we are working very hard on this bill. I am going to first thank the staffs on both sides, and indeed our staff before us in the Parliamentary group, for working to make it possible.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENTS NOS. 3329, AS MODIFIED; 3433, AS MODIFIED; 3234, AS MODIFIED; 3471; 3289, AS MODIFIED; 3179, AS MODIFIED; 3351, AS MODIFIED; 3239, AS MODIFIED; 3264; 3157, AS MODIFIED; 3429; 3327, AS MODIFIED; 3431, AS MODIFIED; 3337, AS MODIFIED; 3430; 3367; 3198, AS MODIFIED; 3365, AS MODIFIED; 3293; 3399, AS MODIFIED; 3325, AS MODIFIED; 3204, AS MODIFIED; 3441, AS MODIFIED; 3333, AS MODIFIED; 3319; 3339; 3371, AS MODIFIED; AND 3438, AS MODIFIED, EN BLOC

Mr. WARNER. I would like now to send a package of 26 cleared amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3329, AS MODIFIED

On page 48, between lines 7 and 8, insert the following:

SEC. 326. AMOUNT FOR RESEARCH AND DEVELOPMENT FOR IMPROVED PREVENTION OF LEISHMANIASIS.

(a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 303(a)(2) for the Defense Health Program for research, development, test, and evaluation is hereby increased by \$500,000, with the amount of the increase to be available for purposes relating to Leishmaniasis Diagnostics Laboratory.

(b) INCREASE IN AMOUNT FOR RDT&E, ARMY FOR LEISHMANIASIS TOPICAL TREATMENT.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, as increased by subsection (b), is hereby further increased by \$4,500,000, with the amount of the increase to be available in Program Element PE 0604807A for purposes relating to Leishmaniasis Topical Treatment.

(c) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3433, AS MODIFIED

On page 311, in the table preceding line 1, insert after the item relating to Hill Air Force Base, Utah, the following new item:

Wyoming	F.E. Warren Air Force Base.	\$5,500,000
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On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert "\$452,023,000".

On page 314, line 3, insert "(a) AUTHORIZATION OF APPROPRIATIONS.—" before "Funds".

On page 314, line 7, strike “\$2,487,824,000” and insert “\$2,493,324,000”.

On page 314, line 10, strike “\$446,523,000” and insert “\$452,023,000”.

On page 315, between lines 3 and 4, insert the following:

(b) OFFSET FOR CERTAIN MILITARY CONSTRUCTION PROJECT.—The amount authorized to be appropriated by section 421 for military personnel is hereby reduced by \$5,500,000, with the amount of the reduction to be derived from excess amounts authorized for military personnel of the Air Force.

AMENDMENT NO. 3234, AS MODIFIED

At the end of subtitle B of title III, add the following:

SEC. 313. FAMILY READINESS PROGRAM OF THE NATIONAL GUARD.

(a) AMOUNT FOR PROGRAM.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by \$10,000,000 for the Family Readiness Program of the National Guard.

(b) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$10,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3471

(Purpose: To increase the amount for RDT&E, Defense-Wide, to provide for joint threat warning system maritime variants, and to provide an offset)

On page 30, between lines 14 and 15, insert the following:

SEC. 216. SPIRAL DEVELOPMENT OF JOINT THREAT WARNING SYSTEM MARITIME VARIANTS.

(a) AMOUNT FOR PROGRAM.—The amount authorized to be appropriated by section 201(4) is hereby increased by \$2,000,000, with the amount of the increase to be available in the program element PE 1160405BB for joint threat warning system maritime variants.

(b) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$2,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3289, AS MODIFIED

On page 39, between lines 7 and 8, insert the following:

SEC. 304. AMOUNT FOR ONE SOURCE MILITARY COUNSELING AND REFERRAL HOTLINE.

(a) AUTHORIZATION OF APPROPRIATION OF ADDITIONAL AMOUNT.—The amount authorized to be appropriated under section 301(5) is hereby increased by \$5,000,000, which shall be available (in addition to other amounts available under this Act for the same purpose) only for the Department of Defense One Source counseling and referral hotline.

(b) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3179, AS MODIFIED

On page 30, between lines 14 and 15, insert the following:

SEC. 217. ADVANCED FERRITE ANTENNA.

(a) AMOUNT FOR DEVELOPMENT AND TESTING.—Of the amount authorized to be appropriated under section 201(2), \$3,000,000 may be available for development and testing of the Advanced Ferrite Antenna.

(b) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$3,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3351, AS MODIFIED

At the end of subtitle B of title II, add the following:

SEC. 217. PROTOTYPE LITTORAL ARRAY SYSTEM FOR OPERATING SUBMARINES.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by \$5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), \$5,000,000 may be available for Program Element PE 0604503N for the design, development, and testing of a prototype littoral array system for operating submarines.

(c) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3239, AS MODIFIED

On page 19, between lines 19 and 20, insert the following:

SEC. 113. COMMAND-AND-CONTROL VEHICLES OR FIELD ARTILLERY AMMUNITION SUPPORT VEHICLES.

(a) INCREASED AMOUNT FOR PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES.—The amount authorized to be appropriated under section 101(3) is hereby increased by \$5,000,000.

(b) AMOUNT FOR COMMAND-AND-CONTROL VEHICLES OR FIELD ARTILLERY AMMUNITION SUPPORT VEHICLES.—Of the amount authorized to be appropriated under section 101(3), \$5,000,000 may be used for the procurement of command-and-control vehicles or field artillery ammunition support vehicles.

(c) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3264

(Purpose: To recognize the sacrifices of the members of the Armed Forces who are injured in combat)

At the end of subtitle G of title III, add the following:

SEC. 364. TRACKING AND CARE OF MEMBERS OF THE ARMED FORCES WHO ARE INJURED IN COMBAT.

(a) FINDINGS.—The Senate makes the following findings:

(1) Members of the Armed Forces of the United States place themselves in harm's way in the defense of democratic values and to keep the United States safe.

(2) This call to duty has resulted in the ultimate SACRIFICE of members of the Armed Forces of the United States who are killed or critically injured while serving the United States.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) to honor the SACRIFICE of the members of the Armed Forces who have been killed or critically wounded while serving the United States;

(2) to recognize the heroic efforts of the medical personnel of the Armed Forces in treating wounded military personnel and civilians; and

(3) to support advanced medical technologies that assist the medical personnel of the Armed Forces in saving lives and reducing disability rates for members of the Armed Forces.

(c) PROCEDURES FOR TRACKING OF WOUNDED FROM COMBAT ZONES.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe in regulations procedures for the Department of Defense to—

(A) notify the family of each member of the Armed Forces who is injured in a combat zone regarding such injury; and

(B) provide the family of each such member of the Armed Forces with information on any change of status, including health or location, of such member during the transportation of such member to a treatment destination.

(2) The Secretary shall transmit to Congress a copy of the procedures prescribed under paragraph (1).

(d) MEDICAL EQUIPMENT AND COMBAT CASUALTY TECHNOLOGIES.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, \$10,000,000 of the amount in Program Element PE 0603826D8Z shall be available for medical equipment and combat casualty care technologies.

AMENDMENT NO. 3157, AS MODIFIED

At the end of subtitle B of title II, add the following:

SEC. 217. ADVANCED MANUFACTURING TECHNOLOGIES AND RADIATION CASUALTY RESEARCH.

(a) ADDITIONAL AMOUNT FOR ADVANCED MANUFACTURING STRATEGIES.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, the amount available for Advanced Manufacturing Technologies (PE 0708011S) is hereby increased by \$2,000,000.

(b) AMOUNT FOR RADIATION CASUALTY RESEARCH.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, \$3,000,000 may be available for Radiation Casualty Research (PE 0603002D8Z).

(c) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

AMENDMENT NO. 3429

(Purpose: To provide exceptions to the bilateral agreement requirement for transfers of defense items to the United Kingdom and Australia)

On page 272, between the matter following line 18 and line 19, insert the following:

SEC. 1055. EXCEPTION TO BILATERAL AGREEMENT REQUIREMENTS FOR TRANSFERS OF DEFENSE ITEMS.

(a) FINDINGS.—Congress makes the following findings:

(1) Close defense cooperation between the United States and each of the United Kingdom and Australia requires interoperability among the armed forces of those countries.

(2) The need for interoperability must be balanced with the need for appropriate and effective regulation of trade in defense items.

(3) The Arms Export Control Act (22 U.S.C. 2751 et seq.) authorizes the executive branch to administer arms export policies enacted by Congress in the exercise of its constitutional power to regulate commerce with foreign nations.

(4) The executive branch has exercised its authority under the Arms Export Control Act, in part, through the International Traffic in Arms Regulations.

(5) Agreements to gain exemption from the International Traffic in Arms Regulations must be submitted to Congress for review.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations and the Committee on Armed Services of the Senate; and

(B) the Committee on International Relations and the Committee on Armed Services of the House of Representatives.

(2) DEFENSE ITEMS.—The term “defense items” has the meaning given the term in section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(3) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—The term “International Traffic in Arms Regulations” means the regulations maintained under parts 120 through 130 of title 22, Code of Federal Regulations, and any successor regulations.

(c) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

(1) IN GENERAL.—Subsection (j) of section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

“(4) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

“(A) AUSTRALIA.—Subject to section 1055 of the National Defense Authorization Act for Fiscal Year 2005, the requirements for a bilateral agreement described in paragraph (2)(A) shall not apply to a bilateral agreement between the United States Government and the Government of Australia with respect to transfers or changes in end use of defense items within Australia that will remain subject to the licensing requirements of this Act after such agreement enters into force.

“(B) UNITED KINGDOM.—Subject to section 1055 of the National Defense Authorization Act for Fiscal Year 2005, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States Government and the Government of the United Kingdom for an exemption from the licensing requirements of this Act.”.

(2) CONFORMING AMENDMENT.—Paragraph (2) of such subsection is amended in the matter preceding subparagraph (A) by striking “A bilateral agreement” and inserting “Except as provided in paragraph (4), a bilateral agreement”.

(d) CERTIFICATIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall certify to the appropriate congressional committees that such agreement—

(1) is in the national interest of the United States and will not in any way affect the goals and policy of the United States under section 1 of the Arms Export Control Act (22 U.S.C. 2751);

(2) does not adversely affect the efficacy of the International Traffic in Arms Regulations to provide consistent and adequate controls for licensed exports of United States defense items; and

(3) will not adversely affect the duties or requirements of the Secretary of State under the Arms Export Control Act.

(e) NOTIFICATION OF BILATERAL LICENSING EXEMPTIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall submit to the appropriate congressional committees the text of the regulations that authorize such a licensing exemption.

(f) REPORT ON CONSULTATION ISSUES.—Not later than one year after the date of the en-

actment of this Act and annually thereafter for each of the following 5 years, the President shall submit to the appropriate congressional committees a report on issues raised during the previous year in consultations conducted under the terms of any bilateral agreement entered into with Australia under section 38(j) of the Arms Export Control Act, or under the terms of any bilateral agreement entered into with the United Kingdom under such section, for exemption from the licensing requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.). Each report shall contain—

(1) information on any notifications or consultations between the United States and the United Kingdom under the terms of any agreement with the United Kingdom, or between the United States and Australia under the terms of any agreement with Australia, concerning the modification, deletion, or addition of defense items on the United States Munitions List, the United Kingdom Military List, or the Australian Defense and Strategic Goods List;

(2) a list of all United Kingdom or Australia persons and entities that have been designated as qualified persons eligible to receive United States origin defense items exempt from the licensing requirements of the Arms Export Control Act under the terms of such agreements, and listing any modification, deletion, or addition to such lists, pursuant to the requirements of any agreement with the United Kingdom or any agreement with Australia;

(3) information on consultations or steps taken pursuant to any agreement with the United Kingdom or any agreement with Australia concerning cooperation and consultation with either government on the effectiveness of the defense trade control systems of such government;

(4) information on provisions and procedures undertaken pursuant to—

(A) any agreement with the United Kingdom with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in the United Kingdom; and

(B) any agreement with Australia with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in Australia;

(5) information on any new understandings, including the text of such understandings, between the United States and the United Kingdom concerning retransfer of United States origin defense items made pursuant to any agreement with the United Kingdom to gain exemption from the licensing requirements of the Arms Export Control Act;

(6) information on consultations with the Government of the United Kingdom or the Government of Australia concerning the legal enforcement of any such agreements;

(7) information on United States origin defense items with respect to which the United States has provided an exception under the Memorandum of Understanding between the United States and the United Kingdom and any agreement between the United States and Australia from the requirement for United States Government re-export consent that was not provided for under United States laws and regulations in effect on the date of the enactment of this Act; and

(8) information on any significant concerns that have arisen between the Government of Australia or the Government of the United Kingdom and the United States Government concerning any aspect of any bilateral agreement between such country and the United

States to gain exemption from the licensing requirements of the Arms Export Control Act.

(g) SPECIAL NOTIFICATIONS.—

(1) REQUIRED NOTIFICATIONS.—The Secretary of State shall notify the appropriate congressional committees not later than 90 days after receiving any credible information regarding an unauthorized end-use or diversion of United States exports of goods or services made pursuant to any agreement with a country to gain exemption from the licensing requirements of the Arms Export Control Act. The notification shall be made in a manner that is consistent with any ongoing efforts to investigate and commence civil actions or criminal investigations or prosecutions regarding such matters and may be made in classified or unclassified form.

(2) CONTENT.—The notification regarding an unauthorized end-use or diversion of goods or services under paragraph (1) shall include—

(A) a description of the goods or services;

(B) the United States origin of the good or service;

(C) the authorized recipient of the good or service;

(D) a detailed description of the unauthorized end-use or diversion, including any knowledge by the United States exporter of such unauthorized end-use or diversion;

(E) any enforcement action taken by the Government of the United States; and

(F) any enforcement action taken by the government of the recipient nation.

AMENDMENT NO. 3327, AS MODIFIED

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. REPORT ON ESTABLISHING NATIONAL CENTERS OF EXCELLENCE FOR UNMANNED AERIAL AND GROUND VEHICLES.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the need for one or more national centers of excellence for unmanned aerial and ground vehicles.

(b) GOAL OF CENTERS.—The goal of the centers covered by the report is to promote interservice cooperation and coordination in the following areas:

(1) Development of joint doctrine for the organization, training, and use of unmanned aerial and ground vehicles.

(2) Joint research, development, test, and evaluation, and joint procurement of unmanned aerial and ground vehicles.

(3) Identification and coordination, in conjunction with the private sector and academia, of the future development of unmanned aerial and ground vehicles.

(4) Monitoring of the development and utilization of unmanned aerial and ground vehicles in other nations for both military and non-military purposes.

(5) The providing of joint training and professional development opportunities in the use and operation of unmanned aerial and ground vehicles to military personnel of all ranks and levels of responsibility.

(c) REPORT REQUIREMENTS.—The report shall include, at a minimum, the following:

(1) A list of facilities where the Defense Department currently conducts or plans to conduct research, development, and testing activities on unmanned aerial and ground vehicles.

(2) A list of facilities where the Department of Defense currently deploys or has committed to deploying unmanned aerial or ground vehicles.

(3) The extent to which existing facilities described in paragraphs (1) and (2) have sufficient unused capacity and expertise to research, develop, test, and deploy the current and next generations of unmanned aerial and ground vehicles and to provide for the development of doctrine on the use and training of operators of such vehicles.

(4) The extent to which efficiencies on research, development, testing, and deployment of existing or future unmanned aerial and ground vehicles can be achieved through consolidation at one or more national centers of excellence for unmanned aerial and ground vehicles.

(5) A list of potential locations for national centers of excellence.

(d) **CONSIDERATIONS.**—In determining the potential locations for the national centers of excellence under this section, the Secretary of Defense shall take into consideration existing Air Force facilities that have—

- (1) a workforce of skilled personnel;
- (2) existing capacity of runways and other facilities to accommodate the research, testing, and deployment of current and future unmanned aerial vehicles; and
- (3) minimal restrictions on the research, development, and testing of unmanned aerial vehicles resulting from proximity to large population centers or airspace heavily utilized by commercial flights.

AMENDMENT NO. 3431, AS MODIFIED

On page 243, after the matter following line 18, insert the following:

SEC. 1014. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) **AUTHORITY TO TRANSFER BY GRANT.**—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) **CHILE.**—To the Government of Chile, the SPRUANCE class destroyer O'BANNON (DD 987).

(2) **PORTUGAL.**—To the Government of Portugal, the OLIVER HAZARD PERRY class guided missile frigate GEORGE PHILIP (FFG 12) and the OLIVER HAZARD PERRY class guided missile frigate USS SIDES (FFG 14).

(b) **AUTHORITY TO TRANSFER BY SALE.**—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) **TAIWAN.**—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the ANCHORAGE class dock landing ship ANCHORAGE (LSD 36).

(2) **CHILE.**—To the Government of Chile, the SPRUANCE class destroyer FLETCHER (DD 992).

(c) **GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.**—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) **COSTS OF TRANSFERS.**—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))).

(e) **REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.**—To the maximum extent

practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) **EXPIRATION OF AUTHORITY.**—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

AMENDMENT NO. 3337, AS MODIFIED

At the end of subtitle C of title X, add the following:

SEC. 1022. REPORT ON POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM.

(a) **REPORT REQUIRED.**—(1) Not later than March 31, 2005, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of military operations during the post-major combat operations phase of Operation Iraqi Freedom.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the Commander of the United States Central Command, and such other officials as the Secretary considers appropriate.

(b) **CONTENT.**—(1) The report shall include a discussion of the matters described in paragraph (2), with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address such shortcomings.

(2) The matters to be discussed in the report are as follows:

(A) The military and political objectives of the international coalition conducting the post-major combat operations phase of Operation Iraqi Freedom, and the military strategy selected to achieve such objectives, together with an assessment of the execution of the military strategy.

(B) The mobilization process for the reserve components of the Armed Forces, including the timeliness of notification, training and certification, and subsequent demobilization.

(C) The use and performance of major items of United States military equipment, weapon systems, and munitions (including non-lethal weapons and munitions, items classified under special access procedures, and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of such items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(D) Any additional requirements for military equipment, weapon systems, munitions, force structure, or other capability identified during the post-major combat operations phase of Operation Iraqi Freedom, including changes in type or quantity for future operations.

(E) The effectiveness of joint air operations, together with an assessment of the effectiveness of—

- (i) the employment of close air support; and
- (ii) attack helicopter operations.

(F) The use of special operations forces, including operational and intelligence uses.

(G) The scope of logistics support, including support to and from other nations and from international organizations and organizations and individuals from the private sector in Iraq.

(H) The incidents of accidental fratricide, including a discussion of the effectiveness of the tracking of friendly forces and the use of the combat identification systems in mitigating friendly fire incidents.

(I) The adequacy of spectrum and bandwidth to transmit information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(J) The effectiveness of strategic, operational, and tactical information operations, including psychological operations and assets, organization, and doctrine related to civil affairs, in achieving established objectives, together with a description of technological and other restrictions on the use of information operations capabilities.

(K) The readiness of the reserve component forces used in the post-major combat operations phase of Operation Iraqi Freedom, including an assessment of the success of the reserve component forces in accomplishing their missions.

(L) The adequacy of intelligence support during the post-major combat operations phase of Operation Iraqi Freedom, including the adequacy of such support in searches for weapons of mass destruction.

(M) The rapid insertion and integration, if any, of developmental but mission-essential equipment, organizations, or procedures during the post-major combat operations phase of Operation Iraqi Freedom.

(N) A description of the coordination, communication, and unity of effort between the Armed Forces, the Coalition Provisional Authority, other United States government agencies and organizations, nongovernmental organizations, and political, security, and nongovernmental organizations of Iraq, including an assessment of the effectiveness of such efforts.

(O) The adequacy of training for military units once deployed to the United States Central Command, including training for changes in unit mission and continuation training for high-intensity conflict missions.

(P) An estimate of the funding required to return or replace equipment used to date in Operation Iraqi Freedom, including equipment in prepositioned stocks, to mission-ready condition.

(Q) A description of military civil affairs and reconstruction efforts, including through the Commanders Emergency Response Program, and an assessment of the effectiveness of such efforts and programs.

(R) The adequacy of the requirements determination and acquisition processes, acquisition, and distribution of force protection equipment, including personal gear, vehicles, helicopters, and defense devices.

(S) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes, and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces or the Department of Defense.

(T) The planning for and implementation of morale, welfare, and recreation programs for deployed forces and support to dependents, including rest and recuperation programs and personal communication benefits such as telephone, mail, and email services, including an assessment of the effectiveness of such programs.

(U) An analysis of force rotation plans, including individual personnel and unit rotations, differing deployment lengths, and in-theater equipment repair and leave behinds.

(c) **FORM OF REPORT.**—The report shall be submitted in unclassified form, but may include a classified annex.

(d) **POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM DEFINED.**—In this section, the term "post-major combat operations phase of Operation Iraqi Freedom" means the period of Operation Iraqi Freedom beginning on May 2, 2003, and ending on December 31, 2004.

AMENDMENT NO. 3430

(Purpose: To improve authorities under the alternative authority for acquisition and improvement of military housing)

At the end of subtitle A of title XXVIII, add the following:

SEC. 2804. MODIFICATION OF AUTHORITIES UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) **REQUIREMENTS FOR CONTRACTS FOR LEASING OF HOUSING.**—Section 2874 of title 10, United States Code, is amended by striking subsection (b) and inserting the following new subsection (b):

“(b) **CONTRACT TERMS.**—Any contract for the lease of housing units under subsection (a) shall include the following provisions:

“(1) That the obligation of the United States to make payments under such contract in any fiscal year shall be subject to appropriations being available for such fiscal year and specifically for the project covered by such contract.

“(2) A commitment to obligate the necessary amount for a fiscal year covered by such contract when and to the extent that funds are appropriated for the project covered by such contract.

“(3) That the commitment described in paragraph (2) does not constitute an obligation of the United States.”.

(b) **INVESTMENTS SUBJECT TO AVAILABILITY OF APPROPRIATIONS.**—Section 2875(a) of such title is amended by inserting “, subject to the availability of appropriations for such purpose,” after “may”.

(c) **REPEAL OF CERTAIN AUTHORITIES.**—

(1) **RENTAL GUARANTEES.**—Section 2876 of such title is repealed.

(2) **DIFFERENTIAL LEASE PAYMENTS.**—Section 2877 of such title is repealed.

(3) **ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO HOUSING UNITS.**—Section 2882 of such title is repealed.

(d) **INCREASE IN AMOUNT OF BUDGET AUTHORITY FOR MILITARY FAMILY HOUSING.**—Section 2883(g)(1) of such title is amended by striking “\$850,000,000” and inserting “\$850,000,001”.

(e) **CLERICAL AMENDMENTS.**—The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the items relating to sections 2876, 2877, and 2882.

AMENDMENT NO. 3367

(Purpose: To amend title 10, United States Code, to exempt abortions of pregnancies in cases of rape and incest from a limitation on use of Department of Defense funds)

On page 147, after line 21, add the following:

SEC. ____ . USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: “ or in a case in which the pregnancy is the result of an act of rape or incest”.

AMENDMENT NO. 3198, AS MODIFIED

On page 269, line 20, strike “\$150,000,000” and insert “\$250,000,000”.

AMENDMENT NO. 3365, AS MODIFIED

At the end of subtitle G of title X, add the following:

SEC. 1068. PILOT PROGRAM ON CRYPTOLOGIC SERVICE TRAINING.

(a) **PROGRAM AUTHORIZED.**—The Director of the National Security Agency may carry out a pilot program on cryptologic service training for the intelligence community.

(b) **OBJECTIVE OF PROGRAM.**—The objective of the pilot program is to increase the num-

ber of qualified entry-level language analysts and intelligence analysts available to the National Security Agency and the other elements of the intelligence community through the directed preparation and recruitment of qualified entry-level language analysts and intelligence analysts who commit to a period of service or a career in the intelligence community.

(c) **PROGRAM SCOPE.**—The pilot program shall be national in scope.

(d) **PROGRAM PARTICIPANTS.**—(1) Subject to the provisions of this subsection, the Director shall select the participants in the pilot program from among individuals qualified to participate in the pilot program utilizing such procedures as the Director considers appropriate for purposes of the pilot program.

(2) Each individual who receives financial assistance under the pilot program shall perform one year of obligated service with the National Security Agency, or another element of the intelligence community approved by the Director, for each academic year for which such individual receives such financial assistance upon such individual's completion of post-secondary education.

(3) Each individual selected to participate in the pilot program shall be qualified for a security clearance appropriate for the individual under the pilot program.

(4) The total number of participants in the pilot program at any one time may not exceed 400 individuals.

(e) **PROGRAM MANAGEMENT.**—In carrying out the pilot program, the Director shall—

(1) identify individuals interested in working in the intelligence community, and committed to taking college-level courses that will better prepare them for a career in the intelligence community as a language analysts or intelligence analyst;

(2) provide each individual selected for participation in the pilot program—

(A) financial assistance for the pursuit of courses at institutions of higher education selected by the Director in fields of study that will qualify such individual for employment by an element of the intelligence community as a language analyst or intelligence analyst; and

(B) educational counseling on the selection of courses to be so pursued; and

(3) provide each individual so selected information on the opportunities available for employment in the intelligence community.

(f) **DURATION OF PROGRAM.**—(1) The Director shall terminate the pilot program not later than six years after the date of the enactment of this Act.

(2) The termination of the pilot program under paragraph (1) shall not prevent the Director from continuing to provide assistance, counseling, and information under subsection (e) to individuals who are participating in the pilot program on the date of termination of the pilot program throughout the academic year in progress as of that date.

AMENDMENT NO. 3293

(Purpose: To require a GAO analysis of the potential for using transitional benefit corporations in connection with competitive sourcing of the performance of activities and functions of the Department of Defense)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. COMPTROLLER GENERAL ANALYSIS OF USE OF TRANSITIONAL BENEFIT CORPORATIONS IN CONNECTION WITH COMPETITIVE SOURCING OF PERFORMANCE OF DEPARTMENT OF DEFENSE ACTIVITIES AND FUNCTIONS.

(a) **REQUIREMENT FOR ANALYSIS.**—Not later than February 1, 2005, the Comptroller Gen-

eral shall submit to Congress an analysis of the potential for use of transitional benefit corporations in connection with competitive sourcing of the performance of activities and functions of the Department of Defense.

(b) **SPECIFIC ISSUES.**—The analysis under this section shall—

(1) address the capabilities of transitional benefit corporations—

(A) to preserve human capital and surge capability;

(B) to promote economic development and job creation;

(C) to generate cost savings; and

(D) to generate efficiencies that are comparable to or exceed the efficiencies that result from competitive sourcing carried out by the Department of Defense under the procedures applicable to competitive sourcing by the Department of Defense; and

(2) identify areas within the Department of Defense in which transitional benefit corporations could be used to add value, reduce costs, and provide opportunities for beneficial use of employees and other resources that are displaced by competitive sourcing of the performance of activities and functions of the Department of Defense.

(d) **TRANSITIONAL BENEFIT CORPORATION DEFINED.**—In this section, the term “transitional benefit corporation” means a corporation that facilitates the transfer of designated (usually underutilized) real estate, equipment, intellectual property, or other assets of the United States to the private sector in a process that enables employees of the United States in positions associated with the use of such assets to retain eligibility for Federal employee benefits and to continue to accrue those benefits.

AMENDMENT NO. 3399, AS MODIFIED

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. COMPTROLLER GENERAL STUDY OF PROGRAMS OF TRANSITION ASSISTANCE FOR PERSONNEL SEPARATING FROM THE ARMED FORCES.

(a) **REQUIREMENT FOR STUDY.**—The Comptroller General shall carry out a study of the programs of the Department of Defense and other departments and agencies of the Federal Government under which transition assistance is provided to personnel who are separating from active duty service in the Armed Forces.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(1) Regarding the transition assistance programs under section 1142 and 1144 of title 10, United States Code—

(A) an analysis of the extent to which such programs are meeting the current needs of members of the Armed Forces as such personnel are discharged or released from active duty, including—

(i) a discussion of the original purposes of the programs;

(ii) a discussion of how the programs are currently being administered in relationship to those purposes; and

(iii) an assessment of whether the programs are adequate to meet the current needs of members of the reserve components, including the National Guard; and

(B) any recommendations that the Comptroller General considers appropriate for improving such programs, including any recommendation regarding whether participation by members of the Armed Forces in such programs should be required.

(2) An analysis of the differences, if any, among the Armed Forces and among the

commands of military installations of the Armed Forces regarding how transition assistance is being provided under the transition assistance programs, together with any recommendations that the Comptroller General considers appropriate—

(A) to achieve uniformity in the provision of assistance under such programs; and

(B) to ensure that the transition assistance is provided under such programs to members of the Armed Forces who are being separated at medical facilities of the uniformed services or Department of Veterans Affairs medical centers and to Armed Forces personnel on a temporary disability retired list under section 1202 or 1205 of title 10, United States Code.

(3) An analysis of the relationship of Department of Defense transition assistance programs to the transition assistance programs of the Department of Veterans Affairs and the Department of Labor, including the relationship of the benefits delivery at discharge program carried out jointly by the Department of Defense and the Department of Veterans Affairs to the other transition assistance programs.

(4) The rates of participation of Armed Forces personnel in the transition assistance programs, together with any recommendations that the Comptroller General considers appropriate to increase such participation rates, including any revisions of such programs that could result in increased participation.

(5) An assessment of whether the transition assistance information provided to Armed Forces personnel omits transition information that would be beneficial to such personnel, including an assessment of the extent to which information is provided under the transition assistance programs regarding participation in Federal Government procurement opportunities available at prime contract and subcontract levels to veterans with service-connected disabilities and other veterans, together with any recommendations that the Comptroller General considers appropriate regarding additional information that should be provided and any other recommendations that the Comptroller General considers appropriate for enhancing the provision of counseling on such procurement opportunities.

(6) An assessment of the extent to which representatives of military service organizations and veterans' service organizations are afforded opportunities to participate, and do participate, in pre-separation briefings under transition assistance programs, together with any recommendations that the Comptroller General considers appropriate regarding how representatives of such organizations could better be used to disseminate transition assistance information and provide pre-separation counseling to Armed Forces personnel, including personnel of the reserve components who are being released from active duty for continuation of service in the reserve components.

(7) An analysis of the use of post-deployment and predischARGE health screenings, together with any recommendations that the Comptroller General considers appropriate regarding whether and how to integrate the health screening process and the transition assistance programs into a single, coordinated pre-separation program for Armed Forces personnel being discharged or released from active duty.

(8) An analysis of the processes of the Armed Forces for conducting physical examinations of members of the Armed Forces in connection with discharge and release from active duty, including—

(A) how post-deployment questionnaires are used;

(B) the extent to which Armed Forces personnel waive the physical examinations; and

(C) how, and the extent to which, Armed Forces personnel are referred for followup health care.

(9) A discussion of the current process by which mental health screenings are conducted, followup mental health care is provided for, and services are provided in cases of post-traumatic stress disorder and related conditions for members of the Armed Forces in connection with discharge and release from active duty, together with—

(A) for each of the Armed Forces, the programs that are in place to identify and treat cases of post-traumatic stress disorder and related conditions; and

(B) for persons returning from deployments in connection with Operation Enduring Freedom and Operation Iraqi Freedom—

(i) the number of persons treated as a result of such screenings; and

(ii) the types of interventions.

(c) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Defense and the Secretaries of the military departments.

(2) The Secretary of Veterans Affairs.

(3) The Secretary of Labor.

(4) Armed Forces personnel who have received transition assistance under the programs covered by the study and Armed Forces personnel who have declined to accept transition assistance offered under such programs.

(5) Representatives of military service organizations and representatives of veterans' service organizations.

(6) Persons having expertise in health care (including mental health care) provided under the Defense Health Program, including Department of Defense personnel, Department of Veterans Affairs personnel, and persons in the private sector.

SEC. 1023. STUDY ON COORDINATION OF JOB TRAINING AND CERTIFICATION STANDARDS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense and the Secretary of Labor shall jointly carry out a study to determine ways to coordinate the standards applied by the Armed Forces for the training and certification of members of the Armed Forces in military occupational specialties with the standards that are applied to corresponding civilian occupations by occupational licensing or certification agencies of governments and occupational certification agencies in the private sector.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall submit a joint report on the results of the study under subsection (a) to Congress.

SEC. 1024. CONTENT OF PRESEPARATION COUNSELING FOR PERSONNEL SEPARATING FROM ACTIVE DUTY SERVICE.

Section 1142 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

“(11) Information on participation in Federal Government procurement opportunities that are available at the prime contract level and at subcontract levels to veterans with service-connected disabilities and other veterans.”; and

(2) by adding at the end the following new subsection:

“(d) REQUIREMENTS RELATING TO COUNSELING ON PROCUREMENT OPPORTUNITIES.—(1) For the counseling under subsection (b)(11), the Secretary concerned may provide for participation of representatives of the Secretary of Veterans Affairs, representatives of

the Administrator of the Small Business Administration, representatives of other appropriate executive agencies, and representatives of Veterans' Business Outreach Centers and Small Business Development Centers.

“(2) The Secretary concerned may provide for the counseling under paragraph (11) of subsection (b) to be offered at medical centers of the Department of Veterans Affairs as well as the medical care facilities of the uniformed services and other facilities at which the counseling on the other matters required under such subsection is offered. The access of representatives described in paragraph (1) to a member of the armed forces to provide such counseling shall be subject to the consent of that member.”.

AMENDMENT NO. 3325, AS MODIFIED

Strike section 867, and insert the following:

SEC. 867. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT.—The Randolph-Sheppard Act does not apply to any contract described in subsection (b) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(b) JAVITS-WAGNER-O'DAY CONTRACTS.—Subsection (a) applies to any contract for the operation of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that—

(1) was entered into before the date of the enactment of this Act with a nonprofit agency for the blind or an agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48); and

(2) either—

(A) is in effect on such date; or

(B) was in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136).

(c) REPEAL OF SUPERSEDED LAW.—Section 852 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1556) is repealed.

AMENDMENT NO. 3204, AS MODIFIED

On page 372, after line 17, insert the following:

SEC. 2844. COMPTROLLER GENERAL REPORT ON CLOSURE OF DEPARTMENT OF DEFENSE DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS AND COMMISSARY STORES.

(a) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that includes the following:

(1) With respect to Department of Defense dependent elementary and secondary schools—

(A) an assessment by the Comptroller General of the policy of the Department of Defense, and the criteria utilized by the Department, regarding the closure of schools, including whether or not such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces; and

(B) an assessment by the Comptroller General of any current or on-going studies or assessments of the Department with respect to any of the schools.

(2) With respect to commissary stores—

(A) an assessment by the Comptroller General of the policy of the Department of Defense, and the criteria utilized by the Department, regarding the closure of commissary stores, including whether or not

such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces; and

(B) an assessment by the Comptroller General of any current or on-going studies or assessments of the Department with respect to any of the commissary stores.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services of the Senate; and

(2) the Committee on Armed Services of the House of Representatives.

AMENDMENT NO. 3441, AS MODIFIED

On page 195, between lines 10 and 11, insert the following:

SEC. 868. ACQUISITION OF AERIAL REFUELING AIRCRAFT FOR THE AIR FORCE.

(a) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—The Secretary of Defense shall ensure that the Secretary of the Air Force does not proceed with the acquisition of aerial refueling aircraft for the Air Force by lease or other contract, either with full and open competition or under section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1413) until the date that is 60 days after the date on which the Secretary of Defense has—

(1) reviewed all documentation for the acquisition, including—

(A) the completed aerial refueling analysis of alternatives (AOA) required by section 134(b) of the National Defense Authorization Act for Fiscal Year 2004, pursuant to “Analysis of Alternatives (AoA) Guidance of KC-135 Recapitalization”, dated February 24, 2004;

(B) the completed aerial refueling portion of the Mobility Capabilities Study;

(C) a new validated capabilities document in accordance with the applicable Chairman of Joint Chiefs of Staff Instruction; and

(D) the approval of a Defense Acquisition Board in accordance with Department of Defense regulations; and

(2) submitted to the congressional defense committees a determination in writing that the acquisition is in compliance with all currently applicable laws, Office of Management and Budget circulars, and regulations.

(b) INDEPENDENT REVIEW.—Not later than 45 days after the Secretary of Defense makes the determination described in paragraph (2) of subsection (a), the Comptroller General and the Inspector General of the Department of Defense shall each review the documentation referred to in paragraph (1) of such subsection and submit to the congressional defense committees a report on the extent to which the acquisition is—

(1) in compliance with the requirements of this section and all currently applicable laws, Office of Management and Budget circulars, and regulations; and

(2) consistent with the analysis of alternatives referred to in subparagraph (A) of subsection (a)(1) and the other documentation referred to in such subsection.

(c) LIMITATION ON ACQUISITION BEYOND LOW-RATE INITIAL PRODUCTION.—(1) The acquisition by lease or other contract of any aerial refueling aircraft for the Air Force beyond low-rate initial production shall be subject to, and for such acquisition the Secretary of the Air Force shall comply with, the requirements of sections 2366 and 2399 of title 10, United States Code.

(2) For the purposes of this subsection, the term “low-rate initial production”, with respect to a lease, shall have the same meaning as applies in the administration of sections 2366 and 2399 of title 10, United States Code, with regard to any other form of acquisition.

(d) SOURCE SELECTION FOR INTEGRATED SUPPORT OF AERIAL REFUELING AIRCRAFT FLEET.—For the selection of a provider of integrated support for the aerial refueling aircraft fleet in any acquisition by lease or other contract of aerial refueling aircraft for the Air Force, the Secretary of the Air Force shall—

(1) before selecting the provider, perform all analyses required by law of—

(A) the costs and benefits of—

(i) the alternative of using Federal Government personnel to provide such support; and

(ii) the alternative of using contractor personnel to provide such support;

(B) the core logistics requirements;

(C) use of performance-based logistics; and

(D) the length of contract period; and

(2) select the provider on the basis of fairly conducted full and open competition (as defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))).

(e) PRICE INFORMATION.—Before the Secretary of the Air Force commits to acquiring by lease or other contract any aerial refueling aircraft for the Air Force, the Secretary shall require the manufacturer to provide, with respect to commercial items covered by the lease or contract, appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the items.

(f) AUDIT SERVICES.—The Secretary of the Air Force shall contact the Office of the Inspector General for the Department of Defense for review and approval of any Air Force use of non-Federal audit services for any lease or other contract for the acquisition of aerial refueling aircraft.

AMENDMENT NO. 3333, AS MODIFIED

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. PERIODIC DETAILED ACCOUNTING FOR OPERATIONS OF THE GLOBAL WAR ON TERRORISM.

(a) QUARTERLY ACCOUNTING.—Not later than 45 days after the end of each quarter of a year, the Secretary of Defense shall submit to the Congressional defense committees, for such quarter for each operation described in subsection (b), a full accounting of all costs incurred for such operation during such quarter and all amounts expended during such quarter for such operation, and the purposes for which such costs were incurred and such amounts were expended.

(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Operation Noble Eagle.

(4) Any other operation that the President designates as being an operation of the Global War on Terrorism.

(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for operations described in subsection (b), the Secretary shall account in the quarterly submission under subsection (a) for all costs and expenditures that are reasonably attributable to such operations, including personnel costs.

AMENDMENT NO. 3319

(Purpose: To repeal certain requirements and limitations relating to the defense industrial base)

At the end of subtitle D of title VIII, add the following:

SEC. 844. REPEAL OF CERTAIN REQUIREMENTS AND LIMITATIONS RELATING TO THE DEFENSE INDUSTRIAL BASE.

(a) ESSENTIAL ITEM IDENTIFICATION AND DOMESTIC PRODUCTION CAPABILITIES IMPROVE-

MENT.—Sections 812, 813, and 814 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1542, 1543, 1545; 10 U.S.C. 2501 note) are repealed.

(b) ELIMINATION OF UNRELIABLE SOURCE FOR ITEMS AND COMPONENTS.—Section 821 of such Act (117 Stat. 1546; 10 U.S.C. 2534 note) is repealed.

AMENDMENT NO. 3339

(Purpose: To modify the priority afforded applications for national defense tank vessel construction assistance)

At the end of division B, add the following:

TITLE XXXIV—MARITIME ADMINISTRATION

SEC. 3401. MODIFICATION OF PRIORITY AFFORDED APPLICATIONS FOR NATIONAL DEFENSE TANK VESSEL CONSTRUCTION ASSISTANCE.

Section 3542(d) of the Maritime Security Act of 2003 (title XXXV of Public Law 108-136; 117 Stat. 1821; 46 U.S.C. 53101 note) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) shall give priority consideration to a proposal submitted by an applicant who has been accepted for participation in the Shipboard Technology Evaluation Program as outlined in Navigation and Vessel Inspection Circular 01-04, issued by the Commandant of the United States Coast Guard on January 2, 2004; and”.

AMENDMENT NO. 3371, AS MODIFIED

On page 130, between lines 9 and 10, insert the following:

SEC. 642. DEATH BENEFITS ENHANCEMENT.

(a) FINAL ACTIONS ON FISCAL YEAR 2004 DEATH BENEFITS STUDY.—(1) Congress finds that the study of the Federal death benefits for survivors of deceased members of the Armed Forces under section 647 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1520) has given Congress sufficient insight to initiate action to provide for the enhancement of the current set of death benefits that are provided under law for the survivors.

(2) The Secretary of Defense shall expedite the completion and submission of the final report, which was due on March 1, 2004, under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(3) It is the sense of Congress that the President should promptly submit to Congress any recommendation for legislation, together with a request for appropriations, that the President determines necessary to implement the death benefits enhancements that are recommended in the final report under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(b) INCREASES OF DEATH GRATUITY CONSISTENT WITH INCREASES OF RATES OF BASIC PAY.—Section 1478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting “(as adjusted under subsection (c))” before the period at the end of the first sentence; and

(2) by adding at the end the following new subsection:

“(c) Effective on the date on which rates of basic pay under section 204 of this title are increased under section 1009 of title 37 or any other provision of law, the amount of the death gratuity provided under subsection (a) shall be increased by the same overall average percentage of the increase in the rates of basic pay taking effect on that date.”.

(c) FISCAL YEAR 2005 ACTIONS.—At the same time that the President submits to Congress the budget for fiscal year 2006

under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate committees of Congress referred to in subsection (g) a draft or drafts of legislation to provide enhanced death benefits for survivors of deceased members of the uniformed services. The draft legislation shall include provisions for the following:

(1) Revision of the Servicemembers' Group Life Insurance program to provide for—

(A) an increase of the maximum benefit provided under Servicemembers' Group Life Insurance to \$350,000, together with an increase, each fiscal year, by the same overall average percentage increase that takes effect during such fiscal year in the rates of basic pay under section 204 of title 37, United States Code; and

(B) a minimum benefit of \$100,000 at no cost to the insured members of the uniformed services who elect the maximum coverage, together with an increase in such minimum benefit each fiscal year by the same percentage increase as is described in subparagraph (A).

(2) An additional set of death benefits for each member of the uniformed services who dies in the line of duty while on active duty that includes, at a minimum, an additional death gratuity in the amount that—

(A) in the case of a member not described in subparagraph (B), is equal to the sum of—

(i) the total amount of the basic pay to which the deceased member would have been entitled under section 204 of title 37, United States Code, if the member had not died and had continued to serve on active duty for an additional year; and

(ii) the total amount of all allowances and special pays that the member would have been entitled to receive under title 37, United States Code, over the one-year period beginning on the member's date of death if the member had not died and had continued to serve on active duty for an additional year with the unit to which the member was assigned or detailed on such date; and

(B) in the case of a member who dies as a result of an injury caused by or incurred while exposed to hostile action (including any hostile fire or explosion and any hostile action from a terrorist source), is equal to twice the amount calculated under subparagraph (A).

(3) Any other new death benefits or enhancement of existing death benefits that the President recommends.

(4) Retroactive applicability of the benefits referred to in paragraph (2) and, as appropriate, the benefits recommended under paragraph (3) so as to provide the benefits—

(A) for members of the uniformed services who die in line of duty on or after October 7, 2001, of a cause incurred or aggravated while deployed in support of Operation Enduring Freedom; and

(B) for members of the uniformed services who die in line of duty on or after March 19, 2003, of a cause incurred or aggravated while deployed in support of Operation Iraqi Freedom.

(d) CONSULTATION.—The President shall consult with the Secretary of Defense and the Secretary of Veterans Affairs in developing the draft legislation required under subsection (c).

(e) FISCAL YEAR 2006 BUDGET SUBMISSION.—The budget for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall include draft legislation (other than draft appropriations) that includes provisions that, on the basis of the assumption that the draft legislation submitted under subsection (c) would be enacted and would take effect in fiscal year 2006—

(1) would offset fully the increased outlays that would result from enactment of the provisions

of the draft legislation submitted under subsection (c), for fiscal year 2006 and each of the ensuing nine fiscal years;

(2) expressly state that they are proposed for the purpose of the offset described in paragraph (1); and

(3) are included in full in the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) with respect to the fiscal years referred to in paragraph (1).

(f) EARLY SUBMISSION OF PROPOSAL FOR ADDITIONAL DEATH BENEFITS.—Congress urges the President to submit the draft of legislation for the additional set of death benefits under paragraph (2) of subsection (c) before the time for submission required under that subsection and as soon as is practicable after the date of the enactment of this Act.

(g) APPROPRIATE COMMITTEES OF CONGRESS.—For the purposes of subsection (c), the appropriate committees of Congress are as follows:

(1) The Committees on Armed Services of the Senate and the House of Representatives, with respect to draft legislation that is within the jurisdiction of such committees.

(2) The Committees on Veterans Affairs of the Senate and the House of Representatives, with respect to draft legislation within the jurisdiction of such committees.

AMENDMENT NO. 3438, AS MODIFIED

In section 3161, as added by Senate Amendment 3438, strike subsection (b).

Mr. LEVIN. We support these amendments, Mr. President. We move to reconsider.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3371, AS MODIFIED

Mr. WARNER. We have two technical matters.

Sessions amendment No. 3371 was agreed to last week without a modification. I send to the desk a modified amendment No. 3371 as a substitute for the original amendment and ask unanimous consent that it be substituted for the version agreed to last week.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 3371) was agreed to as follows:

On page 130, between lines 9 and 10, insert the following:

SEC. 642. DEATH BENEFITS ENHANCEMENT.

(a) FINAL ACTIONS ON FISCAL YEAR 2004 DEATH BENEFITS STUDY.—(1) Congress finds that the study of the Federal death benefits for survivors of deceased members of the Armed Forces under section 647 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1520) has given Congress sufficient insight to initiate action to provide for the enhancement of the current set of death benefits that are provided under law for the survivors.

(2) The Secretary of Defense shall expedite the completion and submission of the final report, which was due on March 1, 2004, under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(3) It is the sense of Congress that the President should promptly submit to Congress any recommendation for legislation, together with a request for appropriations, that the President determines necessary to

implement the death benefits enhancements that are recommended in the final report under section 647 of the National Defense Authorization Act for Fiscal Year 2004.

(b) INCREASES OF DEATH GRATUITY CONSISTENT WITH INCREASES OF RATES OF BASIC PAY.—Section 1478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting “(as adjusted under subsection (c))” before the period at the end of the first sentence; and

(2) by adding at the end the following new subsection:

“(c) Effective on the date on which rates of basic pay under section 204 of this title are increased under section 1009 of title 37 or any other provision of law, the amount of the death gratuity provided under subsection (a) shall be increased by the same overall average percentage of the increase in the rates of basic pay taking effect on that date.”

(c) FISCAL YEAR 2005 ACTIONS.—At the same time that the President submits to Congress the budget for fiscal year 2006 under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate committees of Congress referred to in subsection (g) a draft or drafts of legislation to provide enhanced death benefits for survivors of deceased members of the uniformed services. The draft legislation shall include provisions for the following:

(1) Revision of the Servicemembers' Group Life Insurance program to provide for—

(A) an increase of the maximum benefit provided under Servicemembers' Group Life Insurance to \$350,000, together with an increase, each fiscal year, by the same overall average percentage increase that takes effect during such fiscal year in the rates of basic pay under section 204 of title 37, United States Code; and

(B) a minimum benefit of \$100,000 at no cost to the insured members of the uniformed services who elect the maximum coverage, together with an increase in such minimum benefit each fiscal year by the same percentage increase as is described in subparagraph (A).

(2) An additional set of death benefits for each member of the uniformed services who dies in the line of duty while on active duty that includes, at a minimum, an additional death gratuity in the amount that—

(A) in the case of a member not described in subparagraph (B), is equal to the sum of—

(i) the total amount of the basic pay to which the deceased member would have been entitled under section 204 of title 37, United States Code, if the member had not died and had continued to serve on active duty for an additional year; and

(ii) the total amount of all allowances and special pays that the member would have been entitled to receive under title 37, United States Code, over the one-year period beginning on the member's date of death if the member had not died and had continued to serve on active duty for an additional year with the unit to which the member was assigned or detailed on such date; and

(B) in the case of a member who dies as a result of an injury caused by or incurred while exposed to hostile action (including any hostile fire or explosion and any hostile action from a terrorist source), is equal to twice the amount calculated under subparagraph (A).

(3) Any other new death benefits or enhancement of existing death benefits that the President recommends.

(4) Retroactive applicability of the benefits referred to in paragraph (2) and, as appropriate, the benefits recommended under paragraph (3) so as to provide the benefits—

(A) for members of the uniformed services who die in line of duty on or after October 7, 2001, of a cause incurred or aggravated while

deployed in support of Operation Enduring Freedom; and

(B) for members of the uniformed services who die in line of duty on or after March 19, 2003, of a cause incurred or aggravated while deployed in support of Operation Iraqi Freedom.

(d) CONSULTATION.—The President shall consult with the Secretary of Defense and the Secretary of Veterans Affairs in developing the draft legislation required under subsection (c).

(e) FISCAL YEAR 2006 BUDGET SUBMISSION.—The budget for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall include draft legislation (other than draft appropriations) that includes provisions that, on the basis of the assumption that the draft legislation submitted under subsection (c) would be enacted and would take effect in fiscal year 2006—

(1) would offset fully the increased outlays that would result from enactment of the provisions of the draft legislation submitted under subsection (c), for fiscal year 2006 and each of the ensuing nine fiscal years;

(2) expressly state that they are proposed for the purpose of the offset described in paragraph (1); and

(3) are included in full in the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) with respect to the fiscal years referred to in paragraph (1).

(f) EARLY SUBMISSION OF PROPOSAL FOR ADDITIONAL DEATH BENEFITS.—Congress urges the President to submit the draft of legislation for the additional set of death benefits under paragraph (2) of subsection (c) before the time for submission required under that subsection and as soon as is practicable after the date of the enactment of this Act.

(g) APPROPRIATE COMMITTEES OF CONGRESS.—For the purposes of subsection (c), the appropriate committees of Congress are as follows:

(1) The Committees on Armed Services of the Senate and the House of Representatives, with respect to draft legislation that is within the jurisdiction of such committees.

(2) The Committees on Veterans Affairs of the Senate and the House of Representatives, with respect to draft legislation within the jurisdiction of such committees.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3438, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator BUNNING, I send an amendment to the desk which makes a technical change to amendment No. 3438 on the Energy Employee Occupational Illness Compensation Program that had been previously agreed to.

My understanding is the amendment is acceptable on each side.

Mr. LEVIN. The modification has been cleared on this side.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the previously agreed to amendment is modified.

The amendment (No. 3438), as modified, was agreed to as follows:

In section 3161, as added by Senate Amendment 3438, strike subsection (b).

Mr. LEVIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we have been in consultation with the leadership on both sides. I see the distinguished Democratic whip. I will make this unanimous consent request at this time.

I ask unanimous consent that when the Senate resumes consideration of the Defense authorization bill the Senate consider the following amendments in this order: Corzine amendment No. 3303, 30 minutes equally divided; Byrd amendment No. 3423, 20 minutes equally divided; McConnell, Iraq report and Kennedy amendment No. 3388, a total of 30 minutes equally divided for both amendments.

They will be voted on side by side.

Reed amendment No. 3353, 20 minutes equally divided; provided further that after the conclusion of all of the designated debate time, the Senate proceed to a series of consecutive votes in relation to the amendments mentioned above, in the order listed, with no second degrees in order to the amendments prior to the votes.

Mr. REID. Mr. President, reserving the right to object, will the distinguished chairman tell me again the order that those votes will take place?

Mr. WARNER. I have been informed that the first amendment is Corzine, the second is McConnell-Kennedy, the third is Reed, and the fourth is Byrd.

Mr. REID. Mr. President, reserving the right to object, I ask that the distinguished Senator modify his request, first of all, that after the first vote there be 10 minutes for each vote.

Mr. WARNER. Yes. After the first vote, 10 minutes.

Mr. REID. Second, that there be 2 minutes between each of these amendments. Senator BYRD has always asked that we do that.

Mr. WARNER. That is acceptable.

Mr. REID. Two minutes equally divided. That is fairly standard. The majority leader didn't want any time, as the chairman will recall.

Mr. WARNER. I understand. I have to look at it in the interest of my colleagues—no disrespect to the majority leader.

Mr. REID. Mr. President, this is fine with us. But I want the RECORD to reflect that we would agree to even less time on amendments. As we proceed with the debate on this group of amendments, we could have saved 30 minutes if we did not use all of our time.

We have no objection to the request of the distinguished Senator.

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

Mr. WARNER. Mr. President, I accept responsibility for increasing the time. I just feel that these are important issues, and some of my colleagues are very anxious to express their views. I want to make that possible.

Mr. LEVIN. Mr. President, one other issue, because we are trying to push this bill very quickly, we always appreciate and admire the Senator from Virginia for his forthright statements and knowledge. We think it might be possible as we proceed on at least these amendments that some of the time could be yielded. That would be in everybody's interest, if it is possible.

Mr. WARNER. That would be an option with equal division of time.

AMENDMENT NO. 3409

Ms. MIKULSKI. Mr. President, I rise in strong support of the Daschle amendment, and in strong support of our Nation's veterans.

Our men and women serving in Iraq and Afghanistan have my steadfast support. So do those who served before them. Our veterans need to know that America is with them and that we owe them a debt of gratitude. Congress must show that gratitude not just with words, but with deeds. That means making our troops and our veterans a priority in the Federal checkbook.

That is why I am such a strong supporter of the Daschle amendment. The goal of this amendment is simple and straightforward—to guarantee enough funding in the Federal checkbook each year to provide health care to every single veteran enrolled in the VA system.

This amendment does four things to support our Nation's veterans:

First, the amendment sets a minimum level of funding for VA health care each year. This amount is based on the number of veterans enrolled in the VA system. This is important to ensure that VA can provide care for every veteran, without rationing care or charging deductibles, fees, or increased copayments.

Second, the amendment provides an annual adjustment for inflation, so that VA can keep up with the rising costs of medical equipment, supplies, and prescription drugs.

Third, the amendment says that after 2 years, the General Accounting Office, GAO, will provide Congress with a report of whether this funding was adequate to provide care for all of our veterans. The amendment also sets up a process to correct any flaws that GAO identifies.

Fourth, the amendment moves future increases to VA health care funding from the discretionary to the mandatory side of the Federal budget. This is important so that the VA-HUD Subcommittee won't have to have to forage for funds each year, and veterans won't have to compete for funding.

As the ranking member of the VA-HUD Appropriations Subcommittee, my guiding principle for the VA budget is that promises made to our veterans must be promises kept. And each year, the VA-HUD Appropriations Subcommittee makes veterans health care funding the top priority. We do this on a bipartisan basis, because when it comes to caring for our Nation's veterans, we are not members of the

Democratic or Republican parties. We are members of the red, white, and blue party.

But each year, we have to forage for funds. Over the last 3 years, we have worked on a bipartisan basis to reject new fees and increased copayments on our Nation's veterans.

In 2003, the administration proposed that Priority 7 and 8 veterans pay a yearly \$1,500 deductible just to access VA health care. On a bipartisan basis, Congress rejected this proposal. Instead, we put \$1.1 billion more in VA's budget.

In 2004, the administration proposed that Priority 7 and 8 veterans pay a yearly \$250 fee to access VA health care. The budget also proposed increases in veterans' copayments—a 50 percent increase in the prescription drug copayment and a 30 percent increase in copayments for doctors visits. Again, on a bipartisan basis, Congress rejected these proposals. Instead, we put \$1.3 billion more in the VA's budget.

The administration's 2005 budget again proposes a \$250 annual fee and increased prescription drug copayments for veterans. And again this year, Senator BOND and I will fight to find the funding to reject these proposals.

But despite our efforts and these record increases, VA health care funding is just not keeping up with the needs of our Nation's veterans. This mismatch of funding and demand for VA health care has led the administration to ration VA health care. In January 2002, the administration closed enrollment to all new Priority 8 veterans. This is unacceptable. In addition, the VA has already treated 10,000 of our newest veterans returning from Iraq and Afghanistan. Our newest veterans deserve to know that the VA will be there to care for them.

Finally, I want to point out that under this amendment, Congress would keep its oversight authority over how VA health care funding is spent. The Appropriations and Veterans Affairs Committees would still be able to hold VA accountable for how it spends its money, and how it provides health care to veterans. Congress will continue to stand up for our Nation's veterans.

The Task Force To Improve Health Care Delivery For Our Nation's Veterans, a bipartisan task force of experts on health care convened at the request of the President, concluded that there is a definite mismatch between demand and funding for VA health care. The Task Force recommended fixing this mismatch. The Daschle amendment is a bold solution to this problem.

Mr. President, I urge my colleagues to stand up for our Nation's veterans by supporting the Daschle amendment.

I yield the floor.

Mr. JOHNSON. Mr. President, I rise today in support of the Daschle amendment to the National Defense Authorization Act for Fiscal Year 2005.

Mr. President, I introduced the Veterans Health Care Funding Guarantee

Act in both the 107th and 108th Congress because I believe the system we use to fund VA health care is broken. Both my legislation and the Daschle amendment would fix this problem and fully fund the Veterans Administration health care system by making VA medical care mandatory, rather than discretionary, spending.

Once again, we face a budget that severely underfunds VA medical care needs. Under the budget submitted to Congress by the President, many veterans will not have access to the VA health care system, will have increased copayments and fees, and will face continuing delays to access the care they were promised. And once again, Congress will be forced to make the difficult choices in finding additional funds for the VA. I am concerned that this yearly struggle to find just enough funding for veterans health care is unsustainable it breaks the promises we made to our veterans and threatens the long-term viability of the entire VA health care system.

This is what makes legislation such as the Veterans Health Care Funding Guarantee Act and the Daschle amendment particularly interesting. The amendment recognizes the need to automatically calculate the effects of inflation and to factor in the number of veterans utilizing the VA health care system in determining the necessary level of medical care funding.

Mr. President, this approach has been endorsed by the Disabled American Veterans, the Veterans of Foreign Wars, and the American Legion. In addition, the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans—a 15-member panel that was assembled to study the health care needs of our Nation's veterans—has weighed in on this issue. This Presidential task force released their recommendations in a report on May 28, 2003. The report stated clearly that the most pressing problem facing the VA health system is that funding is not keeping pace with the need for care.

While the panel encouraged greater cooperation between the VA and the Department of Defense's health care system, they recognized this would not address the fundamental problem. Instead, the panel recommended two solutions to the VA's funding problems: create an independent board which will set the level of VA health care spending each year, or establish a formula to provide a mandatory amount of funding for VA medical care. This second recommendation is the concept contained in the amendment we are debating today. I hope that my colleagues will read the report produced by the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans because I believe it provides a solid basis for supporting the Daschle amendment.

I close by discussing why we are debating this amendment today and on this particular bill. Some have questioned including a veterans health care

amendment as a part of the National Defense Authorization Act. However, I can think of no more appropriate bill on which to discuss whether or not we are going to live up to our commitments to our nation's veterans. As the father of a soldier who has served in Iraq, Afghanistan, Kosovo, and Bosnia, I know that poor treatment of our veterans severely impacts our ability to recruit and retain the best and brightest for our military. We simply can not separate the issue of the treatment of our troops and the treatment of our veterans.

Mr. President, I thank Senator DASCHLE for offering this amendment and encourage my colleagues to support our veterans by voting in favor of the pending amendment.

AMENDMENT NO. 3470

Mr. NELSON of Florida. Mr. President, today I submitted an amendment to the fiscal year 2005 National Defense Authorization bill that would eliminate the current offset against annuities paid by the Department of Defense Survivors' Benefits Plan—SBP—for Veterans Administration Dependency and Indemnity Compensation—DIC. I ask for my colleagues' support for this amendment and invite their cosponsorship.

Unfortunately, many of us do not realize that a reduction similar to the current offset rules for military retirement and veterans' disability compensation applies to the survivors of military retirees enrolled in the Survivor Benefit Plan—SBP. Payments for the survivors of our retirees from the military Survivor Benefit Plan—SBP—are reduced by benefits payable from the veterans' Dependency and Indemnity Compensation—DIC—program. Thus, surviving spouses of 100 percent disabled military retirees generally cannot receive benefits through both the retirement system and the veterans' disability system.

Over the last few years we have made a tremendous effort to repeal the law that prohibits concurrent receipt of retired pay and disability compensation for our military retirees. This year we have already adopted a provision in the fiscal year 2005 National Defense Authorization bill that will eliminate the phasing over 10 years of retired pay for retirees with 100 percent disability. I supported this provision. We have to take care of our most deserving retirees, but we should also take care of their survivors.

I have long supported the full implementation of concurrent receipt, but I do not understand why we would leave behind the widows and dependent children of those retirees that have purchased the income protection provided by the Survivors Benefit Plan. I know of no purchased annuity plan that denies its benefit based on the receipt of another benefit. This is wrong and it hurts our most valuable widows—those left behind by combat losses and retirees fully disabled by their service.

It is difficult to justify paying military retired pay and veterans' compensation concurrently to the retiree but not paying benefits from both the SBP and the DIC concurrently to that retiree's widow or surviving children. My amendment ensures consistency in the application of benefits to survivors from the SBP program and DIC. I urge the Senate to adopt this amendment and take care of our military widows.

Mr. WARNER. Mr. President, I do not believe there are further matters in relation to this bill. At this point in time, I will proceed to wrap up on behalf of leadership.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, as the chairman said just a few moments ago on the floor, there has been a lot of hard work on the Defense bill over the course of the last month and over the course of the day. We continued to clear amendments on both sides. And although we have been in a quorum call, off and on, over the course of the night, as the chairman implied, there have been a lot of negotiations, and a lot of progress has been made in addressing the large number of amendments that we, at 6:30, realized we had. We continue to clear amendments on both sides, and we have entered into an agreement for votes on approximately five amendments tomorrow morning.

Unfortunately—and I made it clear to both managers and representatives of our leadership and leadership on the other side of the aisle—it is still unclear as to exactly how we are going to bring this bill to closure, how we will finish this bill. We have had this large number of consultations throughout the evening with colleagues on both sides of the aisle, and I do think it is time we bring the bill to conclusion. I believe it is really past that time.

But, again, everybody is working in good faith. I do respect Members' rights to offer amendments. However, as majority leader, I am charged with ensuring that we finish our work and that we are able to address the other very important work ahead of us. I specifically mentioned, in this case, the appropriations bill which provides the funding to support our troops overseas.

Having said that, I will file a cloture motion so all of our options are preserved. I understand everybody is proceeding in good faith for completion tomorrow. We will continue to find a way to finish the bill tomorrow, but we will have this cloture vote on Thursday if it becomes necessary.

CLOTURE MOTION

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, do hereby

move to bring to a close debate on calendar No. 503, S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the armed services, and for other purposes.

Bill Frist, Mitch McConnell, John Cornyn, Trent Lott, John W. Warner, Norm Coleman, Lincoln D. Chafee, Gordon Smith, Jon Kyl, John McCain, Peter Fitzgerald, John E. Sununu, Richard G. Lugar, Don Nickles, Mike DeWine, George V. Voinovich, George Allen, Kay Bailey Hutchison.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. ALLEN. Mr. President, soon we will be voting on the nomination of Walter DeKalb Kelley, Jr., to be a Federal judge for the U.S. District Court for the Eastern District of Virginia. My colleague, Senator WARNER, and I know him as Walt. We very much support his nomination. I have known Walt Kelley for a long time now. He is one who continues to impress me as a gentleman. I have always found him to be even tempered, no matter the situation, no matter how fractious things might be. He always has a good, steady demeanor about him, which I think is an important attribute, especially for a trial judge.

Senator WARNER and I interviewed many outstanding nominees for this judgeship in the Eastern District of Virginia. The things I care about are experience, to the extent you can find somebody who has judicial experience. Also, when you look at their experience and talk about them, whether it is in the courtroom or what their beliefs are, it is important to figure out what their judicial philosophy might be.

On the point of judicial philosophy, as a judge, Walt Kelley will be one who understands the proper role of the judiciary, in particular to adjudicate a case, applying the facts and evidence before the court, applying the law in the proper way, as opposed to a judge who might want to invent new law.

As far as experience is concerned, while Walt Kelley has not served as a judge, he has a tremendous amount of experience in the courtroom, arguing and taking to final adjudication 25 cases in various Federal courts.

He has been endorsed and supported by the Virginia Association of Defense Attorneys and the Virginia State Bar. The American Bar Association has also given Walt Kelley a unanimous opinion

of "well qualified." He is rated "AV" by Martindale-Hubbell. In addition, the Virginia Women Attorneys Association supports his nomination.

He is an individual of great character, and he supports important aspects of the community in the Hampton Roads area. He is the chairman or the rector of the Board of Visitors at Old Dominion University in Norfolk. He is a trustee at Norfolk Collegiate School, where he attended, and his three children currently attend school. He is an adjunct professor in antitrust law at Regent University School of Law. He was on the Virginia Attorney General's Task Force on Higher Education, and he is also the director of the Hampton Roads Salvation Army Adult Rehabilitation Center Advisory Board, making sure folks are rehabilitated from being addicted to drugs, or using drugs, so they may become productive citizens.

Walt Kelley is an outstanding individual. He has the experience, the temperament, and the right philosophy to be a judge in the Eastern District of Virginia for many decades to come. I look forward to voting for him and respectfully urge my colleagues to support the nomination of Walter Kelley to the United States District Court for the Eastern District of Virginia.

Mr. President, I yield the floor.

JUAN R. SANCHEZ

Mr. SPECTER. Mr. President, I rise in support of the nomination of Chester County Common Pleas Judge Juan Sanchez who is on the docket for confirmation at the present time. Judge Sanchez was born in Puerto Rico, but emigrated to the United States at an early age and has an outstanding academic record from City College of New York, where he had his bachelor's degree cum laude in 1978. He graduated from the University of Pennsylvania Law School with his J.D. degree and has a very impressive background. He served in the Legal Aid Society of Chester County where he was staff attorney for 2 years, and then a partner in a private law firm. He also served the County of Chester in the Public Defender's Office for some 4 years; and for the last 6 years, he has been a judge of the Court of Common Pleas of Chester County.

Mr. Sanchez was nominated by the bipartisan nominating committee which Senator SANTORUM and I have recommended to the President, withstood the rigor of the examinations and has been voted out of committee unanimously. I think he will make an outstanding judge.

I ask unanimous consent that Judge Sanchez's resume be printed in the RECORD.

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

JUAN R. SANCHEZ, RESUMÉ

Birth: December 22, 1955, Vega Baja, Puerto Rico.

Education: 1974–1978, City College of the City University of New York B.A. degree, cum laude.

1978–1981, University of Pennsylvania Law School, J.D. degree.

Bar Admittance: 1982, Pennsylvania.

Experience: 1981–1983, Legal Aid of Chester County, Staff Attorney.

1983–1990, Nester, Nester & Sanchez Partner.

1983–1997, County of Chester Public Defender's Office, Senior Trial Attorney, 1993–1997, Trial Attorney, 1983–1993.

1990–1997, Sole Proprietor.

1997, MacElree, Harvey, Gallagher, Featherman & Sebastian, Trial Attorney.

1998–present, Chester County Court of Common Pleas, Judge.

ROBERT H. PERRY—NEVADA TRIAL LAWYER OF THE YEAR

Mr. REID. Mr. President, I rise today to congratulate Robert H. Perry, who has been recognized as Nevada Trial Lawyer of the Year by the Nevada Trial Lawyers Association.

Mr. Perry grew up in Topeka, KS, and attended the United States Naval Academy. Following his graduation, he served in the U.S. Marine Corps. After he completed his military service, Mr. Perry worked in sales in Montana, and then returned to Kansas where he became a mentor for youth who were detained in the justice system. That whetted his interest in the legal system, and he decided to attend law school at the University of Kansas.

After he graduated law school, Mr. Perry moved to Nevada, where he became a successful prosecutor in the Washoe County District Attorney's Office. After several years, he rose to the position of Deputy District Attorney for the Criminal Division.

In 1976, Mr. Perry joined the law firm of Laxalt and Berry, and a few years later he formed a partnership with Richard Davenport. He ventured out on his own in 1991, forming Robert H. Perry, Ltd., and concentrated on civil trial work.

Since then Mr. Perry has dedicated himself to representing average citizens who have been harmed by the wrongful actions of others. Many times the party that did the harm was much more powerful than the victim—but in our legal system, it is possible for ordinary people to get justice, thanks to lawyers like Mr. Perry.

In 2001, Mr. Perry represented a young girl whose medical treatment had been delayed because the treating physician thought she was complaining in order to receive more painkillers. But in fact, she was really sick. When surgery was finally performed on this girl, only three feet of her small intestine remained. Today, and for the rest of her life, she must receive her nourishment intravenously.

Mr. Perry fought for her and she won the largest verdict for medical malpractice in Nevada history.

This is just an example of the kind of battles that Robert Perry wages on behalf of his clients. I salute him for his selection as Trial Lawyer of the Year,

and extend my best wishes for success in all his future ventures.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Wichita, KS, on June 29, 2001, a 58-year old openly gay hairdresser, Marcell Eads, was beaten and died from burns and smoke inhalation after the alleged bashers set his home on fire. Zachary Steward, 18, and Brandon Boone, 17, were arrested in connection with the crime. Steward claimed that Eads had made sexual advances toward him, prompting Boone to start beating Eads with a broomstick and later with the end of a table and a rock. The perpetrators accused each other of setting the fire that killed Eads, and both took credit for trying to put out the fire.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FAITH IN ACTION

Mr. GRASSLEY. Mr. President, in the 21st century, advances in medicine are allowing Americans to live longer than ever before. Today, the average American will live to be over 76 years old. As the collective age of society increases, so does the need for increased help, care, and support, as long-term illnesses and the frailties of age become the rule, not the exception. Faith in Action volunteers play a crucial role in ensuring that help is there for neighbors in need.

Faith in Action is a nationwide, interfaith coalition that works to help people with long-term health needs or disabilities maintain their independence by providing assistance with daily activities. Funded by the Robert Wood Johnson Foundation, Faith in Action boasts 100,000 nationwide volunteers serving over 200,000 care recipients.

Through Faith in Action, Americans of every faith—including Catholics, Protestants, Hindus, Jews and Muslims—work together to improve the lives of their neighbors in need. Faith in Action volunteers help others maintain their independence by doing simple things: watering flowers, shopping for groceries, taking people to the doctor, and simply listening. Sometimes they open doors that people can't open on their own.

In my home State of Iowa, over 2,100 dedicated volunteers work in local pro-

grams to contribute approximately 315,000 volunteer hours per year—a service valued at nearly \$5.2 million.

But the value of Faith in Action is measured not by dollars and cents. Nor is the value measured by the number of volunteers, or the number of hours donated. The real value of Faith in Action is measured by the warm smiles of gratitude that line the faces of those whose lives have been enriched by the kind touch of a stranger.

Fred Jones is a man who knows firsthand the value of Faith in Action. Fred lives with his wife in the rural farmhouse where he was born, on the outskirts of Parnell, IA. Fred is, by any measure, a big man—standing 6 feet 2 inches tall and weighing over 200 pounds. Twelve years ago, Fred had a major stroke—a stroke that left half of his body paralyzed, and left Fred confined to a wheelchair in a home not built with wheelchairs in mind.

After the stroke, Fred's wife did not want to put him in a care facility and dreaded the thought of leaving the home where he was born. So at 76 years old and without any help, Mrs. Jones assumed the burden of lifting Fred up and down the 6-inch step from the front door of their home to the sidewalk below.

When Faith in Action was notified of the situation, the dedicated staff found resources to pay for the materials and a volunteer to install a wheelchair ramp for the elderly couple. Now Mrs. Jones is able to maneuver her husband in and out of their home with ease. Fred can now go to church, enjoy the sunshine, and watch his grandchildren play.

As an Iowan and a Member of Congress, I greatly appreciate the selfless acts of charity done by Faith in Action volunteers and I look forward to even greater accomplishments in the years to come.

THE CRISIS IN HAITI

Mr. DODD. Mr. President, I rise today to speak about the lamentable situation in Haiti. After suffering political upheaval and widespread violence over the last few months, the Haitian people are now facing even more desperate circumstances.

During the last 2 weeks of May, floods devastated major sections of Haiti and parts of the Dominican Republic. The death toll in Haiti has reached nearly 2,600 people not including the missing and medical personnel expect that number to climb higher as the waters recede and reclamation efforts become possible.

In the immediate aftermath of the catastrophe, aid workers, Haitian officials, and foreign troops—including U.S. soldiers scrambled to prevent the crisis from worsening. They have been delivering emergency supplies of food and water, building temporary housing, and working to prevent the spread of disease.

I am concerned, however, by reports that the efforts are sorely under-funded

and risk being overwhelmed by the sheer size of the disaster. Doctors are struggling to combat outbreaks of malaria and dengue, and the New York Times reports that aid workers were using mules for transportation, since the U.S. military is no longer airlifting aid to isolated communities. The U.S. Agency for International Development has pledged \$50,000 in emergency aid, but we ought to do much more.

I wish I could say that the devastation was solely an act of nature, but it was not. Had these same rains fallen over Florida, the damage would have been much less severe and the death toll would be in the single digits instead of the thousands.

As my esteemed colleague from Ohio, Senator DEWINE, described in his statement on June 1st, Haiti's economic underdevelopment exacerbated the effects of the flooding. Widespread deforestation of hillsides meant that, when the rains came, there was nothing to hold the soil in place. The subsequent landslides devastated many of the villages. And without roads and emergency services, there was no way to evacuate the Haitians who were caught in the path of the floods.

Yet the devastation is not over. For the tens of thousands of Haitians who were left homeless, whose crops were destroyed, and whose communities were razed by the floodwaters, the next few months will be a struggle between life and death.

It pains me to say that the floods are only the most recent setback for a country already struggling to overcome economic and social crises. Haiti, by most measures, is the poorest country in the hemisphere with nearly 80 percent of its population living in abject poverty. The life expectancy has fallen to 52 years and more than 6 percent of Haitians are infected with the HIV virus.

In recent years Haiti has become a major trans-shipment point for cocaine trafficking. The State Department, in its annual Narcotics Control Strategy Report, describes Haiti as, "a key conduit for drug traffickers transporting cocaine from South America to the United States." Sadly, more than half of all Haitians are unable to participate in the formal economy, and, as a consequence, many of these people turn to the illegal drug trade as a source of income.

This influx of drug money into Haiti has further eroded the rule-of-law. Corruption now seems endemic in even the highest levels of government and private enterprise.

Not all the news from Haiti is bad, however. Recently, I had the opportunity to meet with Prime Minister [Gerard] Latortue while he was visiting Washington. I was impressed by his vision for Haiti, and encouraged by the efforts he has made since his appointment to stabilize the country. During our meeting, Prime Minister Latortue emphasized the need for major improvements in infrastructure, particu-

larly in the power sector. He also stressed to me the urgent need for capacity-building amongst government institutions which cannot carry out their responsibilities without the trained personnel and resources to do so.

Unfortunately the Bush Administration has been extremely slow to respond to Prime Minister Latortue's requests for aid. President Aristide was deposed in late February, but it wasn't until late May—nearly 3 months later—that the Administration finally cobbled together a \$160 million aid package for Haiti—\$60 million of which was already in the pipeline before the February departure of President Aristide. I'm afraid that the amount they have allotted, about \$20 per Haitian, is too little, too late.

This lukewarm response only continues a trend in the Bush administration's policy toward Haiti. Since 2000, the U.S. Government has taken a shameful, hands-off approach to Haiti, turning its back on a growing crisis. After the Bush administration facilitated President Aristide's removal, citing his incompetence as the justification for supporting the involuntary departure of an elected president, one would have hoped that there was some sense of obligation on the part of the administration to do right by the Haitian people. Sadly, that sense of obligation is minimal at best, even in the face of the natural disaster that has recently befallen the Haitian people.

So what should the U.S. response be to the political, economic, and social crises in Haiti? Should we continue the hands-off approach of the Bush administration? Or, should we offer Haiti a hand up? I believe that we have a special obligation to help Haiti, and I'm offering three proposals for how we can do that.

First, we should halt the removal of the 1,900 U.S. troops currently stationed in Haiti. Prime Minister Latortue has asked that we extend the U.S. military presence, fearing that U.S. troops are the only ones capable of dissuading further violence. The original decision to depart upon the arrival of the Brazilian-led UN Peacekeeping force was made before last month's flooding—and before the destabilizing effects of the current humanitarian crisis.

Let me take a moment here to talk about the security situation. Many have speculated about the re-establishment of the Haitian Army. Because this is ultimately a question for the Haitian people to answer—especially in light of the Haitian Army's history of abuses—I believe that the decision should be left for the next elected government to address. Given the scarcity of resources and the absence of a specific national security mission, I for one believe that reestablishing the army is a luxury that Haiti can ill afford. In any event, the current caretaker government should concern itself with establishing domestic stability

and security, preparing for elections, and, most critical of all, working to end the current humanitarian crisis.

The Bush administration can help the LaTortue government move forward with its stated agenda by working with the international community and the Haitian National Police to establish the rule of law. Clearly reestablishing security requires that we step up efforts to disarm all the various illegal armed groups. So far less than 200 arms have been rounded up. And the focus seems to be solely on Aristide supporters, not the armed thugs who have perpetrated a reign of terror throughout the countryside for the last nine months.

Next, in accordance with the resolution agreed upon by the Organization of American States, we must undertake to foster full restoration of democracy in Haiti. Our first obligation is to get to the bottom of allegations that the United States participated in the ouster of President Aristide. The OAS has just begun an investigation into the matter, and we should cooperate fully to dispel any myths or redress any errors.

My last proposal is for a \$1 billion emergency aid package for Haiti over the next 4 years. If we are willing to devote hundreds of billions of dollars for the endeavors in Afghanistan and Iraq—half a world away—doesn't it make sense for us to devote a fraction of that amount to assist one of our nearest and most impoverished neighbors? Announcing a multiyear aid package, we demonstrate our commitment to the Haitian people and also serve as an example for others in the international community to offer up multiyear assistance packages as well. As UN Secretary General Kofi Annan stated in March, getting it right in Haiti this time, "means keeping international attention and resources engaged for the long haul."

It is long past time for the United States to address the mounting crisis in Haiti. It is time for us to offer the Haitian people a hand up. Toward that end, I believe that this body should give serious consideration to making a down payment on the \$1 billion aid proposal for Haiti in the FY 2005 Appropriations process when the Senate deals with this legislation. Only through concrete and meaningful U.S. assistance on a scale commensurate with Haiti's needs can we ever hope to reverse the misery, suffering, and hopelessness that have become commonplace in the lives of close neighbors—8 million of them.

IN MEMORY OF RAY CHARLES

Mrs. BOXER. Mr. President, I take this moment to reflect on the life of Ray Charles. I feel lucky to have grown up with the innovative and passionate sounds of Ray Charles unique mix of gospel and blues. His work took listeners from the depths of his profound sadness to cathartic heights in his love

and performance of music. Ray Charles will be deeply missed by fans and fellow musicians alike.

Ray Charles Robinson was born September 23, 1930, in Albany, GA. The child of a mechanic, Bailey Robinson, and a saw-mill worker, Aretha, Ray Charles' life was a lesson in triumph over adversity. A young Charles began losing his sight at infancy and was clinically blind by the age of 7. Two years prior his brother had accidentally drowned, and by age 15, Charles lost both parents and had no immediate family. Alone, sad, and orphaned, Ray Charles went to live with friends of his mother, nearly 200 miles away from home, in Jacksonville, FL.

Charles lived in Jacksonville for a year developing his talent as a musician before moving to Orlando, supporting himself, a 16 year-old orphan, with only his seemingly dauntless optimism to help him along. Work was sparse, and income was never guaranteed. He left Florida, looking for a new city with potential for new challenges, took what little money he had and made a five-day bus trip to Seattle, WA. It was here that Charles formed his first group, a small jazz group called the McSon Trio.

Emulating the vocal styles of his musical idol, Nat King Cole, Ray Charles formed a rhythm and blues group led by vocalist Ruth Brown. The band played night after night in smoky back-alley clubs throughout Seattle's red light district. As Charles reflected in his autobiography, these clubs consisted of little more than a big room with a band in one corner, liquor in the other, and a shoulder to shoulder audience. Playing in Seattle, Ray Charles met Quincy Jones, showing the young future producer how to write and compose music. It was the beginning of a lifelong friendship.

It was on the West Coast that Ray Charles' famous career truly began to develop. Swingtime Records signed Charles in Seattle, giving him his first break in the music business. And in 1950, the company flew him to Los Angeles to record. In 1952 his contract was purchased by Atlantic Records, and by 1954, Charles had formed his own band recording his unique raw and tortured mix of gospel and rhythm n' blues a style that would later be known as soul music—with songs like "I Got A Woman," and the later "Georgia on my Mind," with ABC-Paramount. Ray Charles, the innovator and musical provocateur was being called "The Genius" by contemporaries and playing at such famous venues as Carnegie Hall and the Newport Jazz Festival.

In the 1960s, Ray Charles would truly come to call Los Angeles home. He had his own studio designed and built by long time friend and business manager Joe Adams, and recorded his first album, "Country and Western Meets Rhythm and Blues," at the studio in 1965. Charles would continue his recording career here for nearly 40 years until his death, and once said of the

studio, "I love this place. It's the only home I've truly had for most of my professional career, and I would never leave it." Charles would go on to produce numerous hits in his Los Angeles location, continuing an impressive career that would later earn him 12 Grammy Awards between 1960 and 1966, including best R&B recording for three consecutive years. The Ray Charles Studio was designated a Los Angeles historical landmark on April 30, 2004 thanks to the hard work of Councilman Martin Ludlow and City Council President Alex Padilla. Ray Charles made his last public appearance in Los Angeles at his studio as the site was designated a city historic landmark, a living testament to Charles' 40 years living and working in the city of Los Angeles.

The music of Ray Charles was a deep and powerful reflection of the American musical tradition. From troubled origins in the south that would characterize the blues aspect of Charles' lyrical style to the gospel influences present in so many of Charles' hits, soul music encapsulates so much of the American story. From racism, to heartache, to loneliness, to redemption, Ray Charles was writing the songs that could only come from an American artist and influencing a generation of musicians. He was at once expert composer, rock and roller, long-sufferer, genius, and poet. He was, to say the least, one of America's greatest artists, and will be deeply missed.

TRIBUTE TO ASSISTANT SECRETARY JESSE ROBERSON

Mr. ALLARD. Mr. President, on Tuesday, June 15, I received some very sad news, that Jessie Roberson had announced her resignation as the Assistant Secretary for Environmental Management at the Department of Energy effective July 15.

I have known Jessie since I was first elected to the Senate in 1996. At the time she was the site manager for the Rocky Flats Environmental Technology site in my State of Colorado. Through our common interest at Rocky Flats, I got to know her quite well. She not only impressed me with her depth of knowledge but here innovation and determination in making sure that Rocky Flats would be one of the first major DOE sites to close. Under her watch from 1996 to 1999, the Rocky Flats closure date went from 2015 to 2006. I know it was her leadership that moved this ambitious plan forward.

When President Bush was elected in 2000, it was that same leadership and determination that convinced me to put her name forward knowing that she would be the best person for the job of Assistant Secretary for Environmental Management at the Department. And I can say, unequivocally, that she has not disappointed.

When I met with her shortly after being confirmed, I told her that the en-

vironmental management program was broken and in need of major reforms. I added that this would not be easy and that some people would not like the changes which are necessary to make the program work. She agreed and she promised that she would work hard to effect change. While she later told me that it has not been easy, she kept the course and has transformed the program from one of just motion to true action. The Department has made tremendous progress in getting sites closer to closure. I can honestly say that what some people did not think possible 3 years ago is closer to happening; and that is that sites will be closing. I can only attribute this to the leadership of this extraordinary woman.

During her confirmation hearing before the Senate Energy and Natural Resources Committee on May 16, I inserted into the RECORD a Denver Post editorial entitled "Roberson a Top Flight Pick" and quoted one line from the editorial. It said:

The Department's environmental management job is in fact one of the toughest positions in the Federal Government. There likely is not a better person around to tackle the task, than Jessie Roberson.

I believed that statement then, and after 3 years on the job, she proved that statement to be true.

She has done a tremendous job not just for President Bush and Secretary Abraham, but for the entire country. She has made our country safer by accelerating the cleanup of some of the world's most dangerous places. She is making sure that our children and grandchildren are not going to have to bear the burden of these contaminated sites.

While I am saddened to see her leave her post at the Department, I know that she has nothing but the brightest future ahead of her. I am proud to call her my friend and I wish Jessie and her daughter Jessica all the best. Thank you, Jessie Roberson, for your service.

60TH ANNIVERSARY OF GI BILL

Ms. CANTWELL. Mr. President, I rise today to commemorate the 60th anniversary of one of the most important bills to ever be passed by this body, the GI bill. Just like the recent remembrance of D-Day and the unveiling of the World War II memorial, the passage of this landmark legislation is another part of the World War II legacy.

Sixty years ago today, President Roosevelt signed into law the "Service-men's Readjustment Act of 1944." That bill created unprecedented access to education and training for tens of thousands of military members returning home after World War II.

Even before the War ended, Congress and the Administration were preparing for the return of over 15 million men and women serving in the armed services. Without intervention, those 15 million would have no jobs or opportunities when they returned home. To

prevent postwar depression caused by mass unemployment, an agency within the Administration, called the National Resource Planning Board, recommended a set of programs to provide education, training and employment for returning soldiers. One of these recommendations became the Servicemen's Readjustment Act of 1944, which was supported by the American Legion and other veteran organizations, and was unanimously passed both chambers of Congress. President Franklin D. Roosevelt signed it into law on June 22, 1944.

This bill became known as GI bill, and it provided a range of benefits to help veterans reintegrate into the workforce and American society. It provided education and training; loan guaranty for a home, farm, or business; unemployment pay for up to a year; job-search assistance; building materials for veterans hospitals; and military review of dishonorable discharges.

Veterans were entitled to one year of full-time education or training, plus a period equal to their time in service, up to four years. This program had a tremendous impact on college enrollment in this country. In fact, in 1947, which was the peak year of the program, veterans accounted for 49 percent of college enrollment.

Out of a veteran population of 15.4 million, just over half—7.8 million—were trained, including 2.23 million in college, 3.48 million in other schools, 1.4 million in on-job training, and 690,000 in farm training.

Millions of veterans, who would have flooded the labor market, instead opted for education, which reduced joblessness during the demobilization period. When they did enter the labor market, most were better prepared to contribute to the support of their families and society.

The GI bill created an initiative called the Local Veterans Employment Representative Program, or LVER. This program hired wartime veterans to work in employment centers across the U.S. to help other veterans secure counseling and employment. For 60 years, the LVER Program has helped veterans find jobs, training, and education. It has become an integral part of employment services and has been instrumental in helping veterans to resume normal lives after returning.

Today, LVER staff in my home State include some of the best-trained worker placement and retraining experts in the country. For Washington, which has one of the largest concentrations of servicemen and women, veterans, and their families, this is very important. Within my state, Pierce County has a particularly high active military and veteran population, and the LVER program there is a terrific example of what is possible.

The Pierce County LVER program ensures that over 25,000 veterans receive the vital re-employment support they deserve. With staff assistance, they write resumes that reflect the

breadth of their experience and skills, draft cover letters, and research employment opportunities. Veterans are also provided with leads on specific jobs and employers who seek the unique skills and talents of experienced veterans.

Staff of the Pierce County LVER also set up three major job fairs each year, which attract over more than 6,000 veterans and employers each year. The LVER office coordinates its activities with over 500 local, State, and national employers, giving veterans access to a unique national support network. The LVER staff includes men and women like Sam Mack, Sal Cantu, Tanya Brewster, and Vicki Bishop, all of whom are decorated veterans who are proud to support their fellow servicemen and women.

Sal Cantu, a resident of Pierce County, epitomizes the dedication and commitment of his colleagues. Sal coordinated a national effort to not only celebrate the GI bill, but specifically to recognize the LVER program and its tremendous impact on service members who seek meaningful employment once they return home. More than 25 State governors wrote letters lauding the efforts of the Pierce County LVER staff to recognize the significant impact of their program.

Most importantly, Sal, a 40 percent-disabled Vietnam era veteran, knows how to build trusting and lasting relationships with veterans. For him, helping veterans chart the next stage of their careers is a labor of love. I am extremely proud of the many men and women like Sal who, after serving honorably in the military, have made it their second career to support and help locate jobs for their fellow veterans.

Yet before the Servicemen's Readjustment Act of 1944, the United States did not provide employment or vocational services for veterans upon their completion of military service. Since the first GI bill, there have been five subsequent programs enacted to provide benefits to veterans of other military conflicts—from the Korean conflict to the war in Iraq. The most recent bill, the Montgomery GI bill enacted in 1985, is the largest contemporary program providing education benefits to military personnel. All enlisted soldiers and veterans are eligible for between \$7,500 and \$35,000 in educational aid. This program has attracted men and women into the armed forces by helping to pay for college. Today, over 90 percent of those who enter the military enroll in the Montgomery GI bill program.

As we reflect on the history and success of the GI bill, we should consider how this program can translate to all Americans. The spirit of the GI bill that in exchange for contributing to society, this country should help individuals invest in themselves also holds true for those who have not served in the military. As the cost of education rises, many low- and middle-income students—whether they have served in

the military or not need help covering educational expenses. We need to make the same kind of investment in the human capital, not just of our veterans returning from Iraq and Afghanistan, but for all Americans. We need a GI bill for all Americans.

In the ever-changing global economy, the success of our companies depends on adaptability and innovation. As a result, we must change the way we educate and prepare workers to compete in the global economy. When national leaders were confronted with fundamental changes in the size and nature of the country's workforce following World War II, they stepped up to address the challenge with the GI bill. The economic sea changes we face today demand a similar response.

To maintain our economic competitiveness, we must keep up with the demand for skilled workers across all sectors of the economy. The changing economy has increased the demand for a college degree. In February, the Bureau of Labor Statistics reported that 6 of the 10 fastest-growing occupations in the U.S. economy require an associate's degree or bachelor's degree, and that all ten of these careers will require some type of skills training. By 2010, 40 percent of all job growth will require some form of post-secondary education.

To keep pace in the new, knowledge- and information-based economy, it's imperative that we equip our workforce with the skills to succeed in high-wage jobs. If we fail, those who lack skills will fall further and further behind, imperiling not just their individual futures, but America's ability to compete in the global economy.

It is the responsibility of this body to return to the level of investment in higher education that this country made 60 years ago. We do need a new GI bill for all Americans, and I, for one, intend to fight to make the idea of universal post-secondary education come to fruition.

ADDITIONAL STATEMENTS

TRIBUTE TO TOBY GROSSMAN

• Mr. BINGAMAN. Mr. President, I take this opportunity to share with the Senate the memory of an extraordinary woman. Toby Grossman, of Albuquerque, NM, lost her battle with cancer on May 25, 2004. Her husband, Leonard, and daughter, Jennifer, survive her.

Ms. Grossman was the senior staff attorney at the American Indian Law Center, Inc., the oldest existing Indian-controlled and operated legal and public policy organization in the country, having joined the center in 1971. She also served as the administrator of the Southwest Intertribal Court of Appeals, a voluntary court of appeals available to tribes in Arizona, Colorado, New Mexico, and west Texas.

Ms. Grossman was a graduate of the University of Florida and the University of New Mexico School of Law, and

a member of the New Mexico Bar. A lecturer at the UNM School of Law, she regularly taught courses on the Indian Child Welfare Act and tribal government and she co-taught a course on Tribal-State relations. Ms. Grossman was a superb teacher. In class, she was serious, probing and enthusiastic. She set high standards for herself and expected the same from her students. Yet she was also friendly and caring in her relations with students, many of whom she remained close with long after they graduated.

She specialized in child welfare issues including child abuse and neglect, drafting of tribal codes, as well as assisting several tribes in negotiating Tribal-State agreements on the Indian Child Welfare Act and trained social workers and judges on child welfare law. She also led the American Indian Law Center team that developed the first Model Children's Code for tribes, as well as Model Codes for Child Welfare, Adoption, and Prevention of Elder Abuse. In these and other areas, local, State and tribal governments, as well as attorneys, frequently sought her advice and services.

Ms. Grossman's private life was no less exemplary than her public work. She was a good friend and was devoted to her synagogue. Despite the long hours she devoted to her professional and civic activities, she always found time to be a loving wife, mother, and friend.

Toby Grossman was a remarkable person, who significantly influenced the law, her many students, the New Mexico legal community, and all of Indian country. Her work has improved the lives of numerous Indian children, most of whom she never had a chance to meet. She leaves behind an indelible mark on this world.●

CELEBRATING ST. CROIX ISLAND, MAINE

● Ms. SNOWE. Mr. President, today I mark the celebration of the 400th anniversary of the settlement of St. Croix Island, in Calais, ME, one of the earliest European settlements in North America. It is an extraordinary site with a remarkable story to tell—a narrative overflowing with adventure, courage, risk, and a very special friendship between the Native tribes who peopled this region long ago and the pioneers who crossed an ocean in pursuit of opportunity, prosperity, and freedom.

There is an old Sioux proverb: "A People without History is like Wind in the Buffalo Grass." When expedition leader Pierre Dugua and his company of 120 settlers arrived on the shores of what is now the great State of Maine, the First Peoples, the "People of the Early Dawn," or Wabanaki, had already occupied these lands for thousands of years. Nevertheless, they came out of their villages with open hearts and open hands to welcome Dugua and the 120 noblemen, artisans, and soldiers

who had sailed with Dugua across the Atlantic from their native France.

At that moment, the European settlers began to craft a new history for this place they called "Acadie." But it is important to remember that the Native Peoples, the Wabanaki, had already authored their own, proud history of North America, although it has taken us, in some cases, all too many years to understand that. That the Native tribes welcomed Dugua and his followers speaks to one of the noblest aspects of human nature—an instinct to reach out to men and women in need, to our human neighbors, whenever we can help, whether they live across the street, or across the world. Certainly, that generous impulse lives on today among the members of the Passamaquoddy Nation.

The historical bond between the Native Peoples is also one to celebrate and remember. The lives and personalities of the people in this region continue to be shaped, generation after generation, by the history, legends, and purpose forever invested in this coastal stone and soil by Pierre Dugua and his companions, one of whom was the great Samuel Champlain, the "Father of Canada." Let us not forget that 23 of the original French settlers remain interred on this island today, making this a sacred, as well as a historical, site.

After four centuries, the settlement of St. Croix remains a powerful lesson, a parable that is not only about a journey of a thousand miles, beginning with a single step, but also about the extraordinary ability of diverse cultures to support and enrich one another, and, in the end, to create new cultures, new peoples who bring unique and singular strengths to the never-ending, universal campaign to build a peaceful and prosperous world.●

TRIBUTE TO REVEREND BOBBY WELCH

● Mr. SESSIONS. Mr. President, I would like to take this opportunity to recognize Reverend Bobby Welch, a native of Fort Payne, AL. Recently, Reverend Welch was elected President of the 16.3 million member Southern Baptist Convention. A 1965 graduate of Jacksonville State University, Reverend Welch entered the Army and was sent to fight in Vietnam, where he demonstrated his bravery and commitment to our great Nation. Reverend Welch was shot by Vietnamese forces and left for dead on the battlefield. This United States paratrooper, Ranger, and Green Beret received a Bronze Star and Purple Heart in recognition of his courage and service.

The achievements of Reverend Welch demonstrate the leadership qualities of Americans. Reverend Welch has upheld the principles of our Founding Fathers through his military service to his country. His courage in harm's way mirrors that of the brave soldiers who now risk their lives daily for the maintenance of democracy.

After his military service, he chose to answer his highest call, the Christian ministry. He has poured himself into that calling with conviction and zeal, and the harvest has been tremendous. He now pastors the 4,000 member First Baptist Church of Daytona Beach, FL. And, now, his Southern Baptist Convention has chosen him as their president.

His leadership of this vibrant and growing denomination will continue its success in touching the lives of millions who are struggling to find meaning in their lives. This denomination every day provides aid, comfort, purpose, and hope to people that are hurting and in need. They help those who are sick and dying, those with marital problems, those in jail, those with alcohol and drug problems. They sanctify marriage, celebrate births, and provide solace at times of death and loss. They further these goals through a worldwide ministry. They provide specific advice and financial help and a vision of an new and better life in Christ. That's what they do—and they do it every day. And they do it without government aid or direction. They do it also with fidelity, as they understand it, to the Word contained in the Holy Scriptures. Faithfulness to righteous living, even in times of corruption and excess, has always been a cornerstone of the Baptist way and it has benefitted our Nation in far more ways than we can list. So, it is appropriate that we pause a moment to recognize Reverend Welch and his life and the many contributions of the Baptist denomination he leads.●

TRIBUTE TO DAVID HENRY, SR. AND DAVID HENRY, JR.

● Mr. SESSIONS. Mr. President, I wish to recount a special discovery made recently in south Georgia by a Birmingham constituent of mine. The discovery was of a letter dated April 8, 1943, that was sent from a 24-year-old Alabama soldier serving in North Africa to his newborn son back home. A world war was raging and the letter's author, David Henry, Sr., of Roanoke, AL, was concerned that he might never get to see his newborn son. It is a special letter, indeed, sent from another continent and reflecting the essential values and life's lessons that Mr. Henry wanted to impart to his 3-month-old son, David Henry, Jr. Among other things, the letter tells young David about the value of choosing work you enjoy, developing a love of reading, finding a hobby, and guarding against greed and selfishness.

Fortunately, Mr. Henry, Sr., survived the war and returned home to his wife and young son. The letter and the penned wisdom, however, has lain dormant for more than 60 years. Mr. Henry, Jr., discovered the letter recently while cleaning out his parents' house in south Georgia. Mr. Henry's dad died this past February. Mr. Henry sent me a copy of his father's letter,

urging that it be used in some productive way. I found the lessons and wisdom in the letter profound, and as relevant today as they were in 1943. I forwarded the letter to The Birmingham News, which ran a timely and touching Page 1 story on May 29, 2004, over the Memorial Day weekend.

Written far away from his home and loved ones, Mr. Henry, Sr.'s, letter truly reflects the thoughts of a young man wise beyond his years. I ask consent that the letter and the accompanying newspaper article by Birmingham News reporter Carla Crowder be printed in the RECORD, so that all can benefit from its timeless wisdom.

The material follows:

(North Africa, April 8, 1943)

"My Dear Son:

"This is the first letter your dad has ever written you, and I expect it will be the last until I see you. Today you are almost three months old. Tomorrow will be your birthday, and I can only say 'Happy birthday, son.'

"When you were born I was a long, long way from your mother doing my little part toward preserving the freedom of our country. Had there been no war, nothing could have kept me from being with your mother on January the ninth. There was a war, though, and I am glad that I can say that I had a part toward making our country a safe place so that our mothers can live in peace and comfort.

"There are lots of things I have learned in the past few years, things that I would like for you to know and things that I am sure you will find to be true as you grow older.

"If I were asked to make an eleventh commandment I think I should say, 'Thou shall not be selfish.' You will find as the years roll by that it is very hard to keep from being selfish. In this greedy world of ours we run over each other trying to get, we know not what, but with the idea that we must get it before the other fellow does. We do not know when we have enough. We never want to turn anything loose, even if we do not need it. We always want more if we have no place to put it. I think that the first lesson toward happiness is to learn to share what you have with some one else.

"I should like for my son to know how to work and to enjoy it. I think that the secret toward learning to like to work is to believe that you can do your job just a little better than anyone else. I think that every successful man enjoys hard, strenuous outside work as much or maybe more than the office. Start early, learn to cut wood, learn the art of rolling a wheelbarrow or how to handle a hoe. Take long walks. Like through wooded country and by all means never miss a rabbit hunt.

"Begin early to read. Always have something in your pocket to read while waiting on a bus or while trying to go to sleep. Reading is knowledge and knowledge is success.

"Until you are one hundred years old, never be without a hobby. If you are interested in woodwork, then you shall have a shop before you are 10 years of age. If you are interested in radio, then you shall have any type of equipment to tinker with that you wish. Gather information from every source possible. Gather reading material from every place where you might find it. What you learn from your hobbies goes a long way toward your success in life.

"Learn early to make friends. Always remember that you cannot buy real friendship. Remember that a real friend is one of the most valuable possessions a person may have. Learn new names, new faces, facts about people. Learn to really know people.

"There is quite a bit of difference between saving and being selfish. If a person should throw something away, and you come along and save it until you need it, than that would be saving. If you have something you do not need and you throw it away, even though you know someone else might be able to use it, then you are being selfish. Learn to appraise an article, and if it has a value, then save it. Remember what it is and where it is, so that when you or someone else needs it you will be able to find it. Learn to save money. Put it where it can be used. Do not hide it so that no one else can use it.

"One of the most important things that I want my boy to know is that it always pays to be honest. No matter how small or how insignificant, it always pays to tell the truth. Be honest, do not take that which does not belong to you. Do not bother with other people's things. However deep you get in trouble, go to someone, tell them the truth and you will find the easiest way out.

"Very soon you will make a trip from Birmingham to Roanoke, a distance of about one hundred and twenty miles. That is farther away from home than I was until I was about 19 years old. You will learn as you grow older that a city is a city whether it is in Alabama, Georgia, New York, England or Africa. I want you to travel early, to find out what it took me years to find out, that every country has its hills and dells, its rivers and branches, its oceans and seas. That you can find all sorts of people in any country, city or village. Never-the-less I want you to travel a lot, see the world. See for yourself that all people want a chance for freedom, a chance to worship as they choose, a chance to talk as they choose and a chance to earn their own living.

"Your loving Dad"

DAVID P. HENRY.

[From the Birmingham News, May 29, 2004]
AFTER 61 YEARS, SON GETS LESSONS TO LIVE
BY

(By Carla Crowder)

He was only 24 years old, a small-town Alabama man serving in North Africa in World War II. But David Henry Sr. had a lot to say back then as he penned a letter to his newborn son.

"This is the first letter your dad has ever written to you, and I expect it will be the last until I see you. Today you are almost three months old," the letter begins.

It is dated April 8, 1943, Sixth-one years later, David Henry Jr. read his father's words.

For the first time.

His mother apparently forgot to pass the letter along, and he had no idea it existed. "With seven children, and us moving around a lot, a lot of things just got packed up, pictures and letters," he said.

What he uncovered while going through his parents' belongings last fall revealed a young father wise beyond his years.

"It meant so much to me to be able to hear what he thought was important, and the things he mentioned in there contained such wisdom for a young person," said Henry Jr., 61, who works as director of information services for American Cast Iron Pipe Co. "It was so important, I just want to share it with the world."

Henry Jr. was a toddler when his father returned from the war. His parents had grown up in Roanoke in Randolph County, but lived throughout the Southeast while his father was in the military.

The 1943 letter extols the value of honesty, friendship and hard work, as might be expected. But it goes much further.

"You will find as the years roll by that it is very hard to keep from being selfish. In

this greedy world of ours, we run over each other trying to get, we know not what, but with the idea that we must get it before the other fellow does . . . I think the first lesson toward happiness is to learn to share what you have with someone else," his father wrote.

This advice was no surprise, Henry Jr. said.

His father once dropped the price of some property he was selling, right at closing time, much to the surprise of the buyer and the lawyers in the room. "I feel like I'm overcharging you," he told the buyer.

After his father retired from the Air Force and the U.S. Postal Service, he began cutting limbs and trees, "big old water oak trees," down in southwest Georgia where he lived. He charged next to nothing. "He probably cut trees for half the widows in Bainbridge," his son said.

There's a bit of that in the letter as well.

"Learn to cut wood, learn the art of rolling a wheelbarrow or how to handle a hoe. Take long walks. Hike through rough wooded country," it reads.

He encouraged his boy to never be without a hobby. Henry Jr. loves photography.

He encouraged travel.

"You will learn as you grow older that a city is a city whether it is in Alabama, Georgia, New York, England or Africa," it says. "See for yourself that all people want a chance for freedom, a chance to worship as they choose, a chance to talk as they choose and a chance to earn their own living."

Henry Jr. took that advice as well. He recently returned from a trip to Morocco, where he tried to seek out places his father might have been during the war.

By the time the letter was discovered, the hopeful young airman was dying from dementia in an assisted living center.

Though the son could not determine how much his father understood, he had to tell him what he'd found.

"But he didn't understand, he couldn't communicate with me about it," Henry Jr. said. "I did talk to him about it, and I thanked him for it."

He read the letter at his father's funeral in February, and everyone in the church told him "that's exactly how dad was."●

PRESIDENT'S REPORT TO CONGRESS CONCERNING THE SECRETARY OF COMMERCE'S CERTIFICATION UNDER SECTION 8 OF THE FISHERMAN'S PROTECTIVE ACT OF 1967, AS AMENDED (THE "PELLE AMENDMENT") (22 U.S.C. 1978) THAT ICELAND HAS CONDUCTED WHALING ACTIVITIES THAT DIMINISH THE EFFECTIVENESS OF THE INTERNATIONAL WHALING COMMISSION (IWC) CONSERVATION PROGRAM—PM 88

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

On June 16, 2004, Secretary of Commerce Donald Evans certified under section 8 of the Fisherman's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. 1978), that Iceland has conducted whaling activities

that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. This message constitutes my report to the Congress consistent with subsection (b) of the Pelly Amendment.

The certification of the Secretary of Commerce is the first against Iceland for its lethal research whaling program. In 2003, Iceland announced that it would begin a lethal research whaling program and planned to take 250 minke, fin, and sei whales for research purposes. The United States expressed strong opposition to Iceland's decision, in keeping with our longstanding policy against lethal research whaling. Iceland's proposal was criticized at the June 2003 IWC Annual Meeting by a majority of members of the IWC Scientific Committee, and the IWC passed a resolution that urged Iceland not to commence this program. In addition, the United States, along with 22 other nations, issued a joint protest asking Iceland to halt the program immediately. The United States believes the Icelandic research whaling program is of questionable scientific validity. Scientific data relevant to the management of whale stocks can be collected by non-lethal techniques. Since Iceland's 2003 announcement, Iceland reduced its proposed take to 38 minke whales and in implementing its lethal research program, killed 36 whales last year. For this year, Iceland has proposed taking 25 minke whales. The United States welcomes this decision to reduce the take and to limit it to minke whales, and we appreciate Iceland's constructive work with the United States at the IWC on a variety of whaling issues. These adjustments, however, do not change our assessment that Iceland's lethal research whaling program is of questionable scientific validity and diminishes the effectiveness of the IWC's conservation program.

In his letter of June 16, 2004, Secretary Evans expressed his concern for these actions, and I share these concerns. I also concur in his recommendation that the use of trade sanctions is not the course of action needed to resolve our current differences with Iceland over research whaling activities. Accordingly, I am not directing the Secretary of the Treasury to impose trade sanctions on Icelandic products for the whaling activities that led to certification by the Secretary of Commerce. However, to ensure that this issue continues to receive the highest level of attention, I am directing U.S. delegations attending future bilateral meetings with Iceland regarding whaling issues to raise our concerns and seek ways to halt these whaling actions. I am also directing the Secretaries of State and Commerce to keep this situation under close review and to continue to work with Iceland to encourage it to cease its lethal scientific research whaling activities. I believe these diplomatic efforts hold the most promise of effecting change in Iceland's

research whaling program, and do not believe that imposing import prohibitions would further our objectives.

GEORGE W. BUSH.
THE WHITE HOUSE, June 22, 2004.

MESSAGES FROM THE HOUSE

At 2:53 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 884. An act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, and 326-K, and for other purposes.

H.R. 3706. An act to adjust the boundary of the John Muir National Historic Site, and for other purposes.

H.R. 3751. An act to require that the Office of Personnel Management study current practices under which dental, vision, and hearing benefits are made available to Federal employees, annuitants, and other classes of individuals, and to require that the Office also present options and recommendations relating to how additional dental, vision, and hearing benefits could be made so available.

H.R. 3797. An act to authorize improvements in the operations of the government of the District of Columbia, and for other purposes.

H.R. 3846. An act to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

H.R. 4222. An act to designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the "Newell George Post Office Building".

H.R. 4363. An act to facilitate self-help housing homeownership opportunities.

H.R. 4471. An act to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996.

The message also announced that the House has passed the following bill, without amendment:

S. 2017. An act to designate the United States courthouse and post office building located at 93 Atocha Street in Ponce, Puerto Rico, as the "Luis A. Ferre United States Courthouse and Post Office Building".

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 450. Concurrent resolution recognizing the 40th anniversary of the day civil rights organizers Andrew Goodman, James Chaney, and Michael Schwerner gave their lives in the struggle to guarantee the right to vote for every citizen of the United States and encouraging all Americans to observe the anniversary of the deaths of the 3 men by committing themselves to ensuring equal rights, equal opportunities, and equal justice for all people.

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4589. An act to reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2004, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3706. An act to adjust the boundary of the John Muir National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3751. An act to require that the Office of Personnel Management study current practices under which dental, vision, and hearing benefits are made available to Federal employees, annuitants, and other classes of individuals, and to require that the Office also present options and recommendations relating to how additional dental, vision, and hearing benefits could be made so available; to the Committee on Governmental Affairs.

H.R. 3797. An act to authorize improvements in the operations of the government of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

H.R. 4222. An act to designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the "Newell George Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4363. An act to facilitate self-help housing homeownership opportunities; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4471. An act to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996; to the Committee on Indian Affairs with instructions that when the Committee reports, the bill be referred pursuant to the order of May 27, 1988, to the Committee on Banking, Housing, and Urban Affairs for a period not to exceed 60 days.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 450. Concurrent resolution recognizing the 40th anniversary of the day civil rights organizers Andrew Goodman, James Chaney, and Michael Schwerner gave their lives in the struggle to guarantee the right to vote for every citizen of the United States and encouraging all Americans to observe the anniversary of the deaths of the 3 men by committing themselves to ensuring equal rights, equal opportunities, and equal justice for all people; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 884. An act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, and 326-K, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Thomas Fingar, of Virginia, to be an Assistant Secretary of State (Intelligence and Research).

*James R. Kunder, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Edward Brehm, of Minnesota, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 2007.

*Adam Marc Lindemann, of New York, to be Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2005.

*Ann M. Corkery, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

*Benjamin A. Gilman, of New York, to be a Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

*Walid Maalouf, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

*Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

*Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Deputy Representative of the United States of America to the United Nations.

*John C. Danforth, of Missouri, to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations.

*Joseph D. Stafford III, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Joseph Dewey Stafford, III.
Post: U.S. Embassy, Abidjan.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses: David M. Stafford, none.
4. Parents: Joseph D. Stafford, Jr., none; Barbara S. Stafford (deceased).
5. Grandparents: Joseph D. Stafford (deceased); Lela Stafford (deceased).
6. Brothers and Spouses: Richard M. Stafford (unmarried), none.
7. Sisters and Spouses: Janet E. Stafford (unmarried), none.

*Lewis W. Lucke, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by

them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Lewis William Lucke.
Post: Swaziland.
Contributions, amount, date, and donee:
1. Self, \$250, 7/99, George W. Bush.
2. Spouse: Joy Lucke, \$250, 7/99, George W. Bush.
3. Children and Spouses: Allison Lucke, 0; Lindsay Lucke, 0; Austin Lucke, 0;
4. Parents: Everett Lucke, deceased; Elizabeth K. Lucke, deceased;
5. Grandparents: Elizabeth King, deceased; Hurley H. King, deceased; Everett Lucke, deceased; Leanne D. Lucke, deceased.
6. Brothers and Spouses: NA.
7. Sisters and Spouses: Anne J. Lucke, 0; Don Robertson, 0.

*R. Niels Marquardt, of California, a Career Member of the Senior Foreign Service, Class of Counselor to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self, \$25, 2002, Mike Clancy.
2. Spouse: Judith Marquardt, none.
3. Children and Spouses: Kaia, Kelsey, Torrin and Yannika (all single), none.
4. Parents: Robert Marquardt (deceased); Helen Marquardt, none.
5. Grandparents: Frank and Gurina Marquardt (both deceased); Charles and Inga Nielsen (both deceased).
6. Brothers and Spouses: no brothers.
7. Sisters and Spouses: Inga (and Jack) Canfield, approximately \$10,000 in total contributed over past ten years to Al Gore, Bill Clinton, Louise Capps, the DNC, and John Vasconcelles; Lucinda (and Gene) Scalco, none.

*Charles P. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Nominee: Charles Parker Ries.
Post: Greece.
(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self, none.
2. Spouse: Marcie B. Ries, none.
3. Children: Alexander B. Ries, none; Meredith B. Ries, none.
4. Parents: Al Ries (father), none; Lois Faison Cope (mother), \$200, 2000, Bush for President Committee; \$380, 2001, Hawaii Republican Committee; \$120, 2003, National Republican Senate Fund; \$100, 2003, Republican National Committee.
5. Grandparents, none.
6. Brothers and Spouses, none.
7. Sisters and Spouses: Dorothy Meder (sister) and Stephen Meder (brother in law), none.

Barbara Tien (sister) and Lee Tien (brother in law), \$120, 2000, California Peace Action

League; \$100, 2000, CALPRIG; \$100, 2002, Doctors without Borders; \$200, 2003, Howard Dean; \$115, 2003, Forests Forever; \$120, 2003, Environment C.A.; \$100, 2003, Doctors without Borders; \$35, 2004, Human Rights Campaign; \$180, 2004, CA Peace Action League.

Laura Ries (half sister) and Scott Brown (brother in law), \$50, 2003, Georgia Republican Party.

*James B. Cunningham, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Representative of the United States of America to the Vienna Office of the United Nations, with the rank of Ambassador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: James B. Cunningham.
Post: Representative to Vienna Office of the UN.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children: Emma, none; Abigail, none.
4. Parents: Blair, deceased; Julia, deceased.
5. Grandparents: Knowles, deceased; Cunningham, deceased.
6. Brothers and Spouses: Thomas, none; William, estranged, believe none.
7. Sisters and Spouses: Carol, none; Kathleen, deceased.

*Suzanne Hale, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Suzanne Hale.
Post: Federated States of Micronesia.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse: Hunter D. Hale, none. However, in order to obtain mailings in presidential election years, my husband, who is an independent, has sent small amounts of money (less than \$35 each) to both the Republican and Democratic National Committees.
3. Children and Spouses: Hunter A. Hale, none; Mary Catherine Hale, none.
4. Parents: John Kreitner, deceased; Vivian Kreitner, none.
5. Grandparents: Albert and Aline Kreitner, deceased; Glen and Martha Marks, deceased.
6. Brothers and spouses, none.
7. Sisters and spouses: Nancy McIver, none; Joanne Fitzgerald, none; Richard Fitzgerald, none.

*William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Bolivarian Republic of Venezuela.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self, none.

2. Spouse: Kristie A. Kenney, none.
 3. Children, none.
 4. Parents: Father—Albert R. Brownfield, Jr., \$25, 1999, Repub. Party of Texas; \$100, 9/99, John McCain Campaign; \$50, 10/99, Ronald Reagan Found.; \$50, 10/99, RNC; \$150, 2000, Repub. Party of Terry County, Texas; \$30, 2000, Repub. Party of Texas; \$100, 7/00, RNC; \$50, 8/00, Ronald Reagan Found.; \$100, 10/00, Ronald Reagan Found.; \$50, 10/00, RNC; \$35, 10/00, Bush Pres. Campaign; \$50, 12/00, RNC; \$50, 1/01, RNC; \$30, 1/01, Ronald Reagan Found.; \$30, 4/01, Ronald Reagan Found.; \$50, 2001, Repub. Party of Texas; \$100, 2002, Repub. Party of Texas; \$100, 2002, RNC; \$100, 2002, Governor of Texas; \$100, 2003, Repub. Party of Texas; \$100, 2003, RNC; \$100, 2003, George W. Bush.

Mother—Virginia E. Brownfield; Deceased.
 5. Grandparents: All deceased for more than 30 years, none.

6. Brothers and spouses: Albert R. Brownfield, III, \$150, 1999, Democratic Party, Shenandoah County, Virginia; \$150, 2000, Democratic Party, Shenandoah Cnty, VA; \$100, 2002, Demo. Party of VA; \$100, 2002, Demo. Party of VA; \$100, 2003, Demo. Party of VA.

Brother's spouse—Marcia T. Brownfield, none.

7. Sisters and spouses: Barbara B. Rushing and Francis W. Rushing, none; Anne Elizabeth Fay and Christopher W. Fay, none.

*Ralph Leo Boyce, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Ralph L. Boyce, Jr.
 Post: Ambassador to Thailand.
 Contributions, amount, date, and donee:
 1. Self, none.
 2. Spouse: Kathryn S. Boyce, none.
 3. Children and Spouses: Matthew S. Boyce, none; Heather Boyce (spouse), none; Erin Boyce, none.
 4. Parents: deceased.
 5. Grandparents: deceased.
 6. Brothers and Spouses: none.
 7. Sisters and Spouses: Elizabeth Emory, none; Robert Emory (spouse), none.

*John Marshall Evans, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Marshall Evans.
 Post: AEP to Armenia.
 Contributions, Amount, Date, Donee:
 1. Self, none.
 2. Spouse: Donna Evans, none.
 3. Children and Spouses: Mr. and Mrs. Alexander Drosin (daughter Jennifer), none.
 4. Parents: Margaret M. Evans; Frank B. Evans III (deceased), none.
 5. Grandparents: Mr. and Mrs. Harold T. Moore (deceased); Mr. and Mrs. Frank B. Evans, Jr. (deceased), none.
 6. Brothers and Spouses: none.
 7. Sisters and Spouses: Mr. and Mrs. J. Kennerly Davis (sister Ann Evans Davis);

\$195, 2003, RNC; \$175, 2003, Bush/Cheney/04; \$65, 2002, RNC; \$20, 2001, RNC; \$130, 2000, RNC.

*John D. Rood, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Darrell Rood.
 Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self: \$1,000.00, 3/9/00, Crenshaw, Ander via Crenshaw for Congress; \$5,000.00, 3/15/00, Americans Nationwide Dedicated to Electing Republicans PAC (ANDER); 3/31/00; Gallagher, Tom via Tom Gallagher for U.S. Senate (JDR Note 1); —\$1,000.00, 5/10/00, Gallagher, Tom via Tom Gallagher for U.S. Senate (JDR Note 2); \$1,000.00, 5/10/00, Gallagher, Tom via Tom Gallagher for U.S. Senate (JDR Note 3); —\$1,000.00, 6/16/00, Gallagher, Tom via Tom Gallagher for U.S. Senate (JDR Note 4); \$1,000.00; 8/9/00, Republican National Committee; \$1,000.00, 8/15/00, Lazio, Rick A. via Lazio 2000, Inc. (New York); \$1,000.00, 8/15/00, National Republican Congressional Committee Contributions; \$10,000.00, 8/31/00, Republican National Committee; \$1,000.00, 9/6/00, Carroll, Jennifer Sandra via Friends of Jennifer Carroll (JDR Note 5); \$1,000.00, 9/29/00, McCollum, Bill via Bill McCollum for U.S. Senate; \$700.00, 1/8/01, Republican Party of Florida; \$250.00, 2/2/01, Republican Party of Florida; \$12,252.00, 2/8/01, RNC State Elections Committee; \$500.00, 10/10/01, Warner, John William via Senator John Warner Committee (Virginia); \$500.00, 10/19/01, Harris, Katherine via Friends of Katherine Harris; \$1,000.00, 6/25/02, Brown-Waite, Virginia via Brown-Waite for Congress; \$500.00, 9/23/02, National Apartment Association PAC (NAA PAC); \$1,000.00, 10/15/02, Alexander, Lamar via Alexander for Senate, Inc. (Tennessee); \$5,000.00, 10/18/02, Republican Party of Florida—Federal Campaign Committee; \$250.00, 11/5/02, Diaz-Balart, Mario via Mario Diaz-Balart for Congress; \$1,000.00, 6/23/03, Crenshaw, Ander via Crenshaw for Congress; \$2,000.00, 6/30/03, Bush, George W. via Bush-Cheney '04, Inc.; \$1,000.00, 7/28/03, Hunter, Duncan via Committee to Re-Elect Congressman Duncan Hunter (California); \$2,000.00, 9/26/03, Byrd, Johnnie B. via Friends of Johnnie Byrd; \$2,000.00, 9/30/03, Kilmer, Bev via Bev Kilmer for Congress; \$25,000.00, 11/13/03, Republican National Committee—Presidential Trust; \$1,000.00, 12/15/03, Byrd, Johnnie B. via Friends of Johnnie Byrd (JDR Note 6); \$500.00, 12/15/03, National Apartment Association PAC (NAA PAC); \$2,000.00, 1/14/04, Mel Martinez Campaign; \$1,000.00, 1/15/04, Weldon, Dave via Dave Weldon Campaign; \$25,000.00, 3/25/04, Republican National Committee—Presidential Trust.

JDR Note 1—Contribution for primary election.

JDR Note 2—Primary contribution was subtracted and redesignated for general election.

JDR Note 3—Redesignated funds from primary election.

JDR Note 4—Contribution refund by campaign.

JDR Note 5—Federal records show an additional contribution made by "John D. Rood". However, this contribution was actually made by Jamie A. Rood and incorrectly attributed to John D. Rood. See Jamie Rood, below.

JDR Note 6—Redesignated for general election.

2. Spouse: Jamie A. Rood, \$1,000.00, 6/30/00, Crenshaw, Ander via Crenshaw for Congress Campaign; \$500.00, 10/2/00, Carroll, Jennifer Sandra via Friends of Jennifer Carroll (JAR Note 1); \$1,000.00, 10/29/01, Crenshaw, Ander via Crenshaw for Congress Campaign; \$500.00, 11/15/01, Nelson, Bill via Bill Nelson for U.S. Senate; \$1,000.00, 10/15/02, Alexander, Lamar via Alexander for Senate, Inc.; \$1,000.00, 6/30/03, Bush, George W. via Bush-Cheney '04, Inc.; \$2,000.00, 9/26/03, Byrd, Johnnie B. via Friends of Johnnie Byrd; \$1,000.00, 3/25/04, Byrd, Johnnie B. via Friends of Johnnie Byrd (JAR Note 2); \$25,000.00, 3/25/04, Republican National Committee—Presidential Trust.

JAR Note 1—This contribution was erroneously attributed to John D. Rood instead of Jamie A. Rood. Check records indicate that Jamie A. Rood signed the contribution check.

JAR Note 2—For general election.

3. Children and spouses: Jennifer A. Rood (daughter), \$2,000.00, 9/15/03, George W. Bush via Bush-Cheney '04, Inc.; \$2,000.00, 9/26/03, Johnnie B. Byrd via Friends of Johnnie Byrd. Christopher J. Rood (son), \$2,000.00, 9/26/03, Johnnie B. Byrd via Friends of Johnnie Byrd.
 4. Parents: Karol K. Rood (mother), \$2,000.00, 6/30/03, George W. Bush via Bush-Cheney '04, Inc.

J. Neil Rood (father), \$2,000.00, 6/30/03, George W. Bush via Bush-Cheney '04, Inc.

5. Grandparents: John William Rood (paternal grandfather—deceased); Marie Gertrude Rood (paternal grandmother—deceased); Henry Richard Peterson (maternal grandfather—deceased); Corinne Foley Peterson (maternal grandmother—deceased).

6. Brothers and spouses: none.

7. Sisters and spouses: Sheryl K. Roach (sister), none during reporting period.

Sheila Rae Barnette (sister), none during reporting period.

Jack T. Barnette (spouse of Sheila Rae Barnette), none during reporting period.

Frank A. Roach (spouse of Sheryl K. Roach), none during reporting period.

*Tom C. Korologos, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Nominee: Tom Chris Korologos.

Post: U.S. Ambassador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self: 1/28/2000, \$1,000, Friends of Conrad Burns; 2/8/2000, \$1,000, Mike Bilirakis for Congress; 2/15/2000, \$1,000, Ashcroft for Senate; 3/31/2000, \$1,000, McCollum for Senate; 4/4/2000, \$1,000, The Bluegrass Committee — \$1,000 (Refund); 4/4/2000, \$1,000, Fitzgerald for Senate; 4/26/2000, \$1,000, Straight Talk America (McCain); —\$1,000 (Refund); 6/20/2000, \$1,000, Lazio for Senate; 6/27/2000, \$1,000, Otter for Idaho (Craig); 10/27/2000, \$1,000, RNC.

3/12/2001, \$1,000, Ohio's 17 Star PAC (DeWine); 3/30/2001, \$1,000, America's Foundation FKA Fight PAC; 3/30/2001, \$1,000, Mike Bilirakis for Congress; 4/18/2001, \$1,000, Northern Lights PAC (Stevens); 4/25/2001, \$1,000, Stevens for Senate (W/N); 4/25/2001, \$1,000, Wayne Allard for U.S. Senate (W/N); 4/25/2001, \$1,000, Collins for Senator (W/N); 4/25/2001, \$1,000, Friends of Sessions Senate Cte (W/N); 4/25/2001, \$1,000, Sen John Warner Cte (W/N); 4/25/2001, \$1,000, Friends of Jim Inhofe (W/N); 4/25/2001, \$1,000, McConnell Senate Cte '02 (W/N); 4/25/2001, \$1,000, People for Pete Domenici (W/N); 4/25/2001, \$1,000, Friends for Phil Gramm (W/N); 4/25/2001, \$1,000, Pat Roberts

for Senate (W/N); 4/25/2001, \$1,000, Gordon Smith for U.S. Senate (W/N); 5/16/2001, \$1,000, Bob Smith for Senate; 6/4/2001, \$1,000, Citizens for Cochran; 6/4/2001, \$1,000, Coleman for Sen. Explor. Cte.; 6/25/2001, \$1,000, Inouye for Senate; 11/6/2001, \$1,000, Lindsey Graham for USS; 10/26/2001, \$1,000, Senate Majority Fund; 10/9/2001, \$1,000, Friends for Phil Gramm —\$1,000 (Refund); 10/26/2001, \$1,000, Hutchinson for Senate; 2001, \$1,000, Natl Republican Sen Dinner; 11/2/2001, \$1,000, Dole 2002 Committee (NC); 11/5/2001, \$1,000, NRSC; 2/1/2001, \$4,000 Republican National Cte; —\$4,000 (Refund).

11/20/2002, \$1,000, America's Foundation FKA Fight PAC; 1/5/2002, \$1,000, Bennett Election Committee.

1/29/2003, \$1,000, Shelby for U.S. Senate; 1/29/2003, \$1,000, Preserving America's Traditions (PATPAC); 2/19/2003, \$1,000, Northern Lights PAC (Stevens); 3/17/2003, \$1,000, Northern Lights PAC (Stevens); 3/12/2003, \$1,000, America's Foundation FKA Fight PAC; 3/17/2003, \$1,000, Hatch Election Committee; 4/22/2003, \$1,000, Bennett Election Committee (W/N); 4/22/2003, \$1,000, Missourians for Kit Bond (W/N); 4/22/2003, \$1,000, Brownback for U.S. Senate (W/N); 4/22/2003, \$1,000, Citizens for Bunning (W/N); 4/22/2003, \$1,000, Campbell for Colorado (W/N); 4/22/2003, \$1,000, Crapo for U.S. Senate (W/N); 4/22/2003, \$1,000, Grassley Committee (W/N); 4/22/2003, \$1,000, Judd Gregg Committee (W/N); 4/22/2003, \$1,000, Lisa Murkowski for Senate (W/N); 4/22/2003, \$1,000, Friends of Sen Nickles (W/N); 4/22/2003, \$1,000, Citizens for Arlen Specter (W/N); 1/8/2003, \$1,500, DC Republican Committee Federal Campaign Committee; 12/5/2003, \$5,000, RNC Chairman's Advisory Council.

3.2004, \$2,000, Jack Ryan for U.S. Senate.

2. Spouse: Ann McLaughlin Korologos; 2000—None.

11/26/2001, \$1,000, Stevens for Senate Committee; 7/5/2001, \$1,500, DC Republican Committee Federal Campaign Committee; 12/10/2001, \$1,000, Santorum 2000; 10/26/2001, \$1,000, Senate Majority Fund; 12/10/2001, \$1,000, Jim Hansen Committee; 12/12/2001, \$1,000, John Thune for South Dakota.

12/6/2002, \$1,000, Suzanne Terrell for Senate Campaign; 2/5/2002, \$1,500, DC Republican Committee Federal Campaign Committee; 3/19/2002, \$1,000, America's Foundation FKA Fight PAC; 5/6/2002, \$300, Connie Morella For Congress Committee; 3/8/2002, \$1,000, Elizabeth Dole Committee, Inc.; 6/29/2002, \$1,000, Oxley for Congress; 5/8/2002, \$1,000, McConnell Senate Committee '08 (W/N); 5/8/2002, \$1,000, Gordon Smith for U.S. Senate 2002 Inc. (W/N); 5/22/2002, \$1,000, Fiesta for John Cornyn (W/N); 3/11/2002, \$1,000, Mike Bilirakis for Congress.

5/21/2003, \$500, Friends for Jane Harman 2004; 6/18/2003, \$1,000, Northern Lights PAC (Stevens); 8/26/2003, \$500, Friends of John McCain; 7/25/2003, \$500, McCain for Senate '04.

3.2004, \$2,000, Jack Ryan for U.S. Senate.

3. Children and Spouses: Philip Korologos (Son); 1/26/2000, \$1,000, McCain 2000 Inc.; 11/7/2000, \$1,000, Straight Talk America; 2000, \$1,000, Senator Ashcroft for Senate; 10/9/2000, \$1,000, Abraham Senate 2000; 11/3/2000, \$1,000, Bluegrass Committee; 2002, \$500, Elizabeth Dole for Senate 2002; 2003, \$500, Bush/Cheney. Lisa Korologos (Daughter-in-law): None.

Dr. Leroy Bazzarone (Son-in-Law): 10/17/2000, \$1,000, Abraham Senate 2000.

Ann Bazzarone (daughter): None.

Paula Cale (daughter): None.

4. Parents: Irene C. & Chris T. Korologos, (deceased).

5. Grandparents: Michael & Elaine Kolendrianos, (deceased), Tom & Gregoria Korologos, (deceased).

6. Brothers and Spouses: Mike Korologos (brother): None. Myrlene Korologos (sister-in-law), (deceased)

7. Sisters and Spouses: Gregoria Korologos (sister): 2003, \$25, Republican National Committee; 2003, \$25, Bush-Cheney.

Elaine Guin (sister): None.

Baird Guin (brother-in-law): None.

*Charles Graves Untermeyer, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Charles G. (Chase) Untermeyer.

Post: Ambassador to Qatar.

Contributions, amount, date, and donee:

1. Self: \$500, 30 Dec 1999, John Culberson, U.S. House (Texas); \$250, 10 Nov 2001, Rob Portman, U.S. House (Ohio); \$1,000, 24 Jun 2002, KPAC (Sen. Kay Hutchinson of Texas); \$200, 3 Jul 2002, Katherine Harris, US House (Florida); \$1,000, 16 Jul 2002, Good Government Fund (GOP senators); \$500, 13 Aug 2002, Jeb Hensarling, US House (Texas); \$250, 19 Aug 2002, Chris Bell, US House (Texas); \$250, 30 Aug 2002, Sheila Jackson Lee, US House (Texas); \$1,000, 17 Sep 2002, John Cornyn, U.S. senator (Texas); \$250, 17 Sep 2002, John Carter, U.S. House (Texas); \$250, 19 Feb 2003, Chris Bell, U.S. House (Texas); \$250, 20 Feb 2003, John Carter, U.S. House (Texas); \$500, 2 Apr 2003, John Culberson, U.S. House (Texas); \$250, 18 Apr 2003, Chris Bell, U.S. House (Texas); \$500, 3 May 2003, Tom DeLay, U.S. House (Texas); \$2,000, 17 Jul 2003, Bush-Cheney '04; \$1,000, 3 Dec 2003, John Culberson, U.S. House (Texas); \$500, 24 Feb 2004, Kevin Brady, U.S. House (Texas); \$1,000, 25 Feb 2004, Chris Bell, U.S. House (Texas).

2. Spouse: Diana C.K. Untermeyer, \$75, 14 Feb 2000, Peter Wareing, U.S. House (Texas); \$250, 14 Feb 2000, Kay Hutchinson, U.S. senator (Texas); \$100, 18 March 2000, Peter Wareing, U.S. House (Texas); \$250, 19 Nov 2000, Bush-Cheney Recount; \$2,000, 24 Feb 2004, Bush-Cheney '04.

3. Children and Spouses: Ellyson Chase Untermeyer (unmarried), None.

4. Parents: Dewitt Edward Untermeyer (died 1979); Marguerite G. Untermeyer, None.

5. Grandparents: Charles S. Untermeyer (died 1923); Florence L. Untermeyer (died 1984); Dr. Alonzo Graves (died 1941); Mattie L. Graves (died 1951).

6. Brothers and Spouses: None.

7. Sisters and Spouses: Margot U. Lingold, None; Dr. John C. Lingold (died 2002), None; Emily F. Untermeyer, None; Bruce Baskett, None.

Note: In addition to the above, I was treasurer of the Compaq Citizenship Fund, a PAC affiliated with Compaq Computer Corporation, from its founding in 1994 until 2000. In this capacity, I wrote numerous checks to candidates at local, state, and federal levels. I shall be happy to produce this list (also available on the FEC website).

*Douglas L. McElhaney, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bosnia and Herzegovina.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Douglas L. McElhaney.

Post: Bosnia-Herzegovina Ambassador.

Contributions, amount, date, and donee:

1. Self, 0.

2. Spouse, N/A.

3. Children and Spouses, N/A.

4. Parents: Ordell McElhaney, 0; Clayone McElhaney, 0.

5. Grandparents, N/A.

6. Brothers and Spouses, N/A.

7. Sisters and Spouses: Claudia Leonardi (sister), 0; Leo Leonardi (spouse), \$200.00, 1988, Lawton Chiles.

*Aldona Wos, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Aldona Z. Wos, M.D.

Post: Ambassador to Estonia.

Contributions, Date, Donee, and Amount:

1. Self: 10/10/2000, North Carolina Victory 2000, 1,000.00; 10/10/2000, Presidential Trust, 10,000.00; 11/13/2001, Dole 2002 Committee, 1,000.00; 11/19/2001, Dole 2002 Committee, 1,000.00; 1/14/2002, RNC, 25.00; 4/29/2002, North Carolina Republican Party, 1,000.00; 7/18/2002, Sixth District GOP; 1,000.00; 3/8/2003, North Carolina Republican Party, 1,000.00; 4/24/2003, The Richard Burr Committee, 2,000.00; 5/31/2003, Bush-Cheney 2004, 2,000,000; 7/31/03, North Carolina Medical Society PAC, 100.00; 11/17/03, North Carolina Medical Society PAC, 250.00; 1/5/2004, Hayes for Congress, 2,000.00; 2/24/2004, NC Bank Pac, 250.00; 3/17/2004, RNC—Presidential Trust, 25,000.00.

2. Spouse: Louis DeJoy; 2/7/2000, George W. Bush, 2,000.00; 9/15/2000, Republican Housing Majority Committee, 1,000.00; 10/10/2000, NC Victory 2000, 1,000.00; 10/10/2000, Presidential Trust, 10,000.00; 3/14/2001, Republican Party, 5,000.00; 11/13/01, Dole 2002 Committee, 1,000.00; 11/9/01, Dole 2002 Committee, 1,000.00; 2/5/2002, Republican Eagles, 15,000.00; 2/25/2002, North Carolina Salute To George Bush, 100,000.00; 3/29/2002, North Carolina Republican Party, 5,000.00; 4/17/2002, Coble For Congress, 1,000.00; 7/18/2002, Dole North Carolina Victory Committee, 25,000.00; 4/1/2003, North Carolina Republican Party, 5,000.00; 4/24/2003, The Committee For Richard Burr, 2,000.00; 5/30/2003, Bush-Cheney 2004, 2,000.00; 1/6/2004, Hayes For Congress, 2,000.00; 3/17/2004, RNC—Presidential Trust, 25,000.00.

3. Children and Spouses: Ania DeJoy—Minor, No Contributions; Andrew DeJoy—Minor, No Contributions.

4. Parents: Mother—Wanda K. Wos; 10/29/01, Elizabeth Dole Committee, Inc., 1000.00; 7/25/02, Dole North Carolina Victory Committee, Inc., 1,000.00; 11/17/03, Bush-Cheney 2004, 2,000.00. Father—Paul Z. Wos; 4/5/00, Keyes 2000, 25.00; 4/10/00, Republic National Committee, 20.00; 6/15/00, Republican Presidential Committee, 25.00; 10/15/00, Republican National Committee, 20.00; 8/8/01, Alan Keyes, 50.00; 10/29/01, Dole 2002 Committee, Inc., 100.00; 11/20/01, Dole 2002 Committee, Inc., 300.00; 5/10/02, 2002 Republican National Committee, 25.00; 7/25/02, Dole North Carolina Victory Committee, 1,000.00; 5/2/03, Republican National Committee, 25.00; 6/17/03, Republican National Committee, 25.00; 10/2/03, Republican National Committee, 25.00; 11/17/03, Bush-Cheney 2004, 2,000.00.

5. Grandparents—Deceased.

6. Brothers and Spouses: Brother—Konrad Wos, 10/29/01, Dole 2002 Committee, Inc., 100.00; 07/25/02, Elizabeth Dole Committee, Inc., 1,000.00. Sister-in-Law—Meggan Wos; 07/25/02, Elizabeth Dole Committee, Inc., 1,000.00.

7. Sisters and spouses—N/A.

*William T. Monroe, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the

United States of America to the Kingdom of Bahrain.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: William T. Monroe.

Post: Ambassador—Manama, Bahrain.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and Spouses: Adrian P. Monroe, None; Stephen L. Monroe, None; Tiphaine J. Monroe, None.

4. Parents: Andrew P. Monroe, \$50, 06/2002, Republican National Committee; Mary Elizabeth Monroe, None.

5. Grandparents: Andrew P. Monroe, Deceased; Elizabeth M. Monroe, Deceased; Frederic H. McCoun, Deceased; Cella D. McCoun, Deceased.

6. Brothers and Spouses: Stephen M. Monroe, None; Eleanor B. Meredith, None.

7. Sisters and Spouses: Margaret D. Zellinger, None; David Zellinger, None.

*John C. Danforth, of Missouri, to be the Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John C. Danforth.

Post: U.S. Ambassador to the United Nations.

Contributions, date, donee, and amount:

1. Self and spouse: John and Sally Danforth, May 17, 2000, George W. Bush for President, \$1,000; June 2, 2000, Lincoln Chafee-U.S. Senate, \$2,000; June 8, 2000, Missourians for Todd Graves, \$250; June 26, 2000, ROYB (Roy Blunt campaign), \$1,000; August 27, 2000, McLean for Senate, \$1,000; March 4, 2002, Jim Talent for Senate, \$2,000; March 11, 2002, Susan Collins for Senate, \$1,000; March 15, 2002, Christy Ferguson for Congress Committee, \$1,000; April 29, 2002, Thune for Senate, \$1,000; May 7, 2002, Coleman for Senate, \$1,000; June 28, 2002, First Senatorial District Committee, \$200; October 2, 2002, Dole for Senate, \$1,000; January 31, 2003, Missourians for Kit Bond, \$2,000; February 14, 2003, Missourians for Matt Blunt, \$2,350; March 3, 2003, Missourians for Kit Bond, \$4,000; June 17, 2003, Bush-Cheney '04 Inc., \$4,000; December 19, 2003, Zane Yates for Congress, \$250; February 10, 2004, ROYB (Roy Blunt), \$1,000; March 30, 2004, Citizens for Arlen Specter, \$2,000.

2. Children and spouses: Eleanor and Allan Ivie (daughter/son-in-law), 2003, Bush-Cheney '04 Inc., \$2,000; 2003, Missourians for Kit Bond, \$4,000; 2001, Bob Coleman, \$500; 2000, Lincoln Chafee for U.S. Senate, \$1,000.

Mary and Tom Stillman (daughter/son-in-law), 2004, Missourians for Kit Bond, \$4,000; 2004, Diane Tebelius (Wash. State), \$1,000; 2003, Bush-Cheney '04 Inc., \$4,000; 2000, Lincoln Chafee for Senate, \$2,000.00;

Johannes and Dorothy Burlin (son-in-law/daughter)—Statement by Dorothy and Johannes Burlin: To the best of our recollection, we have given financial support to the following people, campaigns, committees, and/or parties since 2000: Christopher Bond—U.S. Senate; George W. Bush—Presidential race; Lincoln Chafee—U.S. Senate race; National Republican party.

Johanna and Tim Root (daughter/son-in-law), July 2003, Bush-Cheney '04, Inc., \$4,000; 2000, Gore for President, \$500.

Tom Danforth (son), 2004, Missourians for Kit Bond, \$2,000.

3. Brothers and Spouses: William and Elizabeth Danforth (brother/sister-in-law), May 15, 2000, Hamilton for Congress, \$1,000; July 26, 2000, Ted House for Congress Cmte., \$500; July 26, 2000, McNary for Congress, \$500; November 8, 2000, Citizens for Clean Water, Safe Parks, \$5,000; January 24, 2001, Citizens for Ted House, \$200; April 10, 2002, Thune for South Dakota, \$2,000; May 10, 2002, Coleman for U.S. Senate, \$2,000; June 18, 2002, Citizens for Ted House, \$200; April 7, 2003, Citizens for Ted House, \$100; May 27, 2003, Senate Majority Fund, \$5,000; May 29, 2003, Todd Akin for Congress, \$1,000; June, 2003, Bush-Cheney '04, Inc., \$4,000; September 17, 2003, Stoll 2004, \$500; October 30, 2003, Citizens for Jack Jackson, \$300; December 9, 2003, Todd Akin for Congress, \$3,000; April 27, 2004, Bennett Election Committee, \$1,000.

Carolyn Danforth (sister-in-law), 2002, Republican National Cmte., \$1,000; 2002, Jim Talent for Senate, \$1,000; 2002, Jim Talent for Senate, \$1,000; 2002, Republican National Cmte., \$1,000; 2003, Bush-Cheney '04, Inc., \$2,000; 2003, Missourians for Kit Bond, \$1,000.

Donald Danforth, Jr. (brother)—deceased.

4. Sisters and spouses: Dorothy D. Miller (sister), none; Jefferson L. Miller (brother-in-law), none.

*James B. Cunningham, of Pennsylvania, a Career Member to be Senior Foreign Service, Class of Career Minister, to be Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: James B. Cunningham.

Post: Representative to Vienna Office of the UN.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and Spouses: Emma, None; Abigail, None.

4. Parents: Blair, Deceased; Julia, Deceased.

5. Grandparents: Grandparents Knowles, Deceased; Grandparents Cunningham, Deceased.

6. Brothers and Spouses: Thomas, None; William, estranged, believe none.

7. Sisters and Spouses: Carol, None; Kathleen, Deceased.

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

Foreign Service nominations beginning Robert H. Hanson and ending Donna M. Blair, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 18, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to

respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8067. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sulfuryl Fluoride; Pesticide Tolerance; Technical Correction" (FRL#7346-1) received on June 17, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8068. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenylproxiomate; Pesticide Tolerance" (FRL#7362-9) received on June 17, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8069. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's First Annual Report on Plutonium Storage at the Department of Energy's Savannah River Site; to the Committee on Armed Services.

EC-8070. A communication from the Secretary of the Air Force, transmitting, pursuant to law, the report of a Program Acquisition Unit Cost (PAUC) Breach relative to the Space Based Infrared System (SBIRS); to the Committee on Armed Services.

EC-8071. A communication from the Office of the General Counsel, Selective Service System, transmitting, pursuant to law, the report of the designation of acting officer and a change in previously submitted reported information for the position of Director, Selective Service System, received on June 21, 2004; to the Committee on Armed Services.

EC-8072. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the report of the approval of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC-8073. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contract Period for Task and Delivery Order Contracts" (DFARS Case 2003-D097) received on June 21, 2004; to the Committee on Armed Services.

EC-8074. A communication from the Chief Counsel, Bureau of the Public Debt, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 352, Offering of United States Savings Bonds, Series HH" received on June 17, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-8075. A communication from the Deputy Secretary, Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Guidance Regarding the Public Company Accounting Oversight Board's Auditing and Related Professional Practice Standard No. 1" (Release 33-8422) received on June 17, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-8076. A communication from the Chief Counsel, Office of Foreign Assets Control,

Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 515—Cuban Assets Control Regulations" received on June 15, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-8077. A communication from the Assistant Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Supervised Investment Bank Holding Companies" (RIN3235-A197) received on June 14, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-8078. A communication from the Assistant Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Alternative Net Capital Requirements for Broker-Dealers That Are Part of Consolidated Supervised Entities" received on June 14, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-8079. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Budget and Programs, Department of Transportation, received on June 21, 2004; to the Committee on Commerce, Science, and Transportation.

EC-8080. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report on the "Status of Fisheries of the United States"; to the Committee on Commerce, Science, and Transportation.

EC-8081. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, a draft of proposed legislation entitled the "Hopewell Culture National Historical Park Boundary Adjustment Act"; to the Committee on Energy and Natural Resources.

EC-8082. A communication from the Assistant Secretary of Fish, Wildlife, and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled the "Cumberland Island National Seashore Wilderness Revision Act of 2003"; to the Committee on Energy and Natural Resources.

EC-8083. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of \$100,000,000 to Japan; to the Committee on Foreign Relations.

EC-8084. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license for the export of defense articles or defense services in the amount of \$100,000,000 to Japan; to the Committee on Foreign Relations.

EC-8085. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license agreement for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 to Pakistan; to the Committee on Foreign Relations.

EC-8086. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of \$100,000,000 to Japan; to the Committee on Foreign Relations.

EC-8087. A communication from the Assistant Secretary for Legislative Affairs, De-

partment of State, transmitting, pursuant to law, the report of Presidential Determination 2004-36 relative to the suspension of limitations under the Jerusalem Embassy Act; to the Committee on Foreign Relations.

EC-8088. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Health Care Fraud and Abuse Data Collection Program; Technical Revisions to Healthcare Integrity and Protection Data Bank Data Collection Activities" (RIN0991-AB31) received on June 21, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-8089. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the "Prosecuting Remedies and Tools Against the Exploitation of Children (PROTECT) Act of 2003"; to the Committee on the Judiciary.

EC-8090. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "Columbia Gorge Viticultural Area" (RIN1513-AC81) received on June 9, 2004; to the Committee on the Judiciary.

EC-8091. A communication from the National Legislative Commission, The American Legion, transmitting, pursuant to law, a report relative to the American Legion's financial condition as of December 31, 2003; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 2559. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KYL:

S. 2555. A bill to authorize the use of judicially enforceable subpoenas in terrorism investigations; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. LIEBERMAN):

S. 2556. A bill to amend chapter 7 of title 31, United States Code, to provide for a technology assessment capability within the General Accounting Office, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURBIN (for himself, Mr. REED, Mr. LAUTENBERG, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. CORZINE, Ms. MIKULSKI, Mr. LEVIN, Mr. SCHUMER, Mrs. CLINTON, and Mrs. BOXER):

S. 2557. A bill to amend the Consolidated Appropriations Act, 2004, to strike the restriction on use of funds that requires a 24-hour time limit for destroying identifying information submitted in relation to a firearm background check; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 2558. A bill to improve the health of Americans and reduce health care costs by

reorienting the Nation's health care system towards prevention, wellness, and self care; to the Committee on Finance.

By Mr. STEVENS:

S. 2559. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. FRIST, Mr. DASCHLE, Mr. GRAHAM of South Carolina, and Mrs. BOXER):

S. 2560. A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. HAGEL, Mr. DURBIN, Mrs. BOXER, Mr. MCCAIN, Mrs. MURRAY, Mr. LUGAR, Mr. WARNER, Mr. CHAFEE, Ms. SNOWE, and Ms. COLLINS):

S. Res. 387. A resolution commemorating the 40th Anniversary of the Wilderness Act; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. Res. 388. A resolution commemorating the 150th anniversary of the founding of The Pennsylvania State University; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 853

At the request of Mr. KERRY, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Hawaii (Mr. INOUE), the Senator from Maryland (Mr. SARBANES) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 853, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality

of life for persons living with paralysis and other physical disabilities.

S. 1554

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1554, a bill to provide for secondary school reform, and for other purposes.

S. 1684

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1684, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissections performed for the treatment of breast cancer.

S. 1945

At the request of Mr. MCCAIN, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Michigan (Ms. STABENOW) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1962

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1962, a bill to amend the Internal Revenue Code of 1986 to provide for excise tax reform and simplification, and for other purposes.

S. 2328

At the request of Mr. DORGAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 2363

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2529

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2529, a bill to extend and modify the trade benefits under the African Growth and Opportunity Act.

S. 2533

At the request of Ms. MIKULSKI, the names of the Senator from Florida (Mr. NELSON), the Senator from Washington

(Ms. CANTWELL), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), the Senator from Texas (Mrs. HUTCHISON), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2533, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. CON. RES. 72

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 119

At the request of Mr. CAMPBELL, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. RES. 311

At the request of Mr. BROWNBAC, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 385

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. Res. 385, a resolution recognizing and honoring the 40th anniversary of congressional passage of the Civil Rights Act of 1964.

AMENDMENT NO. 3200

At the request of Mr. INHOFE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 3200 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3235

At the request of Mr. BROWNBAC, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of amendment No. 3235 pro-

posed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3280

At the request of Mr. INHOFE, the names of the Senator from Texas (Mr. CORNYN), the Senator from Montana (Mr. BAUCUS), the Senator from California (Mrs. FEINSTEIN), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. BAYH), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. CLINTON), the Senator from Oregon (Mr. SMITH), the Senator from Ohio (Mr. DEWINE), the Senator from Maine (Ms. SNOWE), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of amendment No. 3280 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3315

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3315 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3315 proposed to S. 2400, supra.

AMENDMENT NO. 3327

At the request of Mr. DASCHLE, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of amendment No. 3327 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3328

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 3328 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of

the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3331

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 3331 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3333

At the request of Mr. BYRD, his name was added as a cosponsor of amendment No. 3333 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3355

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 3355 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3377

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of amendment No. 3377 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3399

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 3399 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3409

At the request of Mrs. MURRAY, her name was added as a cosponsor of

amendment No. 3409 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3457

At the request of Mr. BURNS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3457 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—Friday, June 18, 2004

By Mrs. FEINSTEIN:

S. 2549. A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Alfredo Plascencia Lopez and his wife, Maria Del Refugio Plascencia, Mexican nationals who live in the San Bruno area of California.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Plascencias have worked for years to adjust their status through the appropriate legal channels, only to have their efforts thwarted by inattentive legal counsel. Repeatedly, the Plascencias' lawyer refused to return their calls or otherwise communicate with them in anyway. He also failed to forward crucial immigration documents, or even notify the Plascencias that he had them. Because of the poor representation they received, Mr. and Mrs. Plascencia only became aware that they had been ordered to leave the country 15 days prior to their deportation. Although the family was stunned and devastated by this discovery, they acted quickly to secure legitimate counsel and to file the appropriate paperwork to delay their deportation to determine if any other legal action could be taken.

The Plascencias' current date of removal from the United States is set for June 23rd.

For several reasons, it would be tragic for this family to be removed from the United States.

First, since arriving in the United States in 1988, Mr. and Mrs. Plascencia

have proven themselves to be a responsible and civic-minded couple who share our American values of hard work, dedication to family and devotion to community.

Second, Mr. Plascencia has been gainfully employed at Vince's Shellfish for the past 13 years, where his dedication and willingness to learn have propelled him from part-time work to a managerial position. He now oversees the market's entire packaging operation and several employees. The president of the market, in one of the several dozen letters I have received in support of Mr. Plascencia, referred to him as "a valuable and respected employee" who "handles himself in a very professional manner" and serves as "a role model" to other employees. Others who have written to me praising Mr. Plascencia's job performance have referred to him as "gifted," "trusted," "honest," and "reliable."

Third, like her husband, Mrs. Plascencia has distinguished herself as a medical assistant at a Kaiser Permanente hospital in the Bay Area. Not satisfied with working as a maid at a local hotel, Mrs. Plascencia went to school, earned her high school equivalency degree and improved her skills to become a medical assistant. Until her work permit expired last week, Mrs. Plascencia was working in Kaiser Permanente's Oncology Department, where she attended to cancer patients. Those who have written to me in support of Mrs. Plascencia, of which there are several, have described her work as "responsible," "efficient," and "compassionate." In fact, Kaiser Permanente's Director of Internal Medicine, Nurse Rose Carino, wrote to say that Mrs. Plascencia is "an asset to the community and exemplifies the virtues we Americans extol: hardworking, devoted to her family, trustworthy and loyal, [and] involved in her community. She and her family are a solid example of the type of immigrant that America should welcome wholeheartedly." Mrs. Carino went on to write that Mrs. Plascencia is "an excellent employee and role model for her colleagues. She works in a very demanding unit, Oncology, and is valued and depended on by the physicians she works with."

Together, Mr. and Mrs. Plascencia have used their professional successes to realize many of the goals dreamed of by all Americans. They saved up and bought a home. They own a car. They have good health care benefits and they each have begun saving for retirement. They want to send their children to college and give them an even better life.

This legislation is important because it would preserve these achievements and ensure that Mr. and Mrs. Plascencia will be able to make substantive contributions to the community in the future. It is important, also, because of the positive impact it will have on the couple's children, each of whom is a United States citizen and

each of whom is well on their way to becoming productive members of the Bay Area community.

Christina, 13, is the Plascencias' oldest child, and an honor student with a 3.0 grade-point average at Parkside Intermediate School in San Bruno.

Erika, 9, and Alfredo, Jr., 7, are enrolled at Belle Air Elementary, where they have worked hard at their studies and received praise and good grades from their teachers. In fact, last year, the principal of Erika's school recognized her as the "Most Artistic" student in her class. Recently, Erika's teacher, Mrs. Nascon, remarked on a report card, "Erika is a bright spot in my classroom."

The Plascencias' youngest child is 2 year-old Daisy.

Removing Mr. and Mrs. Plascencia from the United States would be tragic for their children. Children who were born in the United States and who through no fault of their own have been thrust into a situation that has the potential to dramatically alter their lives.

It would be especially tragic for the Plascencias' older children—Christina, Erika, and Alfredo—to have to leave the United States. They are old enough to understand that they are leaving their schools, their teachers, their friends and their home. They would leave everything that is familiar to them. Their parents would find themselves in Mexico without a job and without a house. The children would have to acclimate to a different culture, language and way of life.

The only other option would be for Mr. and Mrs. Plascencia to leave their children here with relatives. This separation is a choice which no parents should have to make.

Many of the words I have used to describe Mr. and Mrs. Plascencia are not my own. They are the words of the Americans who live and work with the Plascencias day in and day out and who find them to embody the American spirit. I have sponsored this legislation, and asked my colleagues to support it, because I believe that this is a spirit that we must nurture wherever we can find it. Forcing the Plascencias to leave the United States would extinguish that spirit.

I ask unanimous consent that six of more than 50 letters of support my office has received from members of the San Bruno community be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

H&N FOOD INT'L, INC.,

San Francisco, CA, September 30, 2002.

Re Alfredo Plascencia Lopez and/or Maria Plascencia

IMMIGRATION AND NATURALIZATION SERVICE,
San Francisco, CA.

I have known Alfredo Plascencia Lopez for at least nine years. My company sells product to Vince's Shellfish Company where Alfredo is employed. I deal directly with Alfredo regarding the quality of seafood that Vince's Shellfish receives from me.

Working with Alfredo on a daily basis, I have come to know Alfredo as an honest, reliable, and hard working family man. Even though we do a tremendous amount of business, I really consider him a good friend and caring person.

If Alfredo were to be deported, it would be a great loss not only to the fish business, but also importantly to his young and growing family. How hard it would be for them to continue on, or where would they turn?

Sincerely,

BOBBY NGO,
Tuna Purchaser/Salesman.

ST. BRUNO'S CHURCH,
San Bruno, CA, August 30, 2002.

TO WHOM IT MAY CONCERN: The purpose of this letter is to present my observations on Alfredo Plascencia Lopez and Maria Plascencia's character and work ethic. I first came to know them in our church when they came to worship on a Sunday. This happened around January in 1998.

And so for the last 4 years both Alfredo and Maria have been two of our outstanding parishioners at St. Bruno's Church. They come to Sunday Mass and worship, and have been involved in many ministries and services here in our church at St. Bruno's. Alfredo has been especially a minister of hospitality, always welcoming people to church and to participation in the life of the community, helping to provide a spirit of acceptance and concern among our people and providing bread and refreshments for some gatherings. Maria has been especially involved as a teacher, faithfully giving to our children the fundamentals of our Faith, of the Gospel and of a Christian moral life. They have four children all of whom have been baptized at St. Bruno's Church and come to our School of Religion and our church.

Alfredo and Maria have been most generous with their time, their talents and their money, sharing all these with the members of our Church Community. They have also frequently donated food to the church and to the Pastor. I have found them to be really good Christian people, most generous, considerate, kind, honest and reliable. If they would have to leave the United States, it will be most difficult for them and for their children who have been growing in a Christian environment and are doing so well; it would be a tremendous loss. We too here in our church would find it difficult without them. For they are a great asset to this country and to our church and to many people.

We appreciate whatever you can do for them to help them get their legal papers of residence in the United States.

Thank you very much.

Sincerely yours,

REV. RENÉ GÓMEZ,
Pastor of St. Bruno's Church.

KAISER PERMANENTE,
Re Maria Del Refugio Plascencia.
IMMIGRATION AND NATURALIZATION SERVICE,
South San Francisco, CA.

San Francisco, CA, August 29, 2002.

TO WHOM IT MAY CONCERN: I am writing to attest to the character and work ethic of Maria Del Refugio Plascencia. I am the Director of Medicine at Kaiser Permanente, South San Francisco. I have known Maria since she was hired as a medical assistant into my department in July 2000.

Maria is an excellent employee and role model for her colleagues. She is extremely dependable; in the two years she has worked for me she has called in sick only once. She works in a very demanding unit, Oncology, and is valued and depended on by the physicians she works with. Maria is flexible, thorough and proactive. She pays attention to

detail and identifies potential problems before they occur. In addition, her bilingual skills enhance the patient care experience for our members who speak Spanish.

In her short tenure here, Maria found time to volunteer with our community outreach programs. She served as a volunteer interpreter for our recent Neighbors in Health event, wherein free health care was provided to uninsured children in our local community.

I can't say enough about Maria and the type of person she is. I feel fortunate to have her in my department. She is an asset to the community and exemplifies the virtues we Americans extol: hardworking, devoted to her family, trustworthy and loyal employee, involved in her community. She and her family are a solid example of the type of immigrant that America should welcome wholeheartedly.

It would be an incredible miscarriage of justice if Maria and Alfredo are deported. They came to this country to pursue a better life and afford their children opportunities that they wouldn't have in Mexico. They have begun to do just that by establishing roots in the community and purchasing a home. They have never taken advantage of the "system" by enrolling on welfare or Medi-Cal, preferring to pay their own way. Deporting Maria and Alfredo would rip their family apart and result in either depriving their children of a loving family or depriving them of their rights as American citizens if they leave the country of their birth with their parents.

I pray that you will allow them the opportunity to live in this country.

Sincerely,

ROSE CARINO, RN,
Director, Department of Medicine.

THE PERMANENTE MEDICAL GROUP, INC.
SOUTH SAN FRANCISCO, SEPTEMBER 4,
2002.

IMMIGRATION AND NATURALIZATION SERVICE,
San Francisco, CA.

TO WHOM IT MAY CONCERN:

The purpose of this letter is to present my observations of the character and work ethic of Maria Del-Refugio Plascencia and Alfredo Plascencia Lopez.

I have worked with Ms. Plascencia for two years: I, as an Oncology Nurse Practitioner, Maria as a Medical Assistant. Ms. Plascencia works closely with the oncology patients as an educator, resource person, translator and compassionate member of our oncology team at South San Francisco Kaiser. Ms. Plascencia does an excellent job with the oncology patients. She also is responsible, efficient and a pleasure to work with on a daily basis. Ms. Plascencia is a vital member of the oncology staff. On one occasion I mentioned my concern regarding a 90-year-old cancer patient with limited vision, without family or friends. Ms. Plascencia immediately wanted to know if she and her church group could stop by and read to this woman.

I have met Mr. Plascencia on several occasions. I find him to be a pleasant, responsible, and a devoted family man who works hard to provide for his family.

In conclusion, Maria Del Refugio Plascencia and Alfredo Plascencia Lopez are two people any citizen of the United States would be happy and proud to have as neighbors, employees and friends. If I can be of any further assistance in this matter, please feel free to contact me at 650-742-2929.

Sincerely,

ELISABETH O'MARA SUTTER,
RN/NP M.S.

DOUG GUTTERMAN,
Richmond, CA, September 30, 2002.
 IMMIGRATION AND NATURALIZATION SERVICE,
San Francisco, CA.

Re Alfredo Plascencia Lopez and/or Maria Plascencia

TO WHOM IT MAY CONCERN:

I've worked at my present job at Vince's Shellfish for some twelve years. Thru the years I have come to know Alfredo as a gifted, trusted co-worker, and a loyal friend. He truly has been with me thru thick and thin.

Alfredo's presence at work and at home with his family will surely be missed. Please understand a man of his character deserves to stay with us.

Thank you for your attention.

DOUG GUTTERMAN,
Co-Worker & Friend.

VINCE'S SHELLFISH CO., INC.,
San Bruno, CA, September 30, 2002.
 IMMIGRATION AND NATURALIZATION SERVICE,
San Francisco, CA.

Re Alfredo Plascencia Lopez and/or Maria Plascencia

Alfredo Plascencia Lopez has been employed here at Vince's Shellfish for the past 11 years. Alfredo started as a part-time employee 01/91 and I was so impressed with his work ethic and loyalty that I was quick to hire him full-time within a year and a half. Alfredo started full-time employment at Vince's Shellfish 07/92. Throughout the past 11 years I have observed Alfredo as a responsible, dependable individual. I can count on him in any type of situation that arises in my day-to-day business. Alfredo always handles himself in a very professional manner.

Alfredo Plascencia Lopez is in charge of my entire packing operation, which consists of managing ten employees. This is an enormous part of my business and Alfredo is accountable and running this operation with no problem. The employees under him have the utmost respect for Alfredo. He is a role model to many. He has learned the fish business throughout his past 15 years with great enthusiasm.

I know how important Alfredo's family is to him. I have seen through the past years how he has worked hard and has always placed his family first. His wife and children are always first and important in his life. He has provided a wonderful life for his family; if Alfredo were to be deported a beautiful happy family would suffer and be broken up.

At this time I would like to close by saying Alfredo is a valuable individual to his immediate family and second, a valuable and respected employee here at Vince's Shellfish.

Sincerely,

CHRISTOPHER N. SVEDISE,
President.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL:

S. 2555. A bill to authorize the use of judicially enforceable subpoenas in terrorism investigations; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce a bill that would authorize the Justice Department to issue judicially enforceable subpoenas in terrorism investigations.

Here is how the JETS Act would work: it would allow the FBI to subpoena documents and records "in any investigation of a Federal crime of terrorism." The bill would require the FBI to go to Federal court to enforce the subpoena in the event that the recipi-

ent declines to comply with it. It would also allow the recipient to make the first move and go to court to challenge the subpoena. The JETS Act also would allow the Justice Department to temporarily bar the recipient of a JET subpoena from disclosing to anyone other than his lawyer that he has received it. The FBI could bar such disclosure, however, only if the Attorney General certifies that "otherwise there may result a danger to the national security of the United States." Also, the recipient of the subpoena would have the right to go to court to challenge the nondisclosure order. And finally, the JETS Act would protect the recipient from any civil liability that might otherwise result from his good-faith compliance with a JET subpoena.

At the outset, it bears mention that the FBI already has ways of obtaining a subpoena when it needs one for a terrorism investigation: it simply finds an Assistant U.S. Attorney and asks him to issue a grand-jury subpoena to investigate a potential crime of terrorism. The advantages of the JETS Act—of giving the FBI direct authority to issue subpoenas—are not so much substantive as procedural. These advantages principally are two: 1. A grand-jury subpoena's "return date"—the date by which the recipient of the subpoena is asked to comply—can only be a day on which a grand jury is convened. Therefore, a grand-jury subpoena issued on a Friday evening cannot have a return date that is earlier than the next Monday. The JETS Act would allow the FBI to set an earlier return date, so long as that date allows "a reasonable period of time within which the records or items [to be produced] can be assembled and made available." 2. Only an AUSA can issue a grand-jury subpoena. Therefore, whenever the FBI wants to use a grand-jury subpoena in a terrorism case, it must find an AUSA. This can be difficult and time consuming in remote locations. The JETS Act would allow the FBI to forego this exercise.

The Justice Department recently made its case as to why it should be given JETS authority in its answers to Senator BIDEN's written questions to Christopher Wray, the Assistant Attorney General for the Criminal Division, following Mr. Wray's testimony before the Judiciary Committee on October 21, 2003. Senator BIDEN asked Mr. Wray to cite "instances where your terrorism investigations have been thwarted due to an inability to secure a subpoena from a grand jury in a timely fashion." While Mr. Wray declined to provide the details of those instances when the lack of direct authority has posed a problem, he did offer the "following hypothetical situations, which could well arise, [and which] illustrate the need for this investigative tool."

"In the first scenario, anti-terrorism investigators learn that members of an Al Qaeda cell recently stayed at a particular hotel. They want to know how the cell members paid for their rooms, in order to discover what credit cards they may have used. When investigators ask the hotel manager to produce the payment records voluntarily, the manager declines to do so, explaining that company policy prohibits him from re-

vealing such information about customers without legal process. If investigators had the authority to issue an administrative subpoena, the hotel manager could disclose the records about the Al Qaeda cell immediately without fear of legal liability. In this situation, where the speed and success of the investigation may be matters of life and death, this disclosure would immediately provide investigators with crucial information—such as the location of the terrorists and the nature of their purchases—with which to disrupt and prevent terrorist activity.

"In the second hypothetical situation, anti-terrorism investigators learn on a Saturday morning that members of an Al Qaeda cell have bought bomb-making materials from a chemical company. They want to obtain records relating to the purchase that may reveal what chemicals the terrorists bought, as well as delivery records that might reveal the terrorists' location. The investigators might seek quickly to contact an Assistant United States Attorney, who might immediately obtain a grand-jury subpoena for the records. However, the third party who holds the records could lawfully refuse to furnish them until the subpoena's 'return date,' which must be on a day the grand jury is sitting. Because the grand jury is not scheduled to meet again until Monday morning, investigators may not be able to obtain the information for two days—during which time the Al Qaeda cell may execute its plot. If investigators had the authority to issue an administrative subpoena, which can set a very short or immediate response deadline for information, they may be able to obtain the records immediately and neutralize the cell."

Mr. Wray concluded his answer by noting that "[g]ranteeing FBI the use of [JETS authority] would speed those terrorism investigations in which subpoena recipients are not inclined to contest the subpoena in court and are willing to comply. Avoiding delays in these situations would allow agents to track and disrupt terrorist activity more effectively."

To place the JETS Act in context, it bears noting that granting the FBI direct authority to issue subpoenas in terrorism cases would hardly be anomalous. As the Justice Department's Office of Legal Policy recently noted in a published report, "Congress has granted some form of administrative subpoena authority to most federal agencies, with many agencies holding several such authorities." (Report to Congress on the Use of Administrative Subpoena Authorities by Executive Branch Agencies and Entities, Pursuant to Public Law 106-544, Section 7.) The Justice Department "identified approximately 335 existing administrative subpoena authorities held by various executive-branch entities under current law." Ibid.

Among the more frequently employed of existing executive-subpoena authorities is 18 U.S.C. § 3486's permission for the Attorney General to issue subpoenas "[i]n any investigation of a Federal health care offense." According to the Public Law 106-544 Report, in the year 2001 the federal government used § 3486 to issue a total of 2,102 subpoenas in health-care-fraud investigations. These subpoenas uncovered evidence of "fraudulent claims and false

statements such as 'upcoding,' which is billing for a higher level of service than that actually provided; double billing for the same visit; billing for services not rendered; and providing unnecessary services."

Executive agencies already have direct subpoena authority for many types of investigations. Thus it would not be exceptional for Congress to grant the same authority to the FBI for terrorism cases. Indeed, as Mr. Wray noted in his above-cited answers to questions, "[b]ecause of the benefits that administrative subpoenas provide in fast-moving investigations, they may be more necessary in terrorism cases than in any other type of investigation." One can hardly contend that although the federal government can use subpoenas to investigate Mohammed Atta if it suspects that he is committing Medicare fraud, it should not be allowed to use the same powers if it suspects that he is plotting to fly airplanes into buildings.

Granting direct subpoena authority to the FBI for terrorism cases first was proposed by the President last year, near the time of the second anniversary of the September 11 attacks. There is one criticism of the President's proposal that was made at that time that I believe needs to be addressed. The New York Times, in a September 14 story, described unnamed "opponents" as denouncing the proposal for "allow[ing] federal agents to issue subpoenas without the approval of a judge or grand jury."

This criticism reflects a misunderstanding of grand-jury subpoenas. The anonymous opponents of the President's proposal appear to be under the impression that the grand jury itself issues a grand-jury subpoena. This is not the case. Instead, a grand-jury subpoena is issued by an individual federal prosecutor, without any prior involvement by a judge or grand jury. As the U.S. Court of Appeals for the District of Columbia has noted, "[i]t is important to realize that a grand jury subpoena gets its name from the intended use of the . . . evidence, not from the source of its issuance." *Doe v. DiGenova*, 779 F.2d at 80 n. 11 (1985).

Like the grand-jury subpoenas currently used to investigate potential crimes of terrorism, JET subpoenas also would be issued directly by investigators, without pre-approval from a court. It is thus important to keep in mind that a subpoena is merely a request for information—a request that cannot be enforced until its reasonableness has been reviewed by a federal judge. As Mr. Wray noted on behalf of the Justice Department in his answers to Senator BIDEN's questions:

The FBI could not unilaterally enforce an administrative subpoena issued in a terrorism investigation. As with any other type of subpoena, the recipient of an administrative subpoena issued in a terrorism investigation would be able to challenge that subpoena by filing a motion to quash in the United States District Court for the district in which that person or entity does business

or resides. If the court denied the motion to quash, the subpoena recipient could still refuse to comply. The government would then be required to seek another court order compelling compliance with the subpoena.

This system guarantees protection for civil liberties. The courts take very seriously their role in reviewing subpoena-enforcement requests. As the Third Circuit has emphasized, "the district court's role is not that of a mere rubber stamp, but of an independent reviewing authority called upon to insure the integrity of the proceeding." *Wearily v. FTC*, 616 F.2d at 665 (1980). The prospect of judicial oversight also inevitably restrains even the initial actions of executive agents. As the Public Law 106-544 Report notes, "an agency must consider the strictures of [a motion to quash or a challenge to an enforcement order] before issuing an administrative subpoena." And finally, the system of separated authority to issue and review subpoenas has itself been recognized to guard civil liberties. The federal courts have found that "[b]ifurcation of the power, on the one hand of the agency to issue subpoenas and on the other hand of the courts to enforce them, is an inherent protection against abuse of subpoena power." *United States v. Security State Bank and Trust*, 473 F.2d at 641 (5th Cir. 1973).

The administrative subpoena is a well-established investigative tool with built-in protections for civil liberties. Its use in antiterrorism investigations should not pose a threat to individual freedom.

Finally, although the constitutionality of a tool so frequently used for so long might safely be assumed, it nevertheless merits describing exactly why subpoena power is consistent with the Fourth Amendment. A thorough explanation recently was provided by Judge Paul Niemeyer of the U.S. Court of Appeals for the Fourth Circuit. As Judge Niemeyer noted, the use a subpoena does not require a showing of probable cause because a subpoena is not a warrant—it does not authorize an immediate physical intrusion of someone's premises in order to conduct a search. Rather, subpoenas are subject only to the Fourth Amendment's general reasonableness requirement—and they are reasonable in large part because of the continuous judicial oversight of their enforcement. As Judge Niemeyer stated in his opinion for the court in *In re Subpoena Duces Tecum*, 228 F.3d at 347-49 (2000) (citations omitted):

While the Fourth Amendment protects people "against unreasonable searches and seizures," it imposes a probable cause requirement only on the issuance of warrants. U.S. Const. amend. IV ("and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation," etc.). Thus, unless subpoenas are warrants, they are limited by the general reasonableness standard of the Fourth Amendment (protecting the people against "unreasonable searches and seizures"), not by the probable cause requirement.

"A warrant is a judicial authorization to a law enforcement officer to search or seize

persons or things. To preserve advantages of speed and surprise, the order is issued without prior notice and is executed, often by force, with an unannounced and unanticipated physical intrusion. Because this intrusion is both an immediate and substantial invasion of privacy, a warrant may be issued only by a judicial officer upon a demonstration of probable cause—the safeguard required by the Fourth Amendment. See U.S. Const. amend. IV ("no Warrants shall issue, but upon probable cause"). The demonstration of probable cause to a neutral judicial officer places a checkpoint between the Government and the citizen where there otherwise would be no judicial supervision.

"A subpoena, on the other hand, commences an adversary process during which the person served with the subpoena may challenge it in court before complying with its demands. As judicial process is afforded before any intrusion occurs, the proposed intrusion is regulated by, and its justification derives from, that process.

"If [the appellant in this case] were correct in his assertion that investigative subpoenas may be issued only upon probable cause, the result would be the virtual end to any investigatory efforts by governmental agencies, as well as grand juries. This is because the object of many such investigations—to determine whether probable cause exists to prosecute a violation—would become a condition precedent for undertaking the investigation. This unacceptable paradox was noted explicitly in the grand jury context in *United States v. R. Enterprises, Inc.*, where the Supreme Court stated:

"[T]he Government cannot be required to justify the issuance of a grand jury subpoena by presenting evidence sufficient to establish probable cause because the very purpose of requesting the information is to ascertain whether probable cause exists."

The U.S. Supreme Court first upheld the constitutionality of subpoena authority in 1911. *United States v. Wilson*, 31 S.Ct. at 542, concluded that "there is no unreasonable search and seizure when a writ, suitably specific and properly limited in scope, calls for the production of documents which . . . the party procuring [the writ's] issuance is entitled to have produced."

The Wilson Court also noted that the subpoena power has deep roots in the common-law tradition roots—that stretch at least to Elizabethan times:

"no doubt can be entertained that there must have been some process similar to the subpoena duces tecum to compel the production of documents, not only before [the] time [of Charles the Second], but even before the statute of the 5th of Elizabeth. Prior to that statute, there must have been a power in the Crown (for it would have been utterly impossible to carry on the administration of justice without such power) to require the attendance in courts of justice of persons capable of giving evidence, and the production of documents material to the cause, though in the possession of a stranger."

The Supreme Court also has explicitly approved the use of subpoenas by executive agencies. In *Oklahoma Press Pub. Co. v. Walling*, 66 S.Ct. 494 (1946), the Court found that the investigative role of an executive official in issuing a subpoena "is essentially the same as the grand jury's, or the court's in issuing other pretrial orders for the discovery of evidence." Nearly fifty years ago, the U.S. Supreme Court in *Walling* was able to conclude that

Fourth Amendment objections to the use of subpoenas by executive agencies merely “raise[] the ghost of controversy long since settled adversely to [that] claim.”

Because granting direct subpoena authority to antiterror investigators would aid them in their important work, and would neither intrude upon civil liberties nor conflict with the Constitution, I propose the following bill, which would authorize judicially enforceable terrorism subpoenas.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Judicially Enforceable Terrorism Subpoenas Act of 2004”.

SEC. 2. ADMINISTRATIVE SUBPOENAS IN TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

“§2332g. Judicially enforceable terrorism subpoenas

“(a) AUTHORIZATION OF USE.—

“(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

“(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

“(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

“(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

“(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

“(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

“(b) SERVICE.—

“(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

“(2) SERVICE OF SUBPOENA.—

“(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

“(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a

common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

“(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

“(c) ENFORCEMENT.—

“(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

“(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to appear, to produce records, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof.

“(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

“(d) NONDISCLOSURE REQUIREMENT.—

“(1) IN GENERAL.—If the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

“(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

“(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

“(C) other persons as permitted by the Attorney General.

“(2) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

“(3) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

“(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraphs (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

“(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

“(e) JUDICIAL REVIEW.—

“(1) IN GENERAL.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

“(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless

there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

“(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

“(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

“(g) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.”.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

“2332g. Judicially enforceable terrorism subpoenas.”.

By Mr. BINGAMAN (for himself and Mr. LIEBERMAN):

S. 2556. A bill to amend chapter 7 of title 31, United States Code, to provide for a technology assessment capability within the General Accounting Office, and for other purposes; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator LIEBERMAN to introduce a bill that would give the Congress a modest capability to assess the impacts of science and technology on the formulation of public policy.

All of us in the Senate are all too aware how science and technology affects almost every aspect of policy we debate.

For instance, advances in science and technology are critical to our homeland defense oversight duties. There are many legislative proposals to deploy biological detection sensors in our cities. Yet, Congress does not get timely, in-depth advice on the policy implications on such issues as how many would be needed in a large city, or how will the data be integrated into a communications network, and would such a large volume of data be accurately analyzed and disseminated in a timely fashion. In another area of homeland defense, we are not confident on what the policy implications are for biometrics applied to border control. What are the costs for applying biometrics to the millions of visas we issue every year? How might these biometrics, which record our physiological features into a single database, invade our notions of privacy?

In the jurisdiction of my committee, Energy and Natural Resources, we would like to know how technology could mitigate the threat of wildfires, especially on urban regions adjacent to our national forests. We know that there are improvements in building materials and construction techniques that can reduce the danger of homes

suddenly catching fire and spreading to adjacent homes. However, the effect of such technology improvements on policy matters involving building codes, fire and disaster insurance, and coordination of communications between federal and local emergency response are unknown, yet critical to our law making duties.

There are other areas where technology affects law making and oversight duties. The Congress has supported efforts to integrate technology into one of the most crucial elements of democracy—voting. Nevertheless, questions remain on the accountability of each vote, and the cyber-security of electronic voting systems. These voting technology issues directly affect the public confidence in any law we may write to bring electronic voting into the mainstream.

I could go on and on, but these examples lead me to the bill I am introducing today.

Congress abolished the Office of Technology Assessment (OTA) in 1995. While I disagreed with this decision, the bill I am proposing today seeks to establish a smaller, less costly capability in the General Accounting Office (GAO).

The Congressional Research Service (CRS) and GAO have many technology-competent personnel, but neither assesses the effects of technology on policy-making. The CRS or GAO may study or catalog various technologies, they may assess the merits of one technology versus another, or even its economic benefits and costs, but they do not analyze how the technology can affect policy.

Some may assert the National Academy of Sciences performs such a function. The National Academies independently, through outside advisory committees, evaluates the technological merits of programs that involve technology, usually funded by the executive branch, and not directly by the Congress. The majority of the technology evaluations by the National Academies are not technology assessments, they do not consider what consequences a technology will have on the policies that the Congress considers. Because the Academy maintains a strong independence, the timing of their reports are not, and should not be, linked to the Congressional calendar.

I believe it is possible have an existing legislative branch agency such as the GAO give to neutral, objective technology assessments to the Congress in a timely fashion. I am of the opinion that the GAO can undertake this function without creating a large bureaucracy.

Let me first outline the history of the legislation I am proposing.

Three years ago, with the help of Senator BENNETT, who then chaired the Legislative Branch Subcommittee on Appropriations, I was able to initiate a pilot program at the GAO to perform technology assessments of interest to

the Congress. It was Senator BENNETT who first suggested placing this pilot at the GAO, and when contacted, the GAO stepped forward to accept that challenge.

Since that time, the three-year pilot program at the GAO has conducted, or has underway, technology assessments on a wide range of topics, from biometrics for border control, cyber-security, cargo container security, and technology to mitigate the impact of wildfires on urban boundaries. All of these assessments were initiated by bipartisan and bicameral letters to the GAO.

I believe this pilot program to be a success. The first report on biometrics for border control has received good evaluations from industry and congressional staff. The GAO still testifies on the results from the report. The second report on cyber-security has just been released, experts across government and the private sector believe it is of high quality. A technology assessment on cargo container security is underway. A wildfire technology assessment has just been initiated.

In addition, this pilot program has undergone several reviews.

The first review occurred in October of 2002, when the first technology assessment on biometrics ended. A group of distinguished scientists, familiar with the technology assessment process, reviewed the GAO's organizational capability to conduct future technology assessments. While they were impressed with the quality of the GAO's effort, they made positive suggestions on how the GAO could improve the policy analysis phase of the technology assessment, as this crucial feature was new to the GAO. The group of experts reviewed the organizational mix of the GAO, and its ability to absorb the technology assessment process within their traditional audit and quality control structure. These experts found that the GAO's Center for Technology and Engineering, which performed the first biometrics assessment, was a capable organization, as it was accustomed to undertaking a wide range of technology-oriented problems. Finally, the experts commented on how the GAO could utilize nongovernmental entities to perform the data collection, thus reducing the potential to create a new bureaucracy. For the first biometrics report, the experts supported the GAO working with the National Research Council to conduct stakeholder workshops to gather a wide range of data, while the report writing would be by a legislative branch entity—the GAO.

The second review was a workshop held in July of 2003, at the National Academy of Sciences. A wide array of nongovernmental attendees evaluated the pilot program at the GAO in the context of other organization models for technology assessment, from recreating the old OTA to simply using the National Academies. This was the first time many nongovernmental persons

were exposed to the GAO pilot and many were surprised that the GAO was willing to undertake such a program, and that its staff quickly adapted to the technology assessment process.

The third review occurred in December of 2003 at the request of the Senate Legislative Branch Appropriations Subcommittee. This review was conducted by the GAO. The subcommittee asked what would be required to conduct this pilot on a sustained basis. The GAO concluded that four full time staff would be required at a cost of \$420,000, plus \$125,000 for additional expenses to work with outside groups such as the National Research Council to collect data. This request has appeared as part of GAO's Fiscal Year 2005 budget submission. The GAO also requested additional legislative authorities so that the assessments could be part of their annual budget process.

This bill is in response to the December 2003 findings of GAO; it has been fully coordinated with the GAO and their findings. This bill also reflects the comments from the July 2003 National Academies workshop and the first review of the GAO by the expert panel in October of 2002.

Let me now outline several feature of this bill, and then I will comment on what this bill does not have.

First, the bill proposes to modify the GAO's organic act to give it the statutory authority to perform technology assessments as part of its advice to the Congress. In doing so, the GAO is directed make such technology assessments in a timely and objective fashion. One of the major issues with the OTA was that many of its reports were so in-depth that they missed the legislative cycle to make a substantive impact on a bill under consideration by the Congress. In addition to the longer, more in-depth reports, I expect that the GAO will give quick turn-around phone consultations on singular technology assessment questions by staff.

Second, it directs the Comptroller General to ensure that the GAO has the human resources expertise in technology and policy to ensure a high quality product.

Third, it directs the Comptroller General, to the maximum extent practicable, to be apprised of other ongoing efforts that may be providing information to the Congress.

Fourth, it directs the Comptroller to peer review all the technology assessment reports.

Fifth, it directs the Comptroller General to establish an advisory board in consultation with the National Academy of Sciences. This board shall provide external advice on the assessment topics, how they are selected, and methods to their improve timeliness and quality. Many times advisory boards are an extra overhead burden, but in this case, where the GAO is acting as a bridge between the outside technical community and the Congress, I feel it is important that some form of external peer review of the technology assessment process be present.

Sixth, it gives the GAO the necessary authority to enter into contracts with outside groups to obtain the information and technical feedback that does not reside within the GAO, thus avoiding the creation of a bureaucracy within the GAO.

Finally, it requires the GAO to submit an annual report to the Congress on its technology assessment activities from the prior year.

Let me explain what this authorization does not do.

First, it does not create a Technology Assessment Board consisting of members of Congress to help select topics. There was much concern that the OTA became almost beholden to its Technology Assessment Board to the dismay of other members of Congress. I have left the topic selection process to the GAO within their existing authorities, similar to the way they currently schedule and produce reports for members and committees. This process has been refined and tested over many years, and it is flexible enough to accommodate sudden high priority demands. I see no reason why scheduling technology assessments cannot be part of this bigger scheduling process, so that its demands are reflected in the overall scheduling priorities of the GAO.

Second, this legislation does not create a large legislative branch entity. The OTA had upwards of 200 people and a \$30 million budget before it was disbanded in 1995. This authorization relies on a core internal group at the GAO that relies on outside entities to provide information where needed and to be a technical sounding board through workshops on a particular technology and its various policy implications.

This legislation strikes an important balance. It establishes some internal legislative branch capability to analyze how technology affects our policymaking duties. It fills a void left when the OTA was abolished by relying on a core team at the GAO using their existing authorities for topic selection. Finally, it provides an important bridge to the many nongovernmental entities and societies that give advice to the executive branch and Congress, while ensuring legislative branch objectivity and quality.

I hope my colleagues join me in supporting this legislation. I hope that it receives a hearing in the Governmental Affairs Committee, so that all sides of the fact finding process can be brought to bear on this bill's strengths and weaknesses, and in so doing, be improved and reported to the floor of the Senate for its full consideration and passage.

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

S. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL ACCOUNTING OFFICE TECHNOLOGY ASSESSMENTS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) it is important for Congress to be better informed regarding the impact of technology on matters of public concern, including implications for economic, national security, social, scientific, and other national policies and programs;

(B) on a pilot basis, the General Accounting Office has demonstrated a capacity to perform independent and objective technology assessments for Congress; and

(C) the development of a cost-effective and efficient capacity for timely and deliberate technology assessments by the General Accounting Office requires the commitment of additional resources and administrative flexibility given the current resource constraints of the General Accounting Office.

(2) PURPOSES.—The purposes of this Act are to—

(A) direct the establishment of a technology assessment capability in the General Accounting Office;

(B) ensure the quality of such technology assessments in order to enhance the ability of Congress to address complex technical issues in a more timely and effective manner; and

(C) condition the development of a technology assessment capability in the General Accounting Office on the provision of adequate additional resources and administrative flexibility.

(b) TECHNOLOGY ASSESSMENTS.—Chapter 7 of title 31, United States Code, is amended by inserting after section 720 the following:

“§ 721. Technology assessments

“(a) The General Accounting Office shall establish a technology assessment capability to coordinate and prepare information for Congress relating to the policy implications of applications of technology.

“(b) The Comptroller General may establish standards and procedures to govern technology assessments performed under this section as the Comptroller General determines necessary.

“(c) Technology assessments performed under this section shall—

“(1) provide Congress with timely and objective information to contribute to legislative consideration of technology applications and their policy implications, including thorough reports, in-depth studies, and short-term consultations;

“(2) be undertaken by the Comptroller General with special attention to the technical expertise and policy analysis skills needed to perform a prospective assessment of technology applications and policy implications;

“(3) be designed, to the extent practicable, to review an application of technology to an issue of public interest, including consideration of benefits, cost, and risks from such technology; and

“(4) include peer review by persons and organizations of appropriate expertise.

“(d) In performing technology assessments, the Comptroller General shall be properly apprised of Federal and non-Federal entities providing information to Congress to—

“(1) enable effective coverage of critical issues; and

“(2) avoid duplication of effort.

“(e) Technology assessments performed under this section may be initiated as provided under section 717(b).

“(f)(1) In consultation with the National Academy of Sciences, the Comptroller General shall establish a technology assessment advisory panel to provide advice on technology assessments performed under this section, methodologies, possible subjects of study, and the means of improving the quality and timeliness of technology assessment services provided to Congress.

“(2) The advisory panel shall consist of 5 members, who by reason of professional background and experience, are specially qualified to advise on technology assessments.

“(3) Terms on the advisory panel shall—

“(A) be for a period of 2 years; and

“(B) begin on January 1, on each year in which a new Congress is convened.

“(4) Notwithstanding section 1342, for the purposes of establishing a technology assessment advisory panel, the Comptroller General may accept and use voluntary and uncompensated services (except for reimbursement of travel expenses). Individuals providing such voluntary and uncompensated services shall not be considered Federal employees, except for purposes of chapter 81 of title 5 and chapter 171 of title 28.

“(g)(1) In order to gain access to technical knowledge, skills, and expertise necessary for a technology assessment performed under this section, the Comptroller General may utilize individuals and enter into contracts or other arrangements to acquire needed expertise with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution.

“(2) Contracts and other arrangements under this subsection may be entered into—

“(A) with or without reimbursement; and

“(B) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or section 3324 of this title.

“(h) The Comptroller General shall submit to Congress an annual report on technology assessment activities of the General Accounting Office.

“(i)(1) There are authorized to be appropriated to the General Accounting Office to carry out the activities described in this section, \$2,000,000 for each of fiscal years 2004, 2005, and 2006.

“(2) Technology assessments under this section may not be performed during fiscal years 2004, 2005, and 2006, unless a sufficient annual appropriation is provided for such fiscal years.”.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to section 720 the following:

“721. Technology assessments.”.

Mr. DURBIN. Mr. President, today, I am introducing a bill that would repeal a provision in the Consolidated Appropriations Act of 2004, regarding the amount of time that records of approved gun sales can be retained.

This provision, which will be enacted within the next month, was a measure that the House and Senate conferees agreed to drop, but nonetheless was inserted at the last minute into the Conference Report. That provision is opposed by law enforcement and threatens public safety because each year, it would allow hundreds of convicted felons, fugitives, and possibly even terrorists, to have firearms—even though they are prohibited by Federal law from having one.

Under the Brady Handgun Violence Prevention Act, licensed firearms dealers generally are prohibited from transferring firearms to an individual until a search of the National Instant Criminal Background Check System (NICS) determines that the transfer would not violate applicable Federal or

State law. For example, these background checks determine if someone is a convicted felon; convicted of a crime of domestic violence or under a domestic violence restraining order; or a fugitive. Current regulations allow the records of approved firearms sales to be retained in a computer database, known as the NICS Audit Log, for up to 90 days, after which the records must be destroyed.

The NICS Audit Log provides many useful and necessary functions. First, it allows examiners to determine if, based on new information, someone who was allowed to receive a firearm is in fact prohibited by federal law from doing so. Second, the NICS Audit Log allows the FBI to search for patterns of fraud and abuse by both gun dealers and purchasers. Finally, it can help determine if gun buyers have submitted false identification in order to thwart the background check system.

The provision that my legislation today would repeal reduced the time these records may be retained from 90 days to 24 hours. This will decrease the effectiveness of the NICS Audit Log and have a dramatic, negative impact on public safety.

In July 2001, the Department of Justice proposed an almost-identical change to the NICS regulations. In response to that proposal, I asked the non-partisan General Accounting Office to conduct a study on its possible effects. The key finding of this study was: "Regarding public safety, the FBI would lose certain abilities to initiate firearm-retrieval actions when new information reveals that individuals who were approved to purchase firearms should not have been. Specifically, during the first 6 months of the current 90-day retention policy, the FBI used retained records to initiate 235 firearm-retrieval actions, of which 228, 97 percent, could not have been initiated under the proposed next-day destruction policy."

Therefore, if this provision is not repealed, each year, more than 450 people who are prohibited by federal law from having a firearm nonetheless will have one.

This number could even be much higher. In the 6 months examined by the GAO, the FBI determined that an additional 179 transactions were initially approved and reversed more than one day later, but did not result in actual firearm sales. In other words, during this six-month period, the background checks yielded a total of 407 mistakes that would not have been caught if the NICS record retention period had been shortened to 24 hours.

Given this negative effect on public safety, many law enforcement agencies and officials have expressed their opposition. For example, the Law Enforcement Steering Committee (LESC), a nonpartisan coalition of organizations representing law enforcement management, labor, and research, is "concerned with provisions included in the omnibus bill addressing firearms pur-

chasing and the reduction of law enforcement oversight." The nine organizations in the LESC are the following: the Federal Law Enforcement Officers Association, the International Brotherhood of Police Officers, the Major Cities Chiefs Association, the Major County Sheriff's Association, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum, and the Police Foundation.

The Federal Bureau of Investigation Agents Association, a non-governmental professional association with a membership of nearly 9,000 current and more than 2,000 retired FBI agents nationwide has written: "The more the retention period is reduced, the more difficult it would become to use the paperwork to investigate or prosecute crimes related to the use of sales of the firearms in question. Any such efforts can only complicate the already difficult task of law enforcement and jeopardize public safety."

Although the FBI Agents Association does not speak for the official FBI, it is worth noting that the FBI's NICS Operations Report in March 2000 recommended extending the retention period from 90 days to one year and noted that the Advisory Policy Board concurred with that recommendation.

Finally, the International Association of Chiefs of Police, the world's oldest and largest association of law enforcement executives, with more than 19,000 members in 90 countries, stands behind its 2001 letter to the FBI, in which the IACP wrote: "We believe that decreasing the amount of time the purchase records are kept will weaken the background check system and allow more criminals to illegally obtain weapons. . . . The IACP believes that the 90-day retention period should not be shortened. Decreasing the retention period of these records to one business day will not provide law enforcement with sufficient time to perform the necessary audits on the NICS system as established by the Brady Act."

In addition to the threat to public safety, this provision will have monetary costs. According to the GAO report, the FBI has determined that when this change in the NICS retention policy is implemented, many of the audits currently conducted on a monthly or quarterly basis would have to be conducted on a real-time basis—either hourly or daily. The FBI has said it would need to add 10 staff members to conduct these real-time audits, which would bring the total number of audit staff to 19.

Especially in this time of increased attention to homeland security, this is not the proper allocation of our limited resources. Unless we repeal this provision, we will be funding ten additional FBI staff members to implement a policy that would allow hundreds of convicted felons and fugitives to keep their firearms. That clearly does not make sense.

The clock is ticking: this provision will go into effect in less than a month, before July 21, 2004. We must act now to keep firearms out of the hands of hundreds of convicted felons, fugitives, and terrorists each year. I urge my colleagues to join me in support of this important, commonsense legislation to promote public safety and to ensure that similar provisions are not enacted in future appropriation legislation.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 2558. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation's health care system towards prevention, wellness, and self care; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Health Care Assurance Act of 2004, which is legislation designed to cover the 43 million Americans who are currently not covered, and to provide for offsets in cost to cover the expenditures in covering the 43 million Americans who are now not covered.

The United States has the greatest health care system in the world, and it is desirable, in my opinion, to incrementally change the health care system to cover those who are now not covered as opposed to having some vast bureaucracy take over, with the Government taking all of the responsibility.

I have introduced health care legislation in some detail during the course of my tenure in the Senate and have been privileged to be the chairman of the Appropriations Subcommittee on Health and Human Services since 1995, where, working collaboratively with Senator HARKIN, the ranking, senior Democrat on the subcommittee, we have increased funding in the National Institutes of Health, done extensive work on stem cell research, and provided a great many health care programs. The legislation which I am introducing today I introduce on behalf of Senator HARKIN and myself.

The essence of this legislation would provide for small employer and individual group purchasing so small employers or individuals can have the benefit of what large companies get by virtue of more purchasing power. That expenditure would run, over a 10-year period, at \$300 million.

There is considerable loss of coverage when people change jobs. On the so-called portability, this legislation provides in some detail for covering people between jobs, at a cost of about \$101 billion over the course of the 10-year period.

Financial incentives for young adults are provided. There is an outreach program for Medicaid-eligible low-income families. There is expanded coverage for the State Children's Health Insurance Program and their families.

The total cost of the programs over a 10-year period would be \$540 billion. There are savings specified and identified in the course of this bill to make

up for that money, for one thing, improving the program integrity and efficiency in the Medicare Program by having more audits to stop fraud in a very active way by reducing medical errors. The Institute of Medicine published a report identifying up to 98,000 deaths a year due to medical errors. They specified a program for saving up to \$150 billion over a 10-year period by reducing medical errors.

The Subcommittee on Health and Human Services, which I chair, had provided funding to move ahead in implementing the reduction in those errors. There would be savings from improving health care quality, efficiency, and consumer education, and there would be considerable savings in primary and preventative care providers.

There needs to be a great deal of additional education. One statistic which I found of concern was that there are 14 million Americans who qualify for Medicaid programs, being below the 200 percent of poverty, who don't seek the coverage and don't know of its availability. In our Health and Human Services bill, we are providing funding to try to move ahead with an educational program.

Last month, a nonpartisan campaign was launched to call attention to the plight of more than 43 million Americans under age 65 who lack health insurance coverage. Two former presidents—Gerald Ford and Jimmy Carter—cochaired the effort. They were supported by nine former Surgeons General and Department of Health and Human Services Secretaries, as well as some of the most influential organizations in this country, including the AFL-CIO and the U.S. Chamber of Commerce. Nearly 1,500 public events took place throughout the country, all designed to bring together diverse interests around a single objective: to insist that all Americans have access to health insurance coverage.

Here in the Senate, a special task force appointed by Majority Leader FRIST and headed by my distinguished colleague Senator JUDD GREGG issued a series of recommendations for addressing this problem.

Well before last month, we knew that, contrary to what some assume, the ranks of the uninsured consisted primarily of working families with low and moderate incomes—not just the unemployed.

We knew that the lack of insurance ultimately compromises a person's health because he or she is less likely to receive preventive care, is more likely to be hospitalized for avoidable health problems, and is more likely to be diagnosed in the late stages of diseases.

And we knew that the lack of insurance coverage leaves individuals and their families more financially vulnerable to higher out-of-pocket costs for their medical bills.

As I have said many times, we can fix the problems felt by uninsured Americans without resorting to big govern-

ment and without completely overhauling our current system, one that works well for most Americans—serving over 82 percent of our non-elderly citizens. We must enact reforms that improve upon our current market-based health care system, as it is clearly the best health care system in the world.

When you hear the term “uninsured” you immediately think of men and women who are unemployed and their children. The unemployed make up approximately 18 percent of Americans who lack health insurance. However, nearly 26 million individuals are employed and still are without health care coverage. Approximately 14 million employed individuals have household incomes below 200 percent of the Federal poverty level and are eligible for public health insurance programs, but have not applied. This statistic includes 4 million children who are eligible for Medicaid and the State Children's Health Insurance program.

Because of early retirements, nearly 10 percent of people between the ages of 55 and 64, are uninsured.

Approximately 25 to 30 percent of young adults between the ages of 18 and 34 are uninsured.

Immigrants and their U.S.-born children represent more than 90 percent of the increase in the uninsured population since 1989.

In the United States, in 2003, \$1.7 trillion was spent on health care or more than \$5,800 per person. It is projected that annual health care expenditures will exceed \$3.4 trillion by 2013 or 18 percent of gross domestic product. Costs of covering the uninsured in 2004 dollars is approximately \$48 billion or \$500 plus billion over 10 years. These costs are in addition to the \$125 billion per year currently spent for Medicare and Medicaid payments, out of pocket expenses paid by the uninsured and other state and local programs.

Accordingly, today I am introducing the Health Care Assurance Act of 2004. This legislation would provide health care coverage for all Americans who are currently uninsured. The bill's \$540 billion price tag, over the next 10 years, would be offset by improving program integrity and efficiency, a reduction in medical errors, increasing the use of medical technology, and preventive health measures, including improving health care quality and consumer education. Let me briefly summarize the provisions of this legislation.

(1) **Small Employer and Individual Purchasing Groups:** This legislation establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health coverage options for employers, their employees, and other uninsured individuals and their families. Health plans offering coverage through such groups will: (1) provide a standard, actuarially equivalent health benefits package; (2) adjust community rated premiums by age and family size

in order to spread risk and provide price equity to all; and (3) meet guidelines for marketing practices. This provision would cost \$300 million over 10 years and provide coverage to approximately 15.6 million Americans who are currently uninsured.

(2) **COBRA Portability Reform:** For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, this legislation would reform the existing COBRA law by: (1) extending to 24 months the minimum time period in which COBRA may cover individuals through their former employers' plan; (2) expanding coverage options to include plans with a lower premium and a \$1,000 deductible—saving a typical family of four 20 percent in monthly premiums—and plans with a lower premium and a \$3,000 deductible—saving a family of four 52 percent in monthly premiums. This provision would cost \$101.7 billion over 10 years and would cover 8.5 million people.

(3) **State Based Program of Financial Incentives to Young Adults:** This legislation creates a \$4 billion a year grant program which consists of financial incentives for full-time independent college students, part-time students, recent graduates and other young adults without health insurance coverage. Coverage would be offered through existing State programs, such as State high risk insurance pools and would be limited so that when individuals are hired, they receive health insurance through their employer. This provision would cost \$40 billion over 10 years and would cover 4 million people who are currently uninsured.

(4) **Outreach Programs for Low-Income Families Who are Eligible to Enroll in Medicaid:** This program is designed to improve coverage through existing public and private health care programs by making low-income parents aware of State child health insurance programs. The legislation would also improve knowledge concerning public health benefits of health insurance coverage, including the advantages of receiving prevention and wellness services. This new outreach program would involve the Departments of Agriculture, Health and Human Services, the Social Security Administration and other Federal agencies to improve knowledge about health insurance coverage available through public programs. Outreach will be targeted to eligible populations and be designed in a culturally appropriate manner and identify particularly hard to reach populations, including recent immigrants and migrant and seasonal farm workers. This provision would cost \$4 billion over 10 years and would cover up to 3 million previously uninsured individuals.

(5) **Expansion of the State Children's Health Insurance Program and Family Coverage:** The legislation would increase the income eligibility to families with incomes at or below 235 percent of the Federal poverty level,

\$44,486 annually for a family of four, and would also, for the first time, provide health insurance to the child's family. This provision would cost \$394 billion over 10 years and would cover 12.4 million children and extend coverage to their families.

(6) Improving Program Integrity and Efficiency in the Medicare Program: The bill would raise the cap on Medicare contractor audit funding/program integrity from \$720 million to \$1 billion over a 5-year period. This provision would save an estimated \$60 billion over the next 10 years.

(7) Reducing Medical Errors and Increasing the Use of Medical Technology: A provision is included that would provide for demonstration programs to test best practices for reducing errors, testing the use of appropriate technologies to reduce medical errors, such as hand-held electronic medication systems, and research in geographically diverse locations to determine the causes of medical errors. To assist in the development by the private sector of needed technology standards, the bill would provide for ways to examine use of information technology and coordinate actions by the Federal Government and ensure that this investment will further the national health information and infrastructure. This section of the legislation is projected to save \$150 billion over the next 10 years.

(8) Improving Health Care Quality, Efficiency and Consumer Education: The legislation would set up demonstration projects to educate the public regarding wise consumer choices about their health care, such as appropriate health care costs and quality control information. The Department of HHS would be tasked with developing public service announcements to educate the public about their coverage choices, eligibility and preventive care services. Also included in this title is a provision on ways to improve the effectiveness and portability of advance directives and living wills. Projected cost savings of this section of the bill is \$70 billion over the next 10 years.

(9) Primary and Preventive Care Services: Language is included to encourage the use of nonphysician providers such as nurse practitioners, physician assistants, and clinical nurse specialists by increasing direct reimbursement under Medicare and Medicaid without regard to the setting where services are provided. The bill also seeks to encourage students early on in their medical training to pursue a career in primary care and it provides assistance to medical training programs to recruit such students. The savings from this provision is estimated at \$260 billion over a 10 year period.

The bill I am introducing today is distinct from my longstanding efforts regarding managed care reform. During the 105th, 106th, and 107th Congresses, I joined a bipartisan group of Senators to introduce the Promoting Respon-

sible Managed Care Act of 1998, 1999, and 2001 balanced proposals which would ensure that patients receive the benefits and services to which they are entitled, without compromising the savings and coordination of care that can be achieved through managed care.

I have advocated health care reform in one form or another throughout my 24 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored S. 811, the Health Care for Displaced Workers Act of 1983, and S. 2051, the Health Care Cost Containment Act of 1983, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities such as acquiring or processing information, and collecting and distributing insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community-based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality. Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country.

During the 102nd Congress, I pressed the Senate to take action on the health care market issue. On July 29, 1992, I offered an amendment to legislation then pending on the Senate floor, which included a change from 25 percent to 100 percent deductibility for health insurance purchased by self-employed individuals, and small business insurance market reforms to make health coverage more affordable for small businesses. Included in this amendment were provisions from a bill introduced by the late Senator John Chafee, legislation which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger. When then-majority leader Mitchell argued that the health care amendment I was proposing did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, similar to an arrangement made on product liability legislation, which had been placed on the calendar for September 8, 1992. The majority leader rejected that suggestion, and the Senate did not consider comprehensive health care legislation during the balance of the 102nd Congress. My July 29, 1992 amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992, when it was included in a Bentsen/Durenberger amendment which I cosponsored to broaden tax legislation, H.R. 11. This amendment, which included essentially the same self-employed tax deductibility and small group reforms I had proposed on July 29 of that year, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, would have lowered the cost of health care through use of the most appropriate provider, and would have improved the quality of health care.

On January 21, 1993, the first day of the 103rd Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation consisted of reforms that our health care system could have adopted immediately. These initiatives would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18 is the principal basis of the legislation I introduced in the last five Congresses as well as this one.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and MCCAIN, and included pieces of my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a starting point for debate. As I noted earlier, I was precluded by majority leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of the Environment Act, S. 171, in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995, also S. 18, which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy legislation, including insurance market reforms, an extension of the tax deductibility of health insurance for the self employed, and tax deductibility of long term care insurance.

I continued these efforts in the 105th Congress, with the introduction of Health Care Assurance Act of 1997, S. 24, which included market reforms similar to my previous proposals with the addition of a new Title I, an innovative program to provide vouchers to States to cover children who lack health insurance coverage. I also introduced Title I of this legislation as a stand-alone bill, the Healthy Children's Pilot Program of 1997, S. 435, on March 13, 1997. This proposal targeted the approximately 4.2 million children of the working poor who lacked health insurance at that time. These are children

whose parents earn too much to be eligible for Medicaid, but do not earn enough to afford private health care coverage for their families.

This legislation would have established a \$10 billion/5-year discretionary pilot program to cover these uninsured children by providing grants to States. Modeled after Pennsylvania's extraordinarily successful Caring and BlueCHIP programs, this legislation was the first Republican-sponsored children's health insurance bill during the 105th Congress.

I was encouraged that the Balanced Budget Act of 1997, signed into law on August 5, 1997, included a combination of the best provisions from many of the children's health insurance proposals throughout this Congress. The new legislation allocated \$24 billion over 5 years to establish State Child Health Insurance Programs, funded in part by a slight increase in the cigarette tax.

During both the 106th and 107th Congresses, I again introduced the Health Care Assurance Act. These bills contained similar insurance market reforms, as well as new provisions to augment the new State Child Health Insurance Program, to assist individuals with disabilities in maintaining quality health care coverage, and to establish a National Fund for Health Research to supplement the funding of the National Institutes of Health. All these new initiatives, as well as the market reforms that I supported previously, work toward the goals of covering more individuals and stemming the tide of rising health costs.

My commitment to the issue of health care reform across all populations has been consistently evident during my tenure in the Senate, as I have taken to this floor and offered health care reform bills and amendments on countless occasions. I will continue to stress the importance of the Federal Government's investment in and attention to the system's future.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Nearly 10 years ago, an MRI detected a benign tumor, meningioma, at the outer edge of my brain. It was removed by conventional surgery, with 5 days of hospitalization and 5 more weeks of recuperation.

When a small regrowth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation using a remarkable device called the "Gamma Knife." I entered the hospital on the morning of October 11, 1996, and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is an innovation, coming into widespread use only in the past decade.

In July 1998, I was pleased to return to the Senate after a relatively brief period of convalescence following heart bypass surgery. This experience again led me to marvel at our health care system and made me more determined than ever to support Federal funding

for biomedical research and to support legislation which will incrementally make health care available to all Americans.

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. As I have previously discussed, my concern about health care began many years ago and has been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I now have the honor to chair.

My own experience as a patient has given me deeper insights into the American health care system beyond my perspective from the U.S. Senate. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own cases beyond doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; (4) our system has the resources to treat the 40.9 million Americans currently uninsured, but we must find the way to pay for it; and (5) all Americans deserve the access to health care from which I and others with coverage have benefited.

I have long been convinced that our Federal budget of \$2.4 trillion could provide sufficient funding for America's needs if we establish our real priorities. Over the past 10 years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal Government. The message we heard loudest was that Americans do not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed at a slower pace and to target what is not working in the health care system while leaving in place what is working.

While I would have been willing to cooperate with the Clinton administration in addressing this Nation's health care problems, I found many areas where I differed with President Clinton's approach to solutions. I believe that the proposals would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system as a whole. Most importantly, as the President proposed in 1993, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's 239-page preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant, Sharon Helfant, to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted

to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy; I still receive requests for the chart nearly ten years later. Groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And during the November 1996 election, my chart was used by Senator Dole in his presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

The Department of Health and Human Services has stated that the health care, education, and child care for the 3.5 to 4 million low-birth-weight infants and children from their births to the time they reach 15 years old costs between \$5.5 and \$6 billion more than what it would have cost if those children had been born at normal weight. We know that in most instances, prenatal care is effective in preventing low-birth-weight babies. Numerous studies have demonstrated that low birth weight does not have a genetic link, but is instead most often associated with inadequate prenatal care or the lack of prenatal care. The short and long-term costs of saving and caring for infants of low birth weight are staggering.

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw one pound babies in 1984 when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one pound baby, about as big as my hand. However, I am pleased to report that as a result of successful prevention initiatives like the Federal Healthy Start program, Pittsburgh's infant mortality has decreased 20 percent.

To improve pregnancy outcomes for women at risk of delivering babies of low birth weight and to reduce infant mortality and the incidence of low-birth-weight births, as well as improving the health and well-being of mothers and their families, I initiated action that led to the creation of the

Healthy Start program in 1991. Working with the first Bush administration and Senator HARKIN, as chairman of the Appropriations Subcommittee, we allocated \$25 million in 1991 for the development of 15 demonstration projects. This number grew to 22 in 1994, to 75 projects in 1998, and the Health Resources and Services Administration expects this number to continue to increase. For fiscal year 2004, we secured \$98 million for this vital program.

To help children and their families to truly get a healthy start requires that we continue to expand access to Head Start. This important program provides comprehensive services to low income children and families, including health, nutritional and social services that children need to achieve the school readiness goal of Head Start. I have strongly supported expanding this program to cover more children and families. Since FY'00, funding for Head Start has increased from \$5.3 billion to the FY'04 level of \$6.8 billion. Additional funding has extended the reach of this important program to the current level of approximately 920,000 children.

Our attention to improved health of children shifts to the school house door, as all children enroll in schools throughout the Nation. And it is in the schools where we have taken our next steps to improve the overall health of the Nation and reduce preventable health care expenditures. In the past 15 years, obesity has increased by over 50 percent among adults and in the past 20 years, obesity has increased by 100 percent among children and adolescents. A recent analysis by the National Institute of Child Health and Human Development, NICHD, Study of Early Child Care and Youth Development found that third grade children in the study received an average of 25 minutes per week in school of moderate to vigorous activity, while experts in the United States have recommended that young people should participate in physical activity of at least moderate intensity for 30 to 60 minutes each day. That is why I have supported increased funding for the Carole M. White Physical Education for Progress program. Since it was first funded at \$5 million in FY 2001, this program has grown to \$70 million in FY 2004. These funds help school districts and community based programs across the country improve and expand physical education programs in school, while also helping children develop healthy lifestyles to combat the epidemic of obesity in the Nation.

The Labor-HHS bill also has made great strides in increasing funding for a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These programs are designed to improve public health and prevent disease through primary and secondary prevention initiatives. It is

essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As chairman of the Labor, HHS and Education Appropriations Subcommittee, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread.

I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention, CDC, increased \$3.9 billion or 390 percent since 1989, for a fiscal year 2004 total of \$4.9 billion. We have also worked to increase funding for CDC's breast and cervical cancer early detection program to \$209.5 million in fiscal year 2004, almost double its 1993 total.

I have also supported programs at CDC which help children. CDC's childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2-year-olds are vaccinated. The CDC also continues to educate parents and caregivers on the importance of immunization for children under 2 years. Along with my colleagues on the Appropriations Committee, I have helped ensure that funding for this important program together with the complementary Vaccines for Children Program has grown from \$914 million in 1999 to \$1.8 billion in fiscal year 2004. The CDC's lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents the amount of lead in children's blood from reaching dangerous levels and has grown from \$38.2 million in fiscal year 2000 to \$41.7 million in fiscal year 2004.

In recent years, we have also strengthened funding for Community Health Centers, which provide immunizations, health advice, and health professions training. These centers, administered by the Health Resources and Services Administration, provide a critical primary care safety net to rural and medically underserved communities, as well as uninsured individuals, migrant workers, the homeless, residents of public housing, and Medicaid recipients. Funding for Community Health Centers has increased from \$1 billion in fiscal year 2000 to \$1.6 billion in fiscal year 2004.

As former chairman of the Select Committee on Intelligence and current chairman of the Appropriations Subcommittee with jurisdiction over non-defense biomedical research, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women's Health within the Department of Health and Human Services, I secured a \$2 million contract in fiscal year 1996

for a research consortium led by the University of Pennsylvania to perform the first clinical trials testing the use of intelligence technology for breast cancer detection. My Appropriations subcommittee has continued to provide funds to continue these clinical trials.

In 1998, I cosponsored the Women's Health Research and Prevention Amendments, which was signed into law later that year. This bill revised and extended certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.

In 1996, I also cosponsored an amendment to the Fiscal Year 1997 VA-HUD Appropriations bill which required that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child. This bill became law in 1996.

I have also been a strong supporter of funding for AIDS research, education, and prevention programs.

During the 101st Congress I cosponsored the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 which amended the Public Health Service Act to direct the Secretary of Health and Human Services, through the administrator of the Health Resources and Services Administration, to make grants in any metropolitan area that has reported and confirmed more than 2,000 acquired immune deficiency syndrome, AIDS, cases or a per capita incidence of at least 0.0025, eligible area. This legislation requires that the grants be directed to the chief elected official of the city or urban county that administers the public health agency serving the greatest number of individuals with AIDS in the eligible area. This bill became law in 1990.

During the 104th Congress I cosponsored the Ryan White CARE Reauthorization Act of 1995 which provided federal funds to metropolitan areas and states to assist in health care costs and support services for individuals and families affected by acquired immune deficiency syndrome, AIDS, or infection with the human immunodeficiency virus, HIV. This bill became law in 1996.

Funding for Ryan White AIDS programs has increased from \$757.4 million in 1996 to \$2.02 billion for fiscal year 2004. Within the fiscal year 2004 funding, \$73 million was included for pediatric AIDS programs and \$749 million for the AIDS Drug Assistance Program, ADAP. AIDS research at the NIH totaled \$742.4 million in 1989, and has increased to an estimated \$2.9 billion in fiscal year 2004.

The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. The Balanced Budget Act of 1997 and the Consolidated Omnibus Appropriations Act of fiscal year 2001 established new and enhanced preventive benefits within the Medicare program, such as flu

shots, bone mass measurements, yearly mammograms, biennial pap smears and pelvic exams, and coverage of colonoscopy for high risk patients. However, some of these “wellness” benefits have cost obligations, such as co payments or deductibles. In this bill, I have also included provisions which refine and strengthen preventive benefits within the Medicare program, including coverage of yearly pap smears, pelvic exams, and screening and diagnostic mammography with no copayment or Part B deductible; and coverage of insulin pumps for certain Type I Diabetics.

During the 102nd Congress, I cosponsored an amendment to the Veterans’ Medical Programs Amendments of 1992 which included improvements to health and mental health care and other services to veterans by the Department of Veterans Affairs. This bill became law in 1992.

During the 106th Congress, I sponsored the Veterans Benefits and Health Care Improvement Act of 2000 which increased amounts of educational assistance for veterans under the Montgomery GI Bill and enhanced health programs. This bill became law in 2000.

I also sponsored the Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act which improved and enhanced the provision of health for veterans. This bill became law in 2003.

I cosponsored the Jobs and Growth Tax Relief Reconciliation Act which became law in 2003. This Act provided \$20 billion in fiscal relief to the states, half of which went toward Medicaid relief.

In 1996, I cosponsored the Health Coverage Availability and Affordability Act, which improved the portability and continuity of health insurance coverage in the group and individual markets, combated waste, fraud, and abuse in health insurance and health care delivery, promoted the use of medical savings accounts, improved access to long-term care services and coverage, and simplified the administration of health insurance. This bill became law in 1996.

On November 29, 1999, the Institute of Medicine, IOM, issued a report entitled “To Err is Human: Building a Safer Health System.” The IOM Report estimated that anywhere between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However only a fraction of these deaths and injuries are due to negligence; most errors are caused by system failures. The IOM issued a comprehensive set of recommendations, including the establishment of a nationwide, mandatory reporting system; incorporation of patient safety standards in regulatory and accreditation programs; and the development of a non-punitive “culture of safety” in health care organizations. The report called for a 50 percent reduction in medical errors over 5 years.

After the report was issued I held a series of three LHHS hearings on med-

ical errors: Dec. 13, 1999—to discuss the findings of the Institute of Medicine’s report on medical errors; Jan. 25, 2000—a joint hearing with the Committee on Veterans’ Affairs to discuss a national error reporting system and the VA’s national patient safety program; Feb. 22, 2000—a joint hearing with the HELP Committee to discuss the Administration’s strategy to reduce medical errors.

After hearing from Government witnesses and experts in the field on medical errors, I included \$50 million in the FY 2001 Senate Labor, Health and Human Services and Education for a patient safety initiative. In the Senate report I also directed the Agency for Healthcare Research and Quality, AHRQ, to: (1) develop guidelines on the collection of uniform error data; (2) establish a competitive demonstration program to test “best practices;” and (3) research ways to improve provider training.

The committee also directed AHRQ to prepare an interim report to Congress concerning the results of the demonstration program within 2 years of the beginning of the projects. The FY 2002 Senate report directed AHRQ to submit a report detailing the results of its initiative to reduce medical errors. HHS combined both reports into one, which it submitted to me earlier this year.

Since FY 2001 the Labor/HHS Subcommittee has included within the Agency for Healthcare Research and Quality funding for research into ways to reduce medical errors. The FY 2002 appropriation was \$55 million, in FY 2003 another \$55 million was provided, in FY 2004 the appropriation was increased to \$79.5 million and in FY 2005, while still pending Senate action a figure of \$84 million is proposed.

Statistics find that 30 percent of Medicare expenditures occur during a person’s last year of life and beyond the last year of life, a tremendous percentage of medical costs occur in the last month, in the last few weeks, in the last week, or in the last few days.

A New England Journal of Medicine article stated that as much as 3.3 percent of national health care costs could be saved yearly by reducing the use of end of life interventions. While some estimates of the end of life costs have been projected to be over \$500 billion, over a 10-year period, the cost analysis in this bill does not include any of these estimates in the projected savings calculations.

The issue of cutting back on end of life treatments is such a sensitive subject and no one should decide for anybody else what that person should have by way of end-of-life medical care. What care ought to be available is a very personal decision.

Living wills give an individual an opportunity to make that judgment, to make a decision as to how much care he or she wanted near the end of his or her life and that is, to repeat, a matter highly personalized for the individual.

As part of a public education program, I included an amendment to the Medicare Prescription Drug and Modernization Act of 2003 which directed the Secretary of Health and Human Services to include in its annual “Medicare And You” handbook, a section that specifies information on advance directives and details on living wills and durable powers of attorney regarding a person’s health care decisions.

As chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have worked to provide much-needed resources for hospitals, physicians, nurses, and other health care professionals. The National Institutes of Health provides funding for biomedical research at our Nation’s universities, hospitals, and research institutions. I led the effort to double funding for the National Institutes of Health over 5 years. Funding for the NIH has increased from \$11.3 billion in fiscal year 1995 to \$28 billion in fiscal year 2004.

An adequate number of health professionals, including doctors, nurses, dentists, psychologists, laboratory technicians, and chiropractors is critical to the provision of health care in the United States. I have worked to provide much needed funding for health professional training and recruitment programs. In fiscal year 2004, these vital programs received \$436 million. Nurse education and recruitment alone has been increased from \$58 million in fiscal year 1996 to \$142 million in fiscal year 2004.

Once recruited and trained, health professionals must be given the resources to provide quality health care in all areas of the country. Differences in reimbursement rates between rural and urban areas have led to significant problems in health professional retention. During the debate on the Balanced Budget Refinement Act 2, which passed as part of the FY 2001 consolidated appropriations bill, I attempted to reclassify some Northeastern hospitals in Pennsylvania to a Metropolitan Statistical Area with higher reimbursement rates. Due to the large volume of requests from other states, we were not able to accomplish these reclassifications for Pennsylvania. However, as part of the FY 2004 Omnibus Appropriations bill, I secured \$7 million for twenty northeastern Pennsylvania hospitals affected by area wage index shortfalls.

As part of the Medicare Prescription Drug and Medicare Improvement Act of 2003, which passed the Senate on November 25, 2003, a \$900 million program was established to provide a one-time appeal process for hospital wage index reclassification. Thirteen Pennsylvania hospitals were approved for funding through this program in Pennsylvania.

The following table outlines the \$540 billion in projected health care costs offset by the \$540 billion in health care saving assumptions contained in the

provisions of the Health Care Assurance Act of 2004. These costs and savings are for a 10-year period.

	Projected health care costs
Small Employer and Individual Purchasing Groups	\$300,000,000
COBRA Portability Reform	101,700,000,000
Financial Incentives for Young Adults	40,000,000,000
Outreach Program for Medicaid Eligible Low-Income Families	4,000,000,000
Expanded Coverage for the State Children's Health Insurance Program and Their Families	394,000,000,000
Total—Projected Health Care Costs ...	540,000,000,000
	Projected health care savings
Improving Program Integrity/Efficiency in the Medicare Program	\$60,000,000,000
Reducing Medical Errors and Increasing Medical Technology	150,000,000,000
Improving Health Care Quality, Efficiency and Consumer Education	70,000,000,000
Primary and Preventive Care Providers	260,000,000,000
Total—Projected Health Care Savings	540,000,000,000

The provisions which I have outlined today contain my ideas for a framework to provide affordable, quality health care for all Americans. I am opposed to rationing health care. I do not want rationing for myself, for my family, or for America. I believe we can provide care for the 43 million Americans who are now not covered by savings in other areas of the \$1.7 trillion currently being spent on health care. The time has come for concerted action in this arena. I urge my colleagues to move this legislation forward promptly.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. FRIST, Mr. DASCHLE, Mr. GRAHAM of South Carolina, and Mrs. BOXER):

S. 2560. A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise with my esteemed colleague and friend, Senator LEAHY, ranking Democrat Member of the Senate Judiciary Committee, to introduce the "Inducing Infringement of Copyrights Act of 2004." This Act will confirm that creative artists can sue corporations that profit by encouraging children, teenagers and others to commit illegal or criminal acts of copyright infringement. Senator LEAHY and I are pleased that Majority Leader FRIST and Minority Leader DASCHLE and Senators GRAHAM and BOXER are co-sponsoring this important bipartisan legislation.

It is illegal and immoral to induce or encourage children to commit crimes.

Artists realize that adults who corrupt or exploit the innocence of children are the worst type of villains. In "Oliver Twist", Fagin and Bill Sikes profited by inducing children to steal. In the film "Chitty-Chitty Bang-Bang", the leering "Child-Catcher" lured children into danger with false promises of "free lollipops." Tragically, some corporations now seem to think that they can legally profit by inducing children to steal—that they can legally lure children and others with false promises of "free music."

Such beliefs seem common among distributors of so-called peer-to-peer filesharing ("P2P") software. These programs are used mostly by children and college students—about half of their users are children. Users of these programs routinely violate criminal laws relating to copyright infringement and pornography distribution. Criminal law defines "inducement" as "that which leads or tempts to the commission of crime." Some P2P software appears to be the definition of criminal inducement captured in computer code.

Distributors of some P2P software admit this. The distributors of EarthStation 5 state, "While other peer 2 peer networks like Kazaa or Imesh continue to deny building their programs for illegal file sharing, at ES5 we not only admit why we built ES5, we actually promote P2P, endorse file sharing, and join our users in swapping files!"

Recently, in the Grokster case, a Federal court drew similar conclusions about the intent of other distributors of P2P software. It warned that some P2P distributors "may have intentionally structured their businesses to avoid secondary liability for copyright infringement, while benefiting financially from the illicit draw of their wares." In other words, many P2P distributors may think that they can lawfully profit by inducing children to break the law and commit crimes.

They are dead wrong. America punishes as criminals those who induce others to commit any criminal act, including copyright infringement. The first sentence of our Criminal Code states:

Whoever commits an offense against the United States or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal

Indeed, it is absurd to think that our law might be otherwise. No civilized country could let sophisticated adults profit by tempting its most vulnerable citizens—its children—to break the law.

I think we must understand how some corporations came to confuse child endangerment with a legal business model. Their confusion seems to arise from court cases misinterpreting a well-intended Supreme Court decision that tried to clarify two critical components of federal law: the law of secondary liability and the law of copyright.

The Supreme Court states that secondary liability is "imposed in virtually all areas of the law." Secondary liability is universal because its logic is compelling. It does not absolve lawbreakers of guilt. But it recognizes that we are all human: We are all more likely to break the law if encouraged or ordered to do so. Secondary liability thus discourages lawlessness by punishing people who manipulate others into doing the "dirty work" of breaking the law. Secondary liability usually targets two types of persons: 1. those who induce others to break the law, and 2. those who control others who break the law.

Though secondary liability is nearly ubiquitous, it has almost always remained as a judge-made, common-law doctrine—and for a good reason. Secondary liability prevents the use of indirect means to achieve illegal ends. Consequently, the scope of secondary liability must be flexible—otherwise, it would just instruct wrong-doers on how to legally encourage or manipulate others into breaking the law. The common-law judicial process is ideally suited to evolve flexible secondary-liability rules from the results of many individual cases.

As a result, Congress rarely codifies secondary liability. It has codified secondary liability to narrow it, as in the Patent Act. Congress has codified secondary liability in the Criminal Code to ensure that the narrow construction given criminal statutes would not foreclose secondary liability. In the Digital Millennium Copyright Act, Congress codified a complex balance between opposed interests that expanded one type of secondary liability and narrowed another.

Congress has always assumed that infringers could readily induce consumers to accept infringing copies of works. It thus created "a potent arsenal of remedies against an infringer" But secondary liability often arises if a third party can be ordered or induced to make the infringing copies. Consequently, only after copying devices became available to people who might be induced to infringe did questions about secondary liability for infringement become pressing.

In 1984, these questions reached the Supreme Court in Sony Corp. v. Universal City Studios, Inc. Sony held that the makers of the Betamax VCR could not be held secondarily liable in a civil suit brought by copyright holders—even though some consumers would use VCRs to make infringing copies of copyrighted TV broadcasts.

Sony also created a broader limitation on secondary liability by importing a limitation that that Congress had codified only in the Patent Act; this was the substantial-noninfringing-use rule, also called the "staple article of commerce" doctrine. Sony intended this rule to strike, as between creators of works and copying equipment, the same "balance" that it had struck under the Patent Act between the

rights of patent holder and makers of staple products.

Under the Patent Act, the substantial-noninfringing-use rule bars secondary liability for selling a “staple” product that has a “substantial non-infringing use”—even if that staple could also be used as a component in an infringing copy of a patented invention. This rule protects makers of staples without changing the nature of secondary liability. In particular, it does not immunize bad actors who intend to distribute “patent-infringement kits.” Even in the rare case of a novel invention that consists only of “staple” components, an “infringement kit” must bundle components and include assembly instructions. Neither the bundle nor the instructions will likely have a “substantial non-infringing use.”

Sony intended this rule to strike the same admirable “balance” under the Copyright Act. Unfortunately, Sony also proposed that if this rule proved problematic, Congress should alter it on a technology-by-technology basis. This proposal was flawed: In 1976, Congress redrafted the Copyright Act to avoid the need to re-adjust copyrights on a technology-by-technology basis because legislation could no longer keep pace with technological change. Returning to this impractical technology-based approach would create an endless procession of “tech-mandate” laws that discriminate between technologies Congress deems “good” or “bad.” But technologies are rarely inherently either “good” or “bad.” Most can be used for either purpose; the effect depends on details of implementation impossible to capture—or predict—in prospective legislation.

Of course, the dysfunctional corrective mechanism that Sony proposed would have become problematic only if the Sony limitation was misunderstood or misapplied by lower courts. Unfortunately, that has now happened.

In cases like *Napster* and *Grokster*, lower courts misapplied the substantial-non-infringing-use limitation. These courts forgot about “balance” and held that this limitation radically alters secondary liability. In effect, these cases retained secondary liability’s control prong but collapsed its inducement prong. The results of these cases prove this point: *Napster* imposed liability upon a distributor of copying devices who controlled infringing users; *Grokster* did not impose liability upon distributors who appeared to induce and profit from users’ infringement.

A secondary-liability rule that punishes control and immunizes inducement is a public policy disaster. It seems to permit the distribution of “piracy machines” designed to make infringement easy, tempting, and automatic. Even Harvard’s Berkman Center for Internet and society suggests that this is happening. The Center warns that “it can be extremely difficult for a non-expert computer user to shut

down” the viral redistribution that can otherwise automatically make the user an international distributor of infringing works. The Center notes that the “complexity of KaZaA’s installation and disabling functions” may leave many users unaware that they have become a contributor to global, for-profit copyright piracy. Unfortunately, “piracy machines” designed to mislead their users are just one of the perverse effects of a secondary liability rule that punishes control and immunizes inducement.

Perhaps the least perverse of these effects has been years of conflict between the content and technology industries. Content creators sought the tech-mandate “corrections” that Sony proposed. Technology industries opposed such laws because they too easily foreclose innocent or unforeseen applications. P2P software illustrates the problem: Today, most P2P software functions like Earthstation 5’s “piracy machine.” Yet all agree that non-piracy-adapted implementations of P2P could have legitimate and beneficial uses.

A rule that punishes only control also produces absurd results. Secondary liability should focus on intent to use indirect means to achieve illegal ends. A rule that punishes only control degenerates into inane debate about which indirect means was used. Thus *Napster* and *Grokster* are regulated differently—though they function similarly from the perspective of the user, the distributor, or the copyright holder.

A rule that punishes only control also acts as a “tech-mandate” law: It mandates the use of technologies that avoid “control”—regardless of whether they are suited for a particular task. *Napster* was punished for processing search requests efficiently on a centralized search index that it controlled. *Grokster* escaped by processing search requests less efficiently on a decentralized search index that it did not control. Rewarding inefficiency makes little sense.

A secondary-liability rule that punishes only control also punishes consumers: It encourages designers to avoid “control” by shifting risks onto consumers. For example, *Napster* incurred billion-dollar liability because it controlled computers housing a search index that located infringing files. Programs like *Kazaa* avoid *Napster*’s “control” by moving their search indices onto computers owned by unsuspecting consumers. Consumers were never warned about the risks of housing these indices. As a result, many consumers, universities, and businesses now control computers that house “mini-Napsters”—parts of a search index much like the one that destroyed *Napster*. These indices could still impose devastating liability upon anyone who “controls” a computer housing them. A secondary-liability rule that punishes only control thus rewards *Kazaa* for shifting huge risks

onto unsuspecting consumers, universities and businesses.

And search indices are just one of the risks that designers of P2P software seem to impose upon their young users to avoid control. For example, the designers of most filesharing software choose to lack the ability to remove or block access to files known to contain viruses, child pornography or pornography mislabeled to be appealing to children. This ability could create “control” and trigger liability. Aiding distributors of viruses and pornography may be just an unfortunate side effect of avoiding control while inducing infringement.

A secondary-liability rule that immunizes inducement also encourages attempts to conceal risks from consumers: It is easier to induce people to take risks if they are unsure whether they are incurring a risk or its severity. The interfaces of most P2P software provide no warnings about the severe consequences of succumbing to the constant temptation of infringement.

Another risk to users of P2P software arises when pornography combines with the “viral redistribution” that thwarts removal of infringing copies of works. Most filesharing networks are awash in pornography, much of it mislabeled, obscene, illegal child pornography, or harmful to minors. Anyone risks criminal prosecution if they distribute pornography accessible to minors over these child-dominated networks. As a result, one P2P distributor who does distribute “adult” content demands that it be protected by access controls. But every adult who uses this distributor’s software as intended to download one of millions of unprotected pornographic files automatically makes that pornography available for re-distribution to millions of children. This distributor has sat silently—knowing that its software exposes millions of its users to risks of criminal prosecution that the distributor cannot be paid to endure.

Perhaps the worst effect of punishing control and rewarding inducement is that it achieves precisely what Sony sought to avoid: It leaves copyright holders with an enforcement remedy that is “merely symbolic”: It seems real, but it is illusory.

In theory, a rule that immunizes inducement still permits enforcement against those induced to infringe. At first, this remedy seems viable because copyrights have traditionally been enforced in lawsuits against direct infringers who actually make infringing copies of works.

But a fallacy lurks here: The “direct infringers” at issue are not the traditional targets for copyright enforcement. In fact, they are children and consumers: They are the hundreds of millions of Americans—toddlers to seniors—who use and enjoy the creative works that copyrights have helped create.

There is no precedent for shifting copyright enforcement toward the end-

users of works. For nearly 200 years, copyright law has been nearly invisible to the millions who used and enjoyed creative works. Copyright law was invisible to consumers because the law gave creators and distributors mutual incentives to negotiate the agreements that ensured that works reached consumers in forms that were safe to use in foreseeable ways. Now, those incentives are collapsing. As a result, artists must now waive their rights or sue consumers—their fans.

Worse yet, artists must sue their fans for the sin of misusing devices designed to be easy and tempting to misuse. That is unfair: When inducement is the disease, infringement can be seen as just a symptom. Yet artists must ignore inducers who profit by chanting, “Hey, kids, infringement is cool, and we will help you get away with it.” Instead, artists can only sue kids who succumb to this temptation. They must leave Fagin to his work—and sue Oliver Twist.

This sue-Oliver “remedy” is a debacle. For example, immunizing inducement ensures that artists will have to sue their fans: Inducers will have both the incentive and the means to thwart less extreme measures, like educational campaigns. For example, RIAA tried to avoid lawsuits against filesharers by sending educational instant messages to infringers. Kazaa, for “privacy” reasons, disabled instant messaging by default in the next version of its software. Lawsuits then followed.

And imagine the poor parent who tries to tell a teenager that free downloading of copyrighted music is illegal. The teenager, confused because “everyone is doing it,” consults a leading technology-news site promising a “trusted source of information for millions of technology consumers.” There, the teenager finds a P2P distributor promoting “Morpheus 4.0, the only American filesharing software ruled legal by a U.S. federal court.” This statement is false: Grokster did not rule Morpheus “legal”; in fact, the case only confirmed that downloading copyrighted works is illegal. Below this misinformation, the teenager will find an independent editorial review rating Morpheus 4.0 as a “Recommended” download and “an excellent choice” for those seeking “the latest and greatest.” Who will the teenager believe?

Worse yet, if artists must sue only the induced, they just feed the contempt for copyrights that inducers breed. Inducers know that people induced to break a law become that law’s enemies: Once you break a law, you must either admit wrongdoing or rationalize your conduct. Rationalization is often so easy. You can blame the law: Copyright is a stupid law needlessly enshrined in the Constitution by naives like James Madison. You can blame the victim: Some rock stars still make money; I do not like the “business model” of the record labels. You can blame the randomness of enforce-

ment: Everyone else was doing it, so why not me? Anyone who has talked to young people about filesharing has heard such rationalizations time and again.

And forcing artists to ignore inducers and sue the induced locks artists into a war of attrition that they are unlikely to win. If you imagine inducement as a bush, this “remedy” forces artists to spend their money to sever each leaf—while the inducer makes money by watering the root. Artists may not be able to sustain this unending battle.

This may let inducers attempt an extortionate form of “outsourcing.” Inducers can increase or decrease their devices propensity to encourage piracy. Inducers can thus tell American artists that if the artists pay the inducers to become licensed distributors of their works, perhaps fewer bad things will happen. Implicitly, if artists do not pay, perhaps more bad things will happen. Were artists to succumb to such tactics, jobs and revenues created by the demand for American creative works would go overseas to some unsavory locales.

Worst of all, inducers will inevitably target children. Children would be easily induced to violate complex laws like the Copyright Act. Any child is a terrible enforcement target. And because most adults never induce children to break laws, children induced to infringe copyrights would not even be “bad kids.” Indeed, they would probably be smart, mostly law-abiding young people with bright futures. Innocent, mostly law-abiding children make the worst enforcement targets—and thus the best “human shields” to protect an inducer’s business model.

This threat to children is real. Today, artists are suing high-volume filesharers who cannot be identified until late in the process. One filesharer sued for violating federal law over 800 times turned out to be a 12-year-old female honor student. This otherwise law-abiding young girl and her family then faced ruin by the girl’s favorite artists. The public knew that something was wrong, and it was outraged. So the people who gave that girl an easily misused toy—and profited from her misuse of it—exploited public outrage with crocodile tears about the tactics of “Big Music.” And then, I imagine, they laughed all the way to the bank.

The Supreme Court could not have intended to force artists to sue children in order to reduce the profits that adults can derive by encouraging children to break the law. No one would intend that. Yet it seems to be happening.

These are the inevitable results of a secondary-liability rule that immunizes inducement. This “rule” has created the largest global piracy rings in history. These rings now create billions of infringing copies of works, and reap millions in profits for leaders who insulate themselves from direct involvement in crime by inducing children and

students to “do the dirty work” of committing illegal or criminal acts. These rings then thwart deterrence and condemn attempts to enforce the law. These rings may now use profits derived from rampant criminality to extort their way into the legal Internet distribution market—a market critical to the future of our artists and children.

This must stop—and stop now. Artists have tried: They targeted for-profit inducers. But artists were thwarted by a court ruling that held, in effect, that although artists can sue exploited children and families into bankruptcy, courts need “additional legislative guidance” to decide whether artists can, instead, sue the corporations that profit by inducing children to break the law. I find this assertion wholly inconsistent with the intent of both Congress and the Supreme Court. But until this fundamentally flawed ruling is overruled by legislation or higher courts, artists cannot hold inducers liable for their actions.

Fortunately, Congress has charged the Department of Justice to enforce the Criminal Code. In the Criminal Code, Congress made it a Federal crime to willfully infringe copyrights or to distribute obscene pornography or child pornography. Congress also made it a crime to induce anyone—child or adult—to commit any Federal crime.

Indeed, Congress codified many forms of criminal secondary liability in the Criminal Code. I have already quoted its first sentence. Here is its second: “Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.” One court has said that this ensures that “[a] crime may be performed through an innocent dupe, with the essential element of criminal intent residing in another person.” Not coincidentally, some Federal prosecutors worry that P2P software makes infringement so tempting, easy and automatic that many of its users will lack criminal intent. Perhaps—but their relative innocence will not protect their inducers.

The Criminal Code also codifies other forms of secondary liability, like this one:

If two or more persons conspire to injure, oppress, threaten any person in any State . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the United States, . . . [t]hey shall be fined under this title or imprisoned not more than ten years, or both. . . .

These examples of laws imposing secondary criminal liability have something in common: Congress codified no exceptions for “substantial non-criminal uses.” The message is clear: Those who induce others to commit crimes cannot avoid prison by showing that some of them resisted. I will work with my colleagues in Congress to ensure that the Department of Justice enforces the Federal laws that prevent

anyone from inducing violations of any Federal law by our citizens, our students, or our children.

Congress, too, must do its part by enacting the Inducing Infringement of Copyrights Act, S. 2560. This bill will protect American artists, children and taxpayers by restoring the privately funded civil remedy crippled by the Grokster ruling. Congress must act: A Federal court has held that artists can only enforce their rights by suing exploited children and students pending "additional legislative guidance" about whether artists can, instead, sue the corporations that profit by inducing children to break laws and commit crimes. Silence could be misinterpreted as support for those who profit by corrupting and endangering others. This bill will restore the tried, privately funded civil enforcement actions long used to enforce copyrights.

This bill will also preserve the Sony ruling without reversing, abrogating or limiting it. The Inducement Act will simply import and adapt the Patent Act's concept of "active inducement" in order to cover cases of intentional inducement that were explicitly not at issue in Sony. The Inducement Act also preserves the Section 512 safe harbors for Internet service providers.

The bill also contains a savings clause to ensure that it provides the "guidance" courts have requested—not an iron-clad rule of decision for all possible future cases. This flexibility is critical because just as infringement cases are fact specific, so should inducement cases center on the facts of a given case, with courts endowed with the flexibility to impose just results. This bill does not purport to resolve or affect existing disagreements about when copies made and used within an individual's home environment are permissible and when they are infringing.

Rather, this bill is about the intentional inducement of global distribution of billions of infringing copies of works at the prodding and instigation of sophisticated corporations that appear to want to profit from piracy, know better than to break the law themselves, and try to shield themselves from secondary liability by inducing others to infringe and then disclaiming control over those individuals.

I also want to thank everyone who has worked with us to craft a bill that addresses this serious threat to children and copyrights without unduly burdening companies that engage in lawful commerce in the wide range of devices and programs that can copy digital files. As Sony illustrates, clear knowledge that a copying device can be used to infringe does not provide evidence of intent to induce infringement. It was critical to find a way to narrowly identify the rare bad actors without implicating the vast majority of companies that serve both consumers and copyright-holders by providing digital copying devices—even though these devices, like all devices,

can be misused for unlawful purposes. In particular, I would like to thank the Business Software Alliance for its invaluable assistance in crafting a bill that protects existing legitimate technologies and future innovation in all technologies—including peer-to-peer networking.

Senator LEAHY and I look forward to working with all affected parties to enact this bill and restore the balance and private enforcement that Sony envisioned. But until Congress can enact the Inducing Infringement of Copyrights Act, the duty and authority to stop inducement that targets children and students resides in the Department of Justice that Congress has charged to protect artists, commerce, citizens and children. The Department must act now to clarify some simple facts: America has never legalized the "business model" of Fagin and Bill Sykes. Modern ChildCatchers cannot lawfully profit by luring children into crime with false promises of "free music."

Mr. President, I urge all of my colleagues to support S. 2560, the Inducing Infringement of Copyrights Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inducing Infringement of Copyrights Act of 2004".

SEC. 2. INTENTIONAL INDUCEMENT OF COPYRIGHT INFRINGEMENT.

Section 501 of title 17, United States Code, is amended by adding at the end the following:

"(g)(1) In this subsection, the term 'intentionally induces' means intentionally aids, abets, induces, or procures, and intent may be shown by acts from which a reasonable person would find intent to induce infringement based upon all relevant information about such acts then reasonably available to the actor, including whether the activity relies on infringement for its commercial viability.

"(2) Whoever intentionally induces any violation identified in subsection (a) shall be liable as an infringer.

"(3) Nothing in this subsection shall enlarge or diminish the doctrines of vicarious and contributory liability for copyright infringement or require any court to unjustly withhold or impose any secondary liability for copyright infringement."

Mr. LEAHY. Mr. President, nobody can deny that the digital age has brought many benefits and many challenges to all of us.

In my home state of Vermont, the Internet has revolutionized how we work and how we learn: Distance learning brings the best teaching tools right into rural communities, and new business models let Vermont businesses reach new and far-flung customers. As suppliers who use the Internet, we enjoy access to a range of goods and services unimagined when I was growing up, and the vast panoply of information and entertainment offerings on the World Wide Web are at the finger-

tips of many Vermonters. Of course, we must work to ensure that everyone can reap the benefits of the digital age, and I am striving both here in Washington and in my state to do what is necessary to bring affordable and reliable Internet access to every household.

I am confident that, with continued focus and perseverance, the day of universal access is coming and we will all take part in the many advantages of the digital age. But there are other problems that require immediate attention, because they threaten the development of the web. We will never be able to make the Internet an entirely trouble-free zone, but we will also never be justified in failing to make efforts to defend and improve it.

One important effort to improve it is the bill that I am proud to introduce today—along with Senators HATCH, DASCHLE, FRIST, BOXER, and GRAHAM of South Carolina—the "Inducing Infringement of Copyright Act of 2004."

The "Inducing Infringement of Copyright Act of 2004" is a straightforward bill. Our legislation treats those who induce others to violate copyrights as infringers themselves. This is not a novel concept; it is the codification of a long-standing principle of intellectual property law: that infringement liability reaches not only direct infringers but also those who intentionally induce illegal infringement. And while the legal principle is an old one, the problems of inducement for copyright are a relatively new byproducts of the digital age—an age in which it is easy, and often profitable, to induce others to violate copyrights through illegal downloading from the Internet.

The principle at the heart of this bill—secondary copyright liability—has long been in the common law. In fact, such secondary liability is provided for by statute in the patent law. The patent code provides liability for inducing infringement and for the sale of material components of patented machines, when the components are not a staple article of commerce suitable for substantial non-infringing use. This is because it has long been relatively simple and economically worthwhile to induce patent infringement. By contrast, until recently the ability to illegally download music, books, software, and films has not existed. Recent developments, however, now make it necessary for Congress to clarify that this principle also applies to copyrights.

What the inducement bill does not do is just as important as what it does: It does not target technology. Useful legislation on this topic must address the copyright issue and not demonize certain software. As a practical matter, if a law is targeted at certain software, the designers will simply design around the law and render it useless. And as a matter of effectiveness, if the law addresses only well-understood present threats, it will necessarily be too narrow to encompass future technologies that may pose the same threat to copyrights. A law that deals simply with

the copyrights—and their violation—is far less likely to be circumvented or out-dated before it can do any good. It will be both broad enough and sufficiently flexible to accommodate situations we cannot foresee.

This legislation is also carefully crafted to preserve the doctrine of “fair use.” Indeed by targeting the illegal conduct of those who have hijacked promising technologies, we can hope that consumers in the future have more outlets to purchase creative works in a convenient, portable digital format. Similarly, the bill will continue to promote the development of new technologies as it will not impose liability on the manufacturers of copying technology merely because the possibility exists for abuse. Finally, the bill will not affect Internet service providers who comply with the safe harbor provisions of the Digital Millennium Copyright Act.

Copyright law protecting intellectual property is one of the taproots of our economy and of our creativity as a nation. For copyright law to work as the Founders intended, it needs effective enforcement. That means adapting enforcement tools to meet new challenges, in the digital age or in any age. And that is the straightforward purpose of this bill.

I would like to take a moment also to emphasize another important, if obvious, point about this bill that some detractors have ignored. The law only penalizes those who intentionally induce others to infringe copyrights. Thus, the makers of electronic equipment, the software vendors who sell email and other programs, the Internet service providers who facilitate access to the Web—all of these entities have nothing to fear from this bill. So long as they do not conduct their businesses with the intention of inducing others to break the law—and I certainly have not heard from anyone who makes that claim—they should rest easy. The only actors who have anything to fear are those that are already breaking the law; this bill simply clarifies and codifies that long-standing doctrine of secondary liability.

The “Inducing Infringement of Copyright Act of 2004” is a simple fix to a growing problem. The bill protects the rights inherent in creative works, while helping to ensure that those same works can be easily distributed in digital format.

Mr. FRIST. Mr. President, I rise in support of the Inducing Infringement of Copyrights Act of 2004 introduced today by Senators HATCH and LEAHY. I am proud to be an original cosponsor. The Inducement Act addresses the growing problem of online piracy—the illegal downloading of copyrighted music. Piracy is devastating the music community and threatening other forms of copyrighted work. This commonsense, bipartisan legislation takes important steps in protecting our Nation’s intellectual property.

When I return home to Nashville and drive down Music Row, my heart sinks

as I see the “For Sale” and “For Rent” signs everywhere. The once vibrant music community is being decimated by online piracy. No one is spared. It is hitting artists, writers, record companies, performing rights organizations, and publishers.

Every month 2.6 billion music files are illegally downloaded using peer-to-peer networks, and it is not unusual for albums to show up on the Internet before they make it to the record store. The effect of this theft of intellectual property is disastrous to the creative industry. In the end, rampant piracy dries up income and drives away professional musicians. We get fewer artists and less music.

Online piracy affects more than just the music industry. It affects a broad swath of the creative field, including the movie and software industries. Music, movies, books, and software contribute well over half a trillion dollars to the U.S. economy each year and support 4.7 million workers. When our copyright laws are blatantly ignored or threatened, an enormous sector of our economy and creative culture is threatened.

The intent of the anti-piracy bill being introduced today is simple. It holds liable those who intentionally induce others to commit illegal acts of copyright infringement. In other words, it targets the bad actors who are encouraging others to steal. In addition, the general cause of action in this bill is not new or revolutionary. It is based on the theory of secondary liability that is found squarely in our Nation’s laws.

This bill should not and does not threaten in any manner the further advancement of technology. It is not a technology mandate. Only individuals or organizations which profit from intentionally encouraging others to violate our copyright laws should fear this legislation. It has been carefully crafted and will be thoroughly reviewed to ensure that its language accurately reflects its sound intent.

The future of the music community is with advancing technology, and I encourage those in the music field to continue to offer innovative choices to consumers. It is important to recognize, however, that no one in the music industry or any other intellectual property field can survive when his or her work is being stolen. Those who are intentionally and actively encouraging this theft should be held accountable.

I would like to thank Senator HATCH for his hard work on this bill and his dedication to this issue. I would also like to thank Senator LEAHY for his work. This is truly a bipartisan issue, and I look forward to working with Members on both sides of the aisle to ensure that our intellectual property laws are respected and enforced.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 387—COMMEMORATING THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. HAGEL, Mr. DURBIN, Mrs. BOXER, Mr. MCCAIN, Mrs. MURRAY, Mr. LUGAR, Mr. WARNER, Mr. CHAFEE, Ms. SNOWE, and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 387

Whereas September 3, 2004, will mark the 40th Anniversary of the enactment of the Wilderness Act (16 U.S.C. 1131 et seq.), which gave to the people of the United States an enduring resource of natural heritage as part of the National Wilderness Preservation System;

Whereas great American writers such as Ralph Waldo Emerson, Henry David Thoreau, George Perkins Marsh, and John Muir joined poets like William Cullen Bryant, and painters such as Thomas Cole, Frederic Church, Frederic Remington, Albert Bierstadt, and Thomas Moran to define the United States’ distinct cultural value of wild nature and unique concept of wilderness;

Whereas national leaders such as President Theodore Roosevelt reveled in outdoor pursuits and sought diligently to preserve those opportunities for molding individual character, shaping a nation’s destiny, striving for balance, and ensuring the wisest use of natural resources, to provide the greatest good for the greatest many;

Whereas luminaries in the conservation movement, such as scientist Aldo Leopold, forester Bob Marshall, writer Howard Zahniser, teacher Sigurd Olson, biologists Olaus and Adolph Murie, and conservationist David Brower believed that the people of the United States could have the boldness to project into the eternity of the future some of the wilderness that has come from the eternity of the past;

Whereas Senator Hubert H. Humphrey, a Democrat from Minnesota, and Representative John Saylor, a Republican from Pennsylvania, originally introduced the legislation with strong bipartisan support in both bodies of Congress;

Whereas with the help of their colleagues, including cosponsors Gaylord Nelson, William Proxmire, and Henry “Scoop” M. Jackson, and other conservation allies, including Secretary of Interior Stewart L. Udall and Representative Morris K. Udall, Senator Humphrey and Representative Saylor toiled 8 years to secure nearly unanimous passage of the legislation, 78 to 8 in the Senate, and 373 to 1 in the House of Representatives;

Whereas critical support in the Senate for the Wilderness Act came from 3 Senators who still serve in the Senate as of 2004: Senator Robert C. Byrd, Senator Daniel Inouye, and Senator Edward M. Kennedy;

Whereas President John F. Kennedy, who came into office in 1961 with enactment of wilderness legislation part of his administration’s agenda, was assassinated before he could sign a bill into law;

Whereas 4 wilderness champions, Aldo Leopold, Olaus Murie, Bob Marshall, and Howard Zahniser, sadly, also passed away before seeing the fruits of their labors ratified by Congress and sent to the President;

Whereas President Lyndon B. Johnson signed into law the Wilderness Act in the Rose Garden on September 3, 1964, establishing a system of wilderness heritage as

President Kennedy and the conservation community had so ardently envisioned and eloquently articulated;

Whereas now, as a consequence of wide popular support, the people of the United States have a system of places wild and free for the permanent good of the whole people of this great Nation;

Whereas over the past 40 years the system for protecting an enduring resource of wilderness has been built upon by subsequent Presidents, successive leaders of Congress, and experts in the land managing agencies within the Departments of the Interior and Agriculture;

Whereas today that system is 10 times larger than when first established;

Whereas the Wilderness Act instituted an unambiguous national policy to recognize the natural heritage of the United States as a resource of value and to protect that wilderness for future generations to use and enjoy as previous and current generations have had the opportunity to do;

Whereas since 1964, when the first 9,000,000 acres of wilderness were included by Congress, more than 110 additional laws have been passed to build the National Wilderness Preservation System to its current size of 106,000,000 acres;

Whereas wild places protected in perpetuity can currently be found and enjoyed in 44 of the Nation's 50 States;

Whereas this wealth of the heritage of the United States can be seen today from Alaska to Florida in over 650 units, from Fire Island in New York's Long Island South Shore and Ohio's West Sister Island in Lake Erie, to far larger Mojave in eastern California and Idaho's River of No Return;

Whereas President Gerald R. Ford stated that the National Wilderness Preservation System "serves a basic need of all Americans, even those who may never visit a wilderness area—the preservation of a vital element of our natural heritage" and that, "wilderness preservation ensures that a central facet of our Nation can still be realized, not just remembered"; and

Whereas President Gerald R. Ford has joined with President Jimmy Carter and more than 100 other prominent United States citizens as honored members of Americans for Wilderness, a committee formed to celebrate this national achievement: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 40th Anniversary of the Wilderness Act (16 U.S.C. 1131 et seq.);

(2) recognizes and applauds the extraordinary work of the individuals and organizations involved in building the National Wilderness Preservation System; and

(3) is grateful for the tremendous asset the United States has been able to pass along as a gift to future people of the United States.

Mr. FEINGOLD. Mr. President, as founder of the Senate Wilderness Caucus, I am submitting a Senate resolution today to commemorate the 40th anniversary of the Wilderness Act of 1964, which was signed into law on September 3, 1964, by President Lyndon B. Johnson. I thank the following colleagues for their support as cosponsors: Senator SUNUNU, Senator HAGEL, Senator DURBIN, Senator BOXER, Senator MCCAIN, Senator MURRAY, Senator LUGAR, Senator WARNER, Senator CHAFFEE, Senator SNOWE, and Senator COLLINS.

The Wilderness Act became law seven years after the first wilderness bill was introduced by Senator Hubert H. Humphrey of Minnesota. The final bill,

sponsored by Senator CLINTON ANDERSON of New Mexico, passed the Senate by a vote of 73-12 on April 9, 1963, and passed the House of Representatives by a vote of 373-1 on July 30, 1964. The Wilderness Act of 1964 established a National Wilderness Preservation System "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness." The law gives Congress the authority to designate wilderness areas, and directs the Federal land management agencies to review the lands under their responsibility for their wilderness potential.

Under the Wilderness Act, wilderness is defined as "an area of undeveloped Federal land retaining its primeval character and influence which generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." The creation of a national wilderness system marked an innovation in the American conservation movement—wilderness would be a place where our "management strategy" would be to leave lands essentially undeveloped.

The original Wilderness Act established 9.1 million acres of Forest Service land in 54 wilderness areas. Now, after passage of 102 pieces of legislation, the wilderness system is comprised of over 104 million acres in 625 wilderness areas, across 44 States, and administered by four federal agencies: the Forest Service in the U.S. Department of Agriculture, and the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service in the Department of the Interior.

As we in this body know well, the passage and enactment of the Wilderness Act was a remarkable accomplishment that required steady, bipartisan commitment, institutional support, and strong leadership. The United States Senate was instrumental in shaping this very important law, and this anniversary gives us the opportunity to recognize this role.

As a Senator from Wisconsin, I feel a special bond with this issue. The concept of wilderness is inextricably linked with Wisconsin. Wisconsin has produced great wilderness thinkers and leaders in the wilderness movement such as Senator Gaylord Nelson and the writer and conservationist Aldo Leopold, whose *A Sand County Almanac* helped to galvanize the environmental movement. Also notable is Sierra Club founder John Muir, whose birthday is the day before Earth Day. Wisconsin also produced Sigurd Olson, one of the founders of the Wilderness Society.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. Though he is a well-known and widely respected former Senator and former two-term Governor of Wisconsin, and the founder of Earth Day, some may not be aware that he is cur-

rently devoting his time to the protection of wilderness by serving as a counselor to the Wilderness Society—an activity which is quite appropriate for someone who was also a co-sponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

The testimony at congressional hearings and the discussion of the bill in the press of the day reveals Wisconsin's crucial role in the long and continuing American debate about our wild places, and in the development of the Wilderness Act. The names and ideas of John Muir, Sigurd Olson, and, especially, Aldo Leopold, appear time and time again in the legislative history.

Senator CLINTON ANDERSON of New Mexico, chairman of what was then called the Committee on Interior and Insular Affairs, stated that his support of the wilderness system was the direct result of discussions he had held almost forty years before with Leopold, who was then in the Southwest with the Forest Service. It was Leopold who, while with the Forest Service, advocated the creation of a primitive area in the Gila National Forest in New Mexico in 1923. The Gila Primitive Area formally became part of the wilderness system when the Wilderness Act became law.

In a statement in favor of the Wilderness Act in the New York Times, then-Secretary of the Interior Stewart Udall discussed ecology and what he called "a land ethic" and referred to Leopold as the instigator of the modern wilderness movement. At a Senate hearing in 1961, David Brower of the Sierra Club went so far as to claim that "no man who reads Leopold with an open mind will ever again, with a clear conscience, be able to step up and testify against the wilderness bill." For others, the ideas of Olson and Muir—particularly the idea that preserving wilderness is a way for us to better understand our country's history and the frontier experience—provided a justification for the wilderness system.

In closing, I would like to remind colleagues of the words of Aldo Leopold in his 1949 book, *A Sand County Almanac*. He said, "The outstanding scientific discovery of the twentieth century is not the television, or radio, but rather the complexity of the land organism. Only those who know the most about it can appreciate how little is known about it." We still have much to learn, but this anniversary of the Wilderness Act reminds us how far we have come and how the commitment to public lands that the Senate and the Congress demonstrated forty years ago continues to benefit all Americans.

Mr. WARNER. Mr. President, I am pleased to join my colleagues in cosponsoring this resolution to honor and celebrate the 40th Anniversary of the Wilderness Act, and the contributions of those who have created a glorious wilderness system throughout the United States for all Americans to enjoy.

This anniversary provides a time for personal reflection on what wild places mean to us as individuals and society as a whole. As I consider the fact that this July 4 our country will celebrate her 228th year of independence, I marvel at the great changes she has seen. America has seen wars, the Industrial Revolution, the Great Depression, the Technology Age, times of prosperity and times of challenge. With all of these changes, much of America's landscape has been transformed.

I also think back to America as I knew her as a child and how she has rapidly grown and changed during my 77 years. I feel indebted to those whose foresight resulted in the Wilderness Act legislation, and whose tireless efforts saw this act signed into law. In addition, I recognize all those who have championed the expansion of the wilderness system which now encompasses 106,000,000 acres nationwide.

During my 26 years in the U.S. Senate, I have worked to pass three Virginia wilderness bills through Congress. In fact, I recently introduced the Virginia Ridge and Valley Wilderness and National Scenic Areas Act of 2004 which, if passed, would create an additional 29,000 acres of wilderness in southwest Virginia. With 177,214 acres of wilderness, Virginia's wild and beautiful landscapes will remain untouched by civilization. Visitors from across America can experience Virginia's wilderness and enjoy great beauty, solitude, primitive recreation, and nature in its true form.

I feel very strongly that the Wilderness Act is a vehicle whereby we can pay tribute to our great country by preserving some of her heritage and history. Though development, growth and change continue, we will have pockets of undisturbed lands for solitude, reflection, and recreation. In these areas we can keep America's natural diversity, wildlife habitats, and vegetation intact. Through the efforts, passion, and vision of many, we will leave a natural legacy of wildlands to future generations of America.

SENATE RESOLUTION 388—COMMEMORATING THE 150TH ANNIVERSARY OF THE FOUNDING OF THE PENNSYLVANIA STATE UNIVERSITY

Mr. SANTORUM (for himself and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 388

Whereas in 1854, the Farmers' High School was founded in Centre County, Pennsylvania in response to the State Agricultural Society's interest in establishing an educational institution to bring general education and modern farming methods to the farmers of the Commonwealth of Pennsylvania;

Whereas in 1855, the Farmers' High School was granted a permanent charter by the Pennsylvania General Assembly;

Whereas the Morrill Land-Grant Act of 1862 provided for the distribution of grants of public lands owned by the Federal Government to the States for establishing and maintaining institutions of higher learning;

Whereas in 1863, the Commonwealth accepted a grant of land provided through such Act, establishing one of the first two land-grant institutions in the United States, and designated the Farmers' High School, renamed the Agricultural College of Pennsylvania, as the Commonwealth's sole land-grant institution;

Whereas in 1874, the Agricultural College of Pennsylvania was renamed The Pennsylvania State College and in 1953, such was renamed The Pennsylvania State University;

Whereas with a current enrollment of 83,000, The Pennsylvania State University consists of 11 academic schools, 20 additional campuses located throughout the Commonwealth, the College of Medicine, The Dickinson School of Law, and The Pennsylvania College of Technology;

Whereas 1 in every 8 Pennsylvanians with a college degree, 1 in every 720 Americans, 1 in every 50 engineers, and 1 in every 4 meteorologists are alumni of The Pennsylvania State University;

Whereas formed in 1870, The Pennsylvania State University Alumni Association is the largest dues-paying alumni association in the nation;

Whereas The Pennsylvania State University has the largest outreach effort in United States higher education, delivering programs to learners in 87 countries and all 50 States;

Whereas The Pennsylvania State University consistently ranks in the top 3 universities in terms of SAT scores received from high school seniors;

Whereas The Pennsylvania State University annually hosts the largest student-run philanthropic event in the world, which benefits the Four Diamonds Fund for families with children being treated for cancer;

Whereas the missions of instruction, research, outreach and extension continue to be the focus of The Pennsylvania State University;

Whereas The Pennsylvania State University is renowned for the following: the rechargeable heart pacemaker design, the heart-assist pump design, 4 astronauts to have flown in space including the first African-American, and the first institution to offer an Agriculture degree; and

Whereas The Pennsylvania State University is one of the most highly regarded research universities in the nation, with an outreach extension program that reaches nearly 1 out of 2 Pennsylvanians a year and an undergraduate school of immense scope and popularity: Now, therefore, be it

Resolved, That the Senate commemorates the 150th anniversary of the founding of The Pennsylvania State University and congratulates its faculty, staff, students, alumni, and friends on the occasion.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3464. Mr. BROWNBACK proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3465. Mr. REID (for Mr. DORGAN (for himself, Ms. SNOWE, and Ms. CANTWELL)) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, supra.

SA 3466. Mr. REID (for Mr. HOLLINGS) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, supra.

SA 3467. Mr. ENSIGN proposed an amendment to amendment SA 3315 proposed by Ms. LANDRIEU to the bill S. 2400, supra.

SA 3468. Mr. DASCHLE (for himself, Mr. DORGAN, Mrs. MURRAY, Mr. NELSON, of Florida, Mr. KERRY, Mr. REID, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mrs. BOXER, and Mr. DAYTON) proposed an amendment to amendment SA 3409 proposed by Mr. DASCHLE to the bill S. 2400, supra.

SA 3469. Mr. REID proposed an amendment to amendment SA 3387 proposed by Mr. LEAHY to the bill S. 2400, supra.

SA 3470. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3315 proposed by Ms. LANDRIEU to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3471. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3472. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3473. Mr. FRIST (for Mrs. FEINSTEIN) proposed an amendment to the joint resolution S.J. Res. 33, expressing support for freedom in Hong Kong.

TEXT OF AMENDMENTS

SA 3464. Mr. BROWNBACK proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike page 1 line 2 through page 3 line 3 and insert the following:

SEC. ____ BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the "Broadcast Decency Enforcement Act of 2004".

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A) or (B)” and inserting “subparagraph (A), (B), or (C)”.

(c) EFFECTIVE DATE.—This section shall take effect 2 days after the date of enactment of this section.

SA 3465. Mr. REID (for Mr. DORGAN (for himself, Ms. SNOWE, and Ms. CANTWELL)) proposed an amendment to

amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows;

In the amendment, strike all beginning on page 1, line 2, through page 3, line three, and insert the following:

SEC. .BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) **SHORT TITLE.**—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) **PURPOSE.**—The purpose of this section is to increase the FCC’s authority to fine for indecent broadcasts and prevent further relaxation of the media ownership rules in order to stem the rise of indecent programming.

(c) **FINDINGS.**—The Congress makes the following findings:

(1) Since 1996 there has been significant consolidation in the media industry, including:

(A) **RADIO.**—Clear Channel Communications went from owning 43 radio stations prior to 1996 to over 1200 as of January 2003; Cumulus Broadcasting, Inc. was established in 1997 and owned 266 stations as of December 2003, making it the second-largest radio ownership company in the country; and Infinity Broadcasting Corporation went from owning 43 radio stations prior to 1996 to over 185 stations as of June 2004;

(B) **TELEVISION.**—Viacom/CBS’s national ownership of television stations increased from 31.53% of U.S. television households prior to 1996 to 38.9% in 2004; GE/NBC’s national ownership of television stations increased from 24.65% prior to 1996 to 33.56% in 2004; NewsCorp/FOX’s national ownership of television stations increased from 22.05% prior to 1996 to 37.7% in 2004;

(C) **MEDIA MERGERS.**—In 2000, Viacom merged with CBS and UPN; in 2002, GE/NBC merged with Telemundo Communications, Inc. and in 2004 with Vivendi Universal Entertainment; in 2003 News Corp./Fox acquired a controlling interest in DirecTV; in 2000, Time Warner, Inc. merged with America Online.

(2) Over the same period that there has been significant consolidation in the media industry the number of indecency complaints also has increased dramatically. The largest owners of television and radio broadcast holdings have received the greatest number of indecency complaints and the largest fines, including:

(A) Over 80% of the fines proposed by the Federal Communications Commission for indecent broadcasts were against stations owned by two of the top three radio companies. The top radio company alone accounts for over two-thirds of the fines proposed by the FCC;

(B) Two of the largest fines proposed by the FCC were against two of the top three radio companies;

(C) In 2004, the FCC received over 500,000 indecency complaints in response to the Superbowl Halftime show aired on CBS and produced by MTV, both of which are owned by Viacom. This is the largest number of complaints ever received by the FCC for a single broadcast;

(D) The number of indecency complaints increased from 111 in 2000 to 240,350 in 2003;

(3) Media conglomerates do not consider or reflect local community standards.

(A) The FCC has no record of a television station owned by one of the big four net-

works (Viacom/CBS, Disney/ABC, News Corp./Fox or GE/NBC) pre-empting national programming for failing to meet community standards;

(B) FCC records show that non-network owned stations have often rejected national network programming found to be indecent and offensive to local community standards;

(C) A letter from an owned and operated station manager to a viewer stated that programming decisions are made by network headquarters and not the local owned and operated television station management;

(D) The Parents Television Council has found that the “losers” of network ownership “are the local communities whose standards of decency are being ignored;”

(4) The Senate Commerce Committee has found that the current fines do not deter indecent broadcast because they are merely the cost of doing business for large media companies. Therefore, in order to prevent the continued rise of indecency violations, the FCC’s authority for indecency fines should be increased and further media consolidation should be prevented.

(d) **INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.**—section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i) (I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A) or (B)” and inserting “subparagraph (A), (B), or (C)”.

(e) **NEW BROADCAST MEDIA OWNERSHIP RULES SUSPENDED.** (1) **SUSPENSION.**—Subject to the provisions of paragraphs (d)(2), the broadcast media ownership rules adopted by the Federal Communications Commission on June 2, 2003, pursuant to its proceeding on broadcast media ownership rules, Report and Order FCC03-127, published at 68 FR 46286, August 5, 2003, shall be invalid and without legal effect.

(2) **CLARIFICATION.**—The provisions of paragraph (1) shall not supersede the amendments made by section 629 of the Miscellaneous Appropriations and Offsets Act, 2004 (Public Law 108-199).

SA. 3466. Mr. REID (for Mr. HOLLINGS) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Protection from Violent Programming Act”.

SEC. 202. FINDINGS.

The Congress makes the following findings:

(1) Television influences children’s perception of the values and behavior that are common and acceptable in society.

(2) Broadcast television, cable television, and video programming are—

(A) uniquely pervasive presences in the lives of all American children; and

(B) readily accessible to all American children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent, video programming at a young age have a higher tendency to engage in violent and aggressive behavior later in life than those children not so exposed.

(5) There is empirical evidence that children exposed to violent video programming have a greater tendency to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(6) There is empirical evidence that children exposed to violent video programming have an increased fear of becoming a victim of violence, resulting in increased self-protective behaviors and increased mistrust of others.

(7) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(8) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(9) A significant amount of violent programming that is readily accessible to minors remains unrated specifically for violence and therefore cannot be blocked solely on the basis of its violent content.

(10) Age-based ratings that do not include content rating for violence do not allow parents to block programming based solely on violent content thereby rendering ineffective any technology-based blocking mechanism designed to limit violent video programming.

(11) The most recent study of the television ratings system by the Kaiser Family Foundation concludes that 79 percent of violent programming is not specifically rated for violence.

(12) Technology-based solutions, such as the V-chip, may be helpful in protecting some children, but cannot achieve the compelling governmental interest in protecting all children from violent programming when parents are only able to block programming that has, in fact, been rated for violence.

(13) Restricting the hours when violent programming can be shown protects the interests of children whose parents are unavailable, unable to supervise their children’s viewing behavior, do not have the benefit of technology-based solutions, are unable to afford the costs of technology-based solutions, or are unable to determine the content of those shows that are only subject to age-based ratings.

(14) After further study, pursuant to a rule making, the Federal Communications Commission may conclude that content-based ratings and blocking technology do not effectively protect children from the harm of violent video programming.

(15) If the Federal Communications Commission reaches the conclusion described in paragraph (14), the channeling of violent video programming will be the least restrictive means of limiting the exposure of children to the harmful influences of violent video programming.

SEC. 203. ASSESSMENT OF EFFECTIVENESS OF CURRENT RATING SYSTEM FOR VIOLENCE AND EFFECTIVENESS OF V-CHIP IN BLOCKING VIOLENT PROGRAMMING.

(a) **REPORT.**—The Federal Communications Commission shall—

(1) assess the effectiveness of measures to require television broadcasters and multi-channel video programming distributors (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)) to rate and encode programming that could be blocked by parents using the V-chip undertaken under section 715 of the Communications Act of 1934 (47 U.S.C. 715) and under subsections (w) and (x) of section 303 of that Act (47 U.S.C. 303(w) and (x)) in accomplishing the purposes for which they were enacted; and

(2) report its findings to the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, within 12 months after the date of enactment of this Act, and annually thereafter.

(b) **ACTION.**—If the Commission finds at any time, as a result of its ongoing assessment under subsection (a), that the measures referred to in subsection (a)(1) are insufficiently effective, then the Commission shall complete a rulemaking within 270 days after the date on which the Commission makes that finding to prohibit the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience.

(c) **DEFINITIONS.**—Any term used in this section 2 that is defined in section 715 of the Communications Act of 1934 (47 U.S.C. 715), or in regulations under that section, has the same meaning as when used in that section or in those regulations.

SEC. 204. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING THAT IS NOT SPECIFICALLY RATED FOR VIOLENCE AND THEREFORE IS NOT BLOCKABLE.

Title VII of the Communications Act of 1934 (47 U.S.C. 701 et seq.) is amended by adding at the end the following:

“SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PROGRAMMING NOT SPECIFICALLY BLOCKABLE BY ELECTRONIC MEANS.

“(a) **UNLAWFUL DISTRIBUTION.**—It shall be unlawful for any person to distribute to the public any violent video programming not blockable by electronic means specifically on the basis of its violent content during hours when children are reasonably likely to comprise a substantial portion of the audience.

“(b) **RULEMAKING PROCEEDING.**—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that, proceeding not later than 9 months after the date of enactment of the Children's Protection from Violent Programming Act. As part of that proceeding, the Commission—

“(1) may exempt from the prohibition under subsection (a) programming (including news programs and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 551(a) of the Telecommunications Act of 1996;

“(2) shall exempt premium and pay-per-view cable programming and premium and pay-per-view direct-to-home satellite programming; and

“(3) shall define the term ‘hours when children are reasonably likely to comprise a substantial portion of the audience’ and the term ‘violent video programming’.

“(c) **ENFORCEMENT.**—

“(1) **FORFEITURE PENALTY.**—The forfeiture penalties established by section 503(b) for violations of section 1464 of title 18, United States Code, shall apply to a violation of this section, or any regulation promulgated under it in the same manner as if a violation of this section, or such a regulation, were a violation of law subject to a forfeiture penalty under that section.

“(2) **LICENSE REVOCATION.**—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, revoke any license issued to that person under this Act.

“(3) **LICENSE RENEWALS.**—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

“(d) **DEFINITIONS.**—For purposes of this section—

“(1) **BLOCKABLE BY ELECTRONIC MEANS.**—The term ‘blockable by electronic means’ means blockable by the feature described in section 303(x).

“(2) **DISTRIBUTE.**—The term ‘distribute’ means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, but it does not include the transmission, retransmission, or receipt of any voice, data, graphics, or video telecommunications accessed through an interactive computer service as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), which is not originated or transmitted in the ordinary course of business by a television broadcast station or multichannel video programming distributor as defined in section 602(13) of that Act (47 U.S.C. 522(13)).

“(3) **VIOLENT VIDEO PROGRAMMING.**—The term ‘violent video programming’ as defined by the Commission may include matter that is excessive or gratuitous violence within the meaning of the 1992 Broadcast Standards for the Depiction of Violence in Television Programs, December 1992.”

SEC. 205. SEPARABILITY.

If any provision of this title, or any provision of an amendment made by this title, or the application thereof to particular persons or circumstances, is found to be unconstitutional, the remainder of this title or that amendment, or the application thereof to other persons or circumstances shall not be affected.

SEC. 206. EFFECTIVE DATE.

The prohibition contained in section 715 of the Communications Act of 1934 (as added by section 204 of this title) and the regulations promulgated thereunder shall take effect 1 year after the regulations are adopted by the Commission.

SA. 3467. Mr. ENSIGN proposed an amendment to amendment SA 3315 proposed by Ms. LANDRIEU to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 9, strike lines 12 through 22, and insert the following:

(8)(A) The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid

by a person under the regulations shall be equal to the sum of—

(i) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(ii) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(iii) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(B) Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(C) In this paragraph, the term “Department of Defense Military Retirement Fund” means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

SA. 3468. Mr. DASCHLE (for himself, Mr. DORGAN, Mrs. MURRAY, Mr. NELSON of Florida, Mr. KERRY, Mr. REID, Mr. LAUTENBERG, Mr. ROCKFELLER, Mrs. BOXER, and Mr. DAYTON) proposed an amendment to amendment SA 3409 proposed by Mr. DASCHLE to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

In the amendment strike all after Sec. in line 2 and insert the following:

FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.

(a) **FUNDING TO ADDRESS CHANGES IN POPULATIONS AND INFLATION.**—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 320. Funding for veterans health care to address changes in population and inflation

“(a) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be provided through a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fiscal year 2004 discretionary funding for such programs, functions, and activities, and should remain unchanged each fiscal year thereafter. The annual level of mandatory amount shall be adjusted according to the formula specified in subsection (c). While this section does not purport to control the outcome of the annual appropriations process, it anticipates cooperation from Congress and the President in sustaining discretionary funding for such programs, functions, and activities in future fiscal years at the level of discretionary funding for such programs, functions, and activities for fiscal

year 2004. The success of that arrangement, as well as of the funding formula, are to be reviewed after two years.

“(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (d). There is hereby appropriated, out of any sums in the Treasury not otherwise appropriated, amounts necessary to implement this section.

“(c)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to—

“(A) 130 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (d), minus

“(B) the amount appropriated for those purposes for fiscal year 2004.

“(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2004:

“(A) The sum of—

“(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

“(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

“(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

“(3)(A) For purposes of paragraph (2)(B), the term ‘per capita baseline amount’ means the amount equal to—

“(i) the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (d), divided by

“(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

“(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

“(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

“(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

“(d)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (b) shall be all programs, functions, and activities of the Veterans Health Administration.

“(2) Amounts made available pursuant to subsection (b) are not available for—

“(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

“(B) grants under subchapter III of chapter 81 of this title.

“(e) Nothing in this section shall be construed to prevent or limit the authority of

Congress to reauthorize provisions relating to veterans health care.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“320. Funding for veterans health care to address changes in population and inflation.”.

(b) COMPTROLLER GENERAL REPORT.—(1) Not later than January 31, 2007, the Comptroller General of the United States shall submit to Congress a report on the extent to which section 320 of title 38, United States Code (as added by subsection (a)), has achieved the purpose set forth in subsection (a) of such section 320 during fiscal years 2005 and 2006.

(2) The report under paragraph (1) shall set forth the following:

(A) The amount appropriated for fiscal year 2004 for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) of section 320 of title 38, United States Code.

(B) The amount appropriated by annual appropriations Acts for each of fiscal years 2005 and 2006 for such programs, functions, and activities.

(C) The amount provided by section 320 of title 38, United States Code, for each of fiscal years 2005 and 2006 for such programs, functions, and activities.

(D) An assessment whether the amount described in subparagraph (C) for each of fiscal years 2005 and 2006 was appropriate to address the changes in costs to the Veterans Health Administration for such programs, functions, and activities that were attributable to changes in population and in inflation over the course of such fiscal years.

(E) An assessment whether the amount provided by section 320 of title 38, United States Code, in each of fiscal years 2005 and 2006, when combined with amounts appropriated by annual appropriations Acts for each of such fiscal years for such programs, functions, and activities, provided adequate funding of such programs, functions, and activities in each such fiscal year.

(F) Such recommendations as the Comptroller General considers appropriate regarding modifications of the formula under subsection (c) of section 320 of title 38, United States Code, or any other modifications of law, to better ensure adequate funding of such programs, functions, and activities.

(c) CONGRESSIONAL CONSIDERATION OF COMPTROLLER GENERAL RECOMMENDATIONS.—

(1) JOINT RESOLUTION.—For purposes of this subsection, the term “joint resolution” means only a joint resolution which is introduced (in the House of Representatives by the Speaker of the House of Representatives (or the Speaker’s designee) or the Minority Leader (or the Minority Leader’s designee) and in the Senate by the Majority Leader (or the Majority Leader’s designee) or the Minority Leader (or the Minority Leader’s designee)) within the 10-day period beginning on the date on which Congress receives the report of the Comptroller General of the United States under subsection (b), and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which consists of amendments of title 38, United States Code, or other amendments or modifications of laws under the jurisdiction of the Secretary of Veterans Affairs to implement the recommendations of the Comptroller General in the report under subsection (b)(2)(F); and

(C) the title of which is as follows: “Joint resolution to ensure adequate funding of health care for veterans.”.

(2) REFERRAL.—A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the

Committee on Veterans’ Affairs of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Veterans’ Affairs of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the Comptroller General submits to Congress the report under subsection (b), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(4) CONSIDERATION.—(A) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member’s intention to do so). The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—(A) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in clause (ii)(II).

(ii) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(6) RULES OF SENATE AND HOUSE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SA 3469. Mr. REID proposed an amendment to amendment SA 3387 proposed by Mr. LEAHY to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. —. REQUEST FOR DOCUMENTS AND RECORDS.

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from January 20, 2001, to the present, and in the possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

SA 3470. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3315 proposed by Ms. LANDRIEU to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end the following:

SEC. 643. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Section 1451(c) of title 10, United States Code, is amended by striking paragraph (2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date speci-

fied in subsection (c) by reason of the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

SA 3471. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 30, between lines 14 and 15, insert the following:

SEC. 216. SPIRAL DEVELOPMENT OF JOINT THREAT WARNING SYSTEM MARITIME VARIANTS.

(a) AMOUNT FOR PROGRAM.—The amount authorized to be appropriated by section 201(4) is hereby increased by \$2,000,000, with the amount of the increase to be available in the program element PE 1160405BB for joint threat warning system maritime variants.

(b) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$2,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

SA 3472. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. REPORT ON THE STABILIZATION OF IRAQ.

Not later than 120 days after the date of the enactment of this Act, the President shall submit to the congressional defense committees an unclassified report (with classified annex, if necessary) on the strategy of the United States and coalition forces for stabilizing Iraq. The report shall contain a detailed explanation of the strategy, together with the following information:

(1) A description of the efforts of the President to work with the United Nations to provide support for, and assistance to, the transitional government in Iraq, and, in particular, the efforts of the President to negotiate and secure adoption by the United Nations Security Council of Resolution 1546.

(2) A description of the efforts of the President to continue to work with North Atlantic Treaty Organization (NATO) member states and non-NATO member states to provide support for and augment coalition forces, including efforts, as determined by the United States combatant commander, in consultation with coalition forces, to evaluate the—

(A) the current military forces of the NATO and non-NATO member countries deployed to Iraq;

(B) the current police forces of NATO and non-NATO member countries deployed to Iraq; and

(C) the current financial resources of NATO and non-NATO member countries provided for the stabilization and reconstruction of Iraq.

(3) As a result of the efforts described in paragraph (2)—

(A) a list of the NATO and non-NATO member countries that have deployed and will have agreed to deploy military and police forces; and

(B) with respect to each such country, the schedule and level of such deployments.

(4) A description of the efforts of the United States and coalition forces to develop the domestic security forces of Iraq for the internal security and external defense of Iraq, including a description of United States plans to recruit, train, equip, and deploy domestic security forces of Iraq.

(5) As a result of the efforts described in paragraph (4)—

(A) the number of members of the security forces of Iraq that have been recruited;

(B) the number of members of the security forces of Iraq that have been trained; and

(C) the number of members of the security forces of Iraq that have been deployed.

(6) A description of the efforts of the United States and coalition forces to assist in the reconstruction of essential infrastructure of Iraq, including the oil industry, electricity generation, roads, schools, and hospitals.

(7) A description of the efforts of the United States, coalition partners, and relevant international agencies to assist in the development of political institutions and prepare for democratic elections in Iraq.

(8) A description of the obstacles, including financial, technical, logistic, personnel, political, and other obstacles, faced by NATO in generating and deploying military forces out of theater to locations such as Iraq.

SA 3473. Mr. FRIST (for Mrs. FEINSTEIN) proposed an amendment to the joint resolution S.J. Res. 33, expressing support for freedom in Hong Kong; as follows:

On page 5, line 6, strike “all”.

On page 5, line 8, strike “a fully” and insert “universal suffrage and a”.

On page 5, beginning on line 11, strike all through line 23, and insert the following:

(B) declare that the lack of movement towards universal suffrage and a democratically elected legislature in Hong Kong is contrary to the vision of democracy set forth in the Basic Law of the Hong Kong Special Administrative Region and in the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing, December 19, 1984 (the Sino-British Joint Declaration of 1984); and

(C) call upon the Standing Committee of the National People's Congress to guarantee that the Hong Kong Government develop and implement a plan and timetable to achieve universal suffrage and the democratic election of the legislature and chief executive of Hong Kong as provided for in the Basic Law of the Hong Kong Special Administrative Region, promulgated on July 1, 1997.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 23, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting

on pending committee matters, to be followed immediately by an oversight hearing on Indian Tribal Detention Facilities.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 22, 2004, at 10 a.m. to conduct a hearing on "Consideration of Regulatory Reform Proposals."

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Tuesday, June 22, 2004, at 9:30 a.m. on Aviation Security.

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

COMMITTEE ON FINANCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 22, 2004, at 10 a.m., in G50 Dirksen Senate Office Building, to hear testimony on Charity Oversight and Reform: Keeping Bad Things from Happening to Good Charities.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 22, 2004, at 9:30 a.m., to hold a hearing on the Peace Corps Security.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 22, 2004, to hold a business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, June 22, 2004 at 10 a.m. on "Preserving Traditional Marriage: A View From The States" in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: The Honorable Mitt Romney, Governor of Massachusetts.

Panel II: The Honorable MARILYN MUSGRAVE, United States Representative [R-CO], Washington, DC; The Hon-

orable Bob Barr, former United States Representative [R-GA], 21st Century Liberties Chair for Freedom and Privacy, American Conservative Union, Smyrna, GA.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, June 22, 2004, for a hearing to consider pending legislation. The hearing will take place in room 418 of the Russell Senate Office Building at 2:45 p.m.

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

Agenda:

S. 50, the "Veterans Health Care Funding Guarantee Act;"

S. 1014, requiring VA to place certain low-income veterans in a higher health care priority category;

S. 1153, the "Veterans Prescription Drugs Assistance Act;"

S. 1509, the "Eric and Brian Simon Act of 2003;"

S. 1745, the "Prisoner of War/Missing in Action National Memorial Act;"

S. 2063, proposed demonstration project on priorities in the scheduling of appointments for veterans health care;

S. 2099, relating to educational assistance benefits for certain members of the Selected Reserve;

S. 2133, to name the Department of Veterans Affairs medical center in the Bronx, New York, as the James J. Peters Department of Veterans Affairs Medical Center;

S. 2296, relating to the conveyance, lease or disposal of the Louisville VA Medical Center;

S. 2327, the proposed coordination of VA per diem and Medicaid payments for care of veterans in State homes;

S. 2417, care for newborn children of veterans receiving maternity care;

S. 2483, the "Veterans Compensation Cost-of-Living Adjustment Act of 2004;"

S. 2484, the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003;"

S. 2485, the "Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004;"

S. 2486, the "Veterans Benefits Improvements Act of 2004;"

S. 2522, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs;

S. 2524, relating to Blast Injury Research and Clinical Care Centers (BIRECCs); and

S. 2534, relating to various education and home loan benefits program improvements.

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

SPECIAL COMMITTEE ON AGING

Mr. SPECTER. Mr. President, I ask unanimous consent that the Special

Committee on Aging be authorized to meet Tuesday, June 22, 2004 from 10 a.m.–12 p.m., in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON ENERGY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Subcommittee on Energy of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 22 at 2:30 p.m., to receive testimony regarding High performance Computing: Regaining U.S. Leadership. The purpose of the hearings is to examine the DOE's HPC R&D activities in both the National Nuclear Security Administration and the Office of Science, and to consider S. 2176, the High End Computing Revitalization Act of 2004, which would authorize the secretary to carry out a program of R&D to advance high-end computing through the Office of Science.

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

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on "Tools to Fight Terrorism: Subpoena Authority and Pretrial Detention of Terrorists" on Tuesday, June 22, 2004 at 2:30 p.m. in Dirksen 226.

Witness List:

Panel I—Rachel Brand, Principal Deputy Assistant Attorney General, U.S. Department of Justice, Office of Legal Policy, Washington, DC; Michael A. Battle, United States Attorney, Western District of New York, Buffalo, NY; and James K. Robinson, former Assistant Attorney General, U.S. Department of Justice Criminal Division, 1998–2001, Washington, DC.

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

TANF AND RELATED PROGRAMS CONTINUATION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4589, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4589) to reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4589) was read the third time and passed.

FREEDOM IN HONG KONG

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 494, S.J. Res. 33.

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

The legislative clerk read as follows:

A joint resolution (S.J. Res. 33) expressing support for freedom in Hong Kong.

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Foreign Relations with an amendment and an amendment to the preamble.

[Strike the parts shown in black brackets and insert parts shown in italic.]

S.J. RES. 33

[Whereas according to the April 1, 2004, "U.S.-Hong Kong Policy Act Report" by the Department of State, "The United States has strong interests in the protection of human rights and the promotion of democratic institutions throughout the world. The Hong Kong people share many values and interests with Americans and have worked to make Hong Kong a model of what can be achieved in a society based on the rule of law and respect for civil liberties";

[Whereas according to section 103(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(3)), "The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters";

[Whereas the Government of the Hong Kong Special Administrative Region (SAR) and the People's Republic of China have frustrated the gradual and orderly process toward universal suffrage and the democratic election of the legislature and chief executive in Hong Kong as envisioned by the Basic Law of the Hong Kong SAR; and

[Whereas the Standing Committee of the National People's Congress of the People's Republic of China on April 6, 2004, declared itself, as opposed to the people of Hong Kong, the final arbiter of democratic reform: Now, therefore, be it]

Whereas according to the April 1, 2004, report by the Department of State entitled U.S.-Hong Kong Policy Act Report, "The United States has strong interests in the protection of human rights and the promotion of democratic institutions throughout the world. The Hong Kong people share many values and interests with Americans and have worked to make Hong Kong a model of what can be achieved in a society based on the rule of law and respect for civil liberties";

Whereas according to section 103(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(3)), "The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters";

Whereas the People's Republic of China has frustrated the gradual and orderly process toward universal suffrage and the democratic election of the legislature and chief executive in

Hong Kong as envisioned by the Basic Law of the Hong Kong SAR; and

Whereas on April 6, 2004, the Standing Committee of the National People's Congress of the People's Republic of China declared itself, as opposed to the people of Hong Kong, the final arbiter of democratic reform and, on April 26, 2004, declared that universal suffrage would not apply to the election of the third Chief Executive in 2007 or to the election of all members of the fourth Legislative Council in 2008: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That Congress—~~

[(1) declares that the people of Hong Kong should be free to determine the pace and scope of constitutional developments; and

[(2) calls upon the President of the United States to—

[(A) call upon the People's Republic of China, the National People's Congress, and any groups appointed by the Government of the People's Republic of China to guarantee that all revisions of Hong Kong law are made according to the wishes of the people of Hong Kong as expressed through a fully democratically elected legislature and chief executive;

[(B) declare that the continued lack of a fully democratically elected legislature in Hong Kong constitutes a violation of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing December 19, 1984 (the Sino-British Joint Declaration of 1984); and

[(C) call upon the Government of the People's Republic of China to honor its treaty obligations under the Sino-British Joint Declaration of 1984.]

~~That Congress—~~

(1) declares that the people of Hong Kong should be free to determine the pace and scope of constitutional developments; and

(2) calls upon the President of the United States to—

(A) call upon the People's Republic of China, the National People's Congress, and any groups appointed by the Government of the People's Republic of China to guarantee that all revisions of Hong Kong law reflect the wishes of the people of Hong Kong as expressed through a fully democratically elected legislature and chief executive;

(B) declare that the continued lack of a fully democratically elected legislature in Hong Kong is contrary to the vision of democracy set forth in the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing December 19, 1984 (the Sino-British Joint Declaration of 1984); and

(C) call upon the Government of the People's Republic of China to honor its treaty obligations under the Sino-British Joint Declaration of 1984.

Mr. FRIST. Mr. President, I ask unanimous consent that the Feinstein amendment at the desk be agreed to, the committee amendment, as amended, be agreed to, the resolution, as amended, be read three times and passed, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the joint resolution be printed in the RECORD.

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

The amendment (No. 3473) was agreed to, as follows:

(Purpose: To express support for democratic activity in Hong Kong)

On page 5, line 6, strike "all".

On page 5, line 8, strike "a fully" and insert "universal suffrage and a".

On page 5, beginning on line 11, strike all through line 23, and insert the following:

(B) declare that the lack of movement towards universal suffrage and a democratically elected legislature in Hong Kong is contrary to the vision of democracy set forth in the Basic Law of the Hong Kong Special Administrative Region and in the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing, December 19, 1984 (the Sino-British Joint Declaration of 1984); and

(C) call upon the Standing Committee of the National People's Congress to guarantee that the Hong Kong Government develop and implement a plan and timetable to achieve universal suffrage and the democratic election of the legislature and chief executive of Hong Kong as provided for in the Basic Law of the Hong Kong Special Administrative Region, promulgated on July 1, 1997.

The committee amendment, as amended, was agreed to.

The joint resolution (S.J. Res. 33) was passed.

The preamble, as amended, was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 33

Whereas according to the April 1, 2004, report by the Department of State entitled U.S.-Hong Kong Policy Act Report, "The United States has strong interests in the protection of human rights and the promotion of democratic institutions throughout the world. The Hong Kong people share many values and interests with Americans and have worked to make Hong Kong a model of what can be achieved in a society based on the rule of law and respect for civil liberties";

Whereas according to section 103(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(3)), "The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters";

Whereas the People's Republic of China has frustrated the gradual and orderly process toward universal suffrage and the democratic election of the legislature and chief executive in Hong Kong as envisioned by the Basic Law of the Hong Kong SAR; and

Whereas on April 6, 2004, the Standing Committee of the National People's Congress of the People's Republic of China declared itself, as opposed to the people of Hong Kong, the final arbiter of democratic reform and, on April 26, 2004, declared that universal suffrage would not apply to the election of the third Chief Executive in 2007 or to the election of all members of the fourth Legislative Council in 2008: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That Congress—~~

(1) declares that the people of Hong Kong should be free to determine the pace and scope of constitutional developments; and

(2) calls upon the President of the United States to—

(A) call upon the People's Republic of China, the National People's Congress, and any groups appointed by the Government of the People's Republic of China to guarantee that revisions of Hong Kong law reflect the wishes of the people of Hong Kong as expressed through universal suffrage and a

democratically elected legislature and chief executive;

(B) declare that the lack of movement towards universal suffrage and a democratically elected legislature in Hong Kong is contrary to the vision of democracy set forth in the Basic Law of the Hong Kong Special Administrative Region and in the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing, December 19, 1984 (the Sino-British Joint Declaration of 1984); and

(C) call upon the Standing Committee of the National People's Congress to guarantee that the Hong Kong Government develop and implement a plan and timetable to achieve universal suffrage and the democratic election of the legislature and chief executive of Hong Kong as provided for in the Basic Law of the Hong Kong Special Administrative Region, promulgated on July 1, 1997.

ORDERS FOR WEDNESDAY, JUNE 23, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:30 a.m. on Wednesday, June 23; I further ask that following the prayer and the pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 503, S. 2400, the Department

of Defense authorization bill, as provided under the previous order.

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

The Senator from Nevada.

Mr. REID. Mr. President, this has been a very contentious day on occasion. I would like to add what I hope will be a moment of pleasantness to what we do here, and that is talk about the Presiding Officer who has the patience of—I don't know if it is a Job at this stage, but a lot of patience because he has sat through the longest quorum call we have had in a long time which the Presiding Officer called himself. So on behalf of the Senate, the junior Senator from Missouri deserves our applause and congratulations for his patience.

Mr. FRIST. Mr. President, I second the commendation of the Presiding Officer. At times, I wish I had been in his chair instead of my chair, as we went through these negotiations.

PROGRAM

Mr. FRIST. Tomorrow the Senate will resume consideration of the Defense authorization bill under the previous order. When the Senate resumes consideration of the Defense bill, there will be a total of 100 minutes of debate in relation to five separate amendments. At approximately 11:15 tomorrow, the Senate will proceed to up to

five stacked rollcall votes on amendments to the Defense bill. Following those votes, the Senate will continue working through amendments. The chairman and ranking member were able to dispose of a number of amendments tonight, but over 30 remain pending. Votes are expected throughout the afternoon tomorrow as the Senate moves toward passage of the bill. In addition to votes in relation to the amendments, the Senate will also vote on several judicial nominations during tomorrow's session. As I just stated, if we are unable to finish the bill tomorrow, a cloture vote will occur on Thursday to bring this bill to a close.

Finally, I would add that the Appropriations Committee finished their work on the Defense Appropriations bill. It is important that we address this bill as well prior to the week's close.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:58 p.m., recessed until Wednesday, June 23, 2004, at 9:30 a.m.