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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

The PRESIDING OFFICER. The guest Chaplain, Bob Russell of Southeast Christian Church, Louisville, KY, will lead the Senate in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Father, You are the God who sees everything. You know the number of hairs on our head, our needs before we ask, and even the thoughts of our hearts. Would You meet the individual needs of the Members of this body so they can give focus and attention to the important matters of this day without distraction.

Some have physical pain. Would You ease their discomfort and bring healing. Some have tension in their homes because of wayward children or troubled mates. Would You bring peace to those homes.

Some have financial worries. Would You remind them that You care for the birds of the air and the lilies of the field and You will care for us, too. Some are under severe stress because of so much to do and so little time to do it. Ease their tension, Lord. Wipe the furrows from their brow and remind them that Your grace is sufficient for this day.

Some harbor animosity toward people who have offended them. They know that Your word says to forgive quickly. It is just so hard to do it. Help them to have the grace to release that irritation and experience the freedom of forgiveness. We all have the need for forgiveness of our own sin and hope for life beyond. So Lord, grant us the humility to trust You completely for those things that we can't control, and grant the confidence to us that we can do all things through Christ, who strengthens us. It is in His strong name that we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 20, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

WELCOMING GUEST CHAPLAIN BOB RUSSELL

Mr. MCCONNELL. Mr. President, the Senate has had an opportunity this morning to hear from one of the most distinguished spiritual leaders in America. He happens to be an individual who lives in my hometown of Louisville, KY, the senior minister at Southeast Christian Church, Bob Russell, who ministers to literally thousands of individuals in Louisville, southern Indiana, and surrounding areas. He built his church over a number of decades from a small group of individuals who gathered in a basement-like structure to a mighty building, but the program there is much more than a building. The magic of his min-

istry and those who are associated with him has attracted an enormous number of people and has changed the lives, literally, of tens of thousands of people in that area of our country.

What a privilege it has been to have him with us this morning. The Senate has had a rare opportunity to hear from really one of the great ministers of America.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, today the Senate will be in a period of morning business until 10:30. The first half is under the control of the majority leader; the second half is under the control of the Republican leader. The Chair will announce that shortly. At 10:30 the Senate will resume consideration of the Department of Defense authorization bill. Pending is the Feingold-Conrad amendment. It is an extremely important amendment dealing with budgeting. There should be some important discussion on that that should go for a significant amount of time. It is up to the parties as to how long we will be on that, but it is an important amendment. The two managers are working their way through amendments that they believe can be accepted. We would like to make a big chunk in this bill today. There is a lot more to do. The majority leader has indicated that if we finish this bill, it will give us the opportunity to go to some of the other issues that are so pressing. The leader has indicated there will be votes tomorrow.

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



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RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee. Under the previous order, the time until 10:30 a.m. shall be under the control of the Republican leader or his designee, with the first 15 minutes of this time to be under the control of the Senator from Pennsylvania, Mr. SPECTER.

The Senator from Florida.

PRESCRIPTION DRUGS

Mr. GRAHAM. Mr. President, since its creation in 1965, the Medicare Program has helped millions of the Nation's elderly and disabled when they were in desperate need, after they had become sick enough to require a physician's assistance or hospitalization. Thirty-seven years after its creation, it is time for change.

A prescription drug benefit is the most fundamental reform we can make to the Medicare Program. Why? If we want to truly reform Medicare, we must change its basic approach from one that is oriented toward intervention after sickness to one that focuses on maintaining wellness and the highest quality of life. This prevention approach will require in almost every instance a significant use of prescription drugs.

An example of how the use of prescription drugs has changed medicine was made by Dr. Howard Forman, a congressional fellow in my office, who is a doctor and professor at the Yale Medical School. Dr. Forman remarked to me that none of his students had ever seen ulcer surgery. Why? Because we now give patients prescription drugs to care for this ailment which previously was dealt with through surgery. This is just one of many examples of where modern medicine has fundamentally been altered by prescription drugs; notably, by improving the quality of people's lives, ending the need for many surgeries and long recovery periods.

A side benefit of this change would be that the cost to the Medicare Program could be lowered by utilizing these expensive but less expensive prescription procedures as opposed to traditional surgery.

The prescription drug legislation I am sponsoring, with my friends, Senator ZELL MILLER of Georgia and Senator TED KENNEDY of Massachusetts, would improve the Medicare Program

and give seniors a real, a meaningful, a sustainable drug benefit. With a \$25 monthly premium, no deductible, and a simple copayment of \$10 for generic drugs, \$40 for medically necessary, standard brand name drugs, and \$60 for other brand name drugs, and a maximum of \$4,000 in out-of-pocket expenses, our plan would give seniors the universal, affordable, accessible, and comprehensive drug coverage which they want and need.

Our plan would help 80-year-old Freda Moss of Tampa, FL. She has no prescription drug coverage. Today, she pays nearly \$8,000 a year for the drugs she needs to keep her healthy. This does not include a new prescription for Actos, an oral diabetes drug that costs \$143.68 every month. Freda has not had this prescription filled because it is so expensive.

Under the Graham-Miller-Kennedy plan, she would pay just over \$2,900—saving \$5,100 each year. Under the House Republican plan, Freda's drug costs would be at least \$4,220 a year. Why would the House plan cost Freda \$1,320 more per year?

There are many reasons, including a higher monthly premium and a \$250 deductible. But the single biggest reason is the "donut."

What is the donut, Mr. President? We are all familiar with donuts. They are round; they taste good; often, they have powdered sugar on them; they are tasty at the edges. But when you get into the middle, there is nothing there. That describes the benefit structure of the House Republican plan.

Let's look at how this plan would have affected Freda and her husband, Coleman. After having paid a \$250 annual deductible, Freda and her husband would pay 20 percent of the cost of each specific prescription up to \$1,000. From \$1,001 to \$2,000, she would pay 50 percent of each prescription. And then she hits the hole in the donut. Freda is on her own until she reaches the catastrophic limit of \$4,900 in total drug costs.

While she is struggling through this hole in the middle of the donut, she would be responsible for continuing to pay her monthly premiums of about \$34, for which she would receive nothing, no benefit.

Mr. President, there is no comparable donut in private health care plans. The kind of plan which probably covered Freda and Coleman before she came on to Medicare did not have this approach; it has, as we do, continuous protection. One of the things our older citizens want is certainty and security. Our plan gives them that.

The House Republican plan converts them into guinea pigs, experimenting with untested health care policies and a "gotcha" of an unexpected hole in the middle of their benefit—a hole which runs from \$2,001 all the way to \$4,900 of expenditures. We are not going to make 39 million senior Americans into laboratory experiments.

Under our plan, Freda would pay no deductible, receiving coverage from her

first prescription. She would pay a simple copay for each prescription. There are no donut holes. Instead of gaps, we give American seniors a plan that mirrors the copay system that they had in their working lives.

Mr. President, as my colleague, Senator MILLER, says with such conviction and passion: This is the year for action, not just talk, on prescription drugs.

I don't want to go back to Tampa, FL, and tell Freda we had a very strong debate about this issue. I want to tell Freda she can start going to the drugstore and from her first prescription begin to get real assistance. We all will come to the floor this week, and in the following weeks, to remind our colleagues about the importance of passing a prescription drug benefit before the August recess, and to have that benefit in law before the end of this session of Congress.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. MILLER. Mr. President, I, too, rise to talk about prescription drugs and the struggle our seniors face every day.

Since April, I have been coming down to this Chamber on a regular basis to speak about the urgency of passing a prescription drug benefit before the August recess. I have spoken about how we have kept our seniors waiting in line for years and how we have bumped them time and time again to debate other issues—other important issues but other issues.

Our majority leader, Senator DASCHLE, has said we will bring up prescription drugs on the Senate floor before the August recess. I and many others are very grateful.

As of today, we now have three bills in Congress to add a prescription drug benefit to Medicare—two in the House and one in the Senate—the one I am a cosponsor of, along with Senator GRAHAM of Florida, Senator KENNEDY, Senator DASCHLE, and about 28 other Senators.

This issue is now where it should be; it is front and center. It has more momentum today than it has had in all the years we have been talking about it. Our seniors have finally reached the front of the line. Now it is time to get down to business and have a real debate on the details of these proposals.

Make no mistake about it, there are real differences among them. Let's debate those differences. If we can, let's find some common ground. And then let's get something passed because if we fail to do something now, if we just criticize each other's bills for the sake of criticizing, and dig in our heels and refuse to compromise and work something out, our seniors are never going to let us forget it come November.

After years of wandering in the wilderness, our seniors are now inside of the promised land. Both political parties have brought them there and have given them a glimpse. We cannot send them away to wander in the desert for

another election cycle or who knows how many more years.

I urge my colleagues to let us have a healthy debate on these bills. Let us point out the strengths and weaknesses of each proposal, but never lose sight of the big picture, as Senator GRAHAM just said at the end of his remarks.

This should not be viewed as just an issue for the next election campaign. I urge my colleagues not to look at it in that way. Our goal should be to pass a prescription drug benefit. I will work hard to see that the bill we pass in the Senate offers real help for our seniors, especially for our neediest seniors.

As Senator KENNEDY said so eloquently last week: The state of a family's health should not be determined by the size of a family's wealth.

One way to help our seniors, including the neediest, with prescription drugs is to pass a bill that has no gap in coverage and that places a reasonable cap on out-of-pocket expenses.

The Graham-Miller-Kennedy bill offers just that. There is no gap in coverage, and the out-of-pocket maximum is set at \$4,000 a year. After \$4,000, Medicare would pick up 100 percent of the cost of prescriptions under our bill. But the House Republican bill provides no coverage from the time a senior's total drug costs reach \$2,000 to the time they reach \$4,900. That is that "hole in the donut" Senator GRAHAM was talking about that is so obvious.

Who will it hurt the most? The ones who can afford it the least—the low-income seniors. To add insult to injury, the House bill requires seniors to continue paying monthly premiums during this gap, even though they are not receiving a single penny of benefit. Even the neediest seniors would have to pay these premiums during this gap. That is not right; that is just plain unacceptable.

I look forward to debating this provision, and many others, when we take up prescription drugs in the next few weeks. I urge my colleagues in both Houses and in both parties to keep the big picture in mind. Our duty to seniors is not just to debate a bill, it is to pass a bill.

The final product won't be perfect. It won't include everything that I want, and it won't include everything that some of my colleagues may want. But it will be better than what our seniors have now. And what our seniors have now is nothing.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first of all, I want to commend our colleagues, Senator MILLER and Senator GRAHAM, for their leadership in this area, which is of such enormous importance and consequence to people in my State of Massachusetts and across the country.

I hope the American people are going to pay close attention to these presentations that are made today by both of these leaders, as well as my friend from

Michigan, DEBBIE STABENOW, as they continue to help the American people understand what is really at stake.

Medicare is a solemn promise between the government and the American people and between the generations. It says "Play by the rules, contribute to the system during your working years, and you will be guaranteed health security in your retirement years." Because of Medicare, the elderly have long had insurance for their hospital bills and doctor bills. But the promise of health security at the core of Medicare is broken every day because Medicare does not cover the soaring price of prescription drugs.

Too many elderly citizens must choose between food on the table and the medicine their doctors prescribe. Too many elderly are taking half the drugs their doctors prescribe—or none at all—because they can't afford them. The average senior citizen has an income of \$15,000 and prescription drug costs of \$2,100. Some must pay much more.

I want to pick up on the issue of comparing the different bills. Hopefully, as we come to debate these issues and questions, we will begin to understand the importance of the differences in the Democratic and Republican bills. They are enormously different.

The administration's first bill did not even pass the laugh test, and the bill that is being considered now by the Republicans in the House of Representatives does not pass the truth-in-advertising test. The administration allocated \$190 billion. Senior citizens are going to spend \$1.8 trillion for prescription drugs. So they get about 10 cents on the dollar to assist them, and there are still a lot of gimmicks they have to go through to get even that.

Listen to the Republican proposal. The House Republicans have a proposal that says: If you have an income below 150 percent of poverty, you are not going to have to worry about your premiums, copayments, or deductibles. Doesn't that sound reasonable for low-income people? Except there is an assets test which the Miller-Graham proposal does not have.

This is basically a hoax on the low-income people. To qualify for low-income subsidies under the Republican plan a senior cannot have \$2,000 in savings. They cannot have \$2,000 in furniture or property, they cannot have a car that is worth \$4,500 or a burial plot that is worth \$1,500. Any one of these assets disqualifies one from the Republican plan. Do they mention that? No. Do you read about it? No. Is it there? Yes. Effectively this writes off, writes out millions of low-income seniors.

This group of seniors is seeing a fraud perpetrated on them. The Miller-Graham bill has rejected that concept. If we in the Senate are going to be true to our word, we will reject it, too. This will be an important battle.

The second group of seniors is those with moderate incomes who are going to pay the \$420 annual premium and

the additional \$250 deductible. We know they are going to get very little in return. They will pay up to \$670 in premiums and deductibles before they are going to get any assistance at all. Those with prescription drug spending of \$250 or less will pay \$670 and receive no benefit. Seniors who have drug costs between \$250 and \$1,000 annually will spend up to \$820 in annual costs but only receive up to \$600 in benefits. Those seniors with prescription drug costs falling between \$1,000 and \$2,000 a year will pay premiums, deductibles, and copayments totaling up to \$1,320 in return for benefits of up to only \$1,100. Seniors ought to know just what help the Republicans are offering in their proposal.

Finally there is the last group, individuals who still have a very modest income, but have prescription drug costs over \$2,000. They are going to fall into the hole, as Senator GRAHAM has pointed out. They will get no assistance for their drug costs once they reach \$2,000.

It is important to understand, as we begin this debate, who is going to be helped and who is not going to be helped. The Republican program fails to explain that either to their membership or to the American public.

In each of these areas, the Miller-Graham bill rejects those artificial barriers and assists each and every citizen all the way through. That is a major difference. This is one of the important differences we ought to recognize.

Here's another important difference. Rather than the safe, dependable Medicare system that senior citizens understand, the Republican plan is run through private insurance companies—pharmaceutical HMOs. They are allowed to set premiums at whatever the traffic will bear. And there is no guarantee that benefits will actually be available if private insurance companies decide they don't want to participate. Senior citizens have seen what has happened to HMOs in the regular Medicare program—cutbacks in benefits, withdrawal of services. They don't need that for lifesaving prescription drug coverage.

And to complete this dishonor roll of the Republican plan, it does not even start until 2005. The Republican prescription for senior citizens: take two aspirin and call the pharmacy in two and a half years.

Senior citizens and their children and their grandchildren understand that affordable, comprehensive prescription drug coverage under Medicare should be a priority. Let's listen to their voices instead of those of the powerful special interests. Let's pass a Medicare prescription drug benefit worthy of the name.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to join my colleagues in supporting the Graham-Miller-Kennedy bill of which I am very pleased to be a

cosponsor, which will provide a voluntary comprehensive Medicare prescription drug benefit. This is long overdue.

I also rise today to express great concern about what is being done in the House of Representatives. We know that in the end we need to come together with a bipartisan bill. We welcome that and want to work with our colleagues, but it has to be something real, it has to be something that provides more than 20 percent of the cost of prescription drugs—only 20 percent help—leaving our seniors to pay 80 percent and, in some cases more, for their prescriptions. It is just not good enough.

I wish to share some portions of a letter I received yesterday from the Kroger Company of Michigan that was written to me concerning the legislation that is being drafted and passed by our Republican colleagues in the House. It says:

Dear Senator Stabenow: As president of the Michigan Kroger stores, I am writing to advise you that our stores oppose the Thomas-Tauzin Medicare bill.

The Republican bill in the House.

Passage of this bill will hurt Michigan senior citizens by confining their freedom in choosing generic over brand name medications and restricting their pharmacy choices. Furthermore, the viability of community pharmacies is of significant concern, especially in rural areas where inadequate reimbursement rates could force many community pharmacies out of business, further restricting seniors' choices.

There is great concern not only from the senior groups, those that represent consumers in our country. I appreciate the president of Kroger expressing great concern about this as well. We can do better. The question is, To whom are we going to listen?

I am asking, as are my colleagues, that we listen to not only seniors but businessowners and others who are experiencing an explosion in the prices of prescription drugs, and that we act and do so now. It is long overdue.

A few weeks ago, I invited people to come to my Web site. We have set up the prescription drug people's lobby in Michigan. We are tying it to a Web site that has been set up nationally, fairdrugprices.org, and I have been asking people to share their concerns, their experiences with the high prescription drug prices we are seeing across the country.

Once again, I wish to share a story from one of those citizens in Michigan who has signed up to be a part of our prescription drug people's lobby.

This is from Molly A. Moons, who is 44 years old in Pontiac, MI. She says:

Senior citizens are not the only people suffering from the high cost of prescription drugs. I am the sole employee of a small business and not eligible for any health care plans that cover the cost of prescription drugs. I have four prescriptions that need filling each month, and the cost is in excess of \$300 a month—a real financial burden. At the invitation of some senior citizen friends, I was invited to take a "drug run" to Canada.

Mr. President, a number of us have done this to demonstrate the differences in prices.

These ladies were all widows/retirees on fixed incomes that were having trouble paying for their medications, so I joined them to buy our prescriptions in Canada.

... I am able to get a 3-month supply of medication for what it costs me for a 1-month supply in the United States.

A 3-month supply in Canada for a 1-month supply in the United States.

I find that shameful.

While I believe that everyone has a right to make a profitable living, the gouging of the pharmaceutical companies is sickening. Additionally, the loopholes that these companies use to keep drugs from generic manufacturers are also criminal. Please help make this stop.

I thank Molly Moons for sharing her story as a small businessowner and sharing her concern about the senior citizens who were on that bus going to Canada. Shame on us. She is right, "I find it shameful," and it is shameful. We are saying we can do something about it. We can do something about it by passing the Graham-Miller-Kennedy bill that will provide a comprehensive Medicare prescription drug benefit, and we can further do it by passing other legislation to lower prices through expanded use of generics, opening the border to Canada and other policies that will lower prices. We can do that, and we need to do that.

Why has this not been done? Why has this not happened? We have been talking about it. I talked about it as a Member of the House of Representatives. We tried to pass something then. Colleagues of mine have talked about it. Presidential candidates have talked about it. As the Senator from Georgia said earlier, it is time to stop talking about it and get something done.

Why has that not happened? Unfortunately, we have seen too much influence and too many voices trying to stop this, and not enough of the people's voice in this process, which is what we are trying to do right now.

We have a Web site that I have invited people to go to that is called fairdrugprices.org. We are inviting people to sign a petition to urge Congress to act right now, to urge Congress to pass a comprehensive Medicare prescription drug benefit, and to pass other efforts to lower prices. We urge people to go to this Web site and share their story. We will share those stories on the floor of the Senate.

Why is that important? It is important because, according to our numbers, there are about six drug company lobbyists for every Member of the Senate. Their voice is being heard. This is about making the people's voice heard through their Representatives and their Senators.

Unfortunately, there are other ways in which voices are heard. I found it unfortunate that yesterday, while in the midst of debating a Medicare bill, which has been viewed by colleagues and quoted in the paper from House Republican staff as being a bill they are

very concerned about having reflect the needs of the drug companies, but at the same time we do not have the concerns of our seniors and our families being voiced as a part of that process, that last evening there was a major fundraiser. Our colleagues on the other side of the aisle and the House of Representatives had a major Republican fundraiser and we saw a number of pharmaceutical companies playing a major role.

We saw Glaxo Smith Klein, according to the newspaper, contributing about \$250,000 to that fundraising effort; PHRMA, which is the trade organization for the companies, contributing about \$250,000 to that fundraiser; Pfizer, about \$100,000, and other companies as well. So there are those that are not only here as lobbyists but contributing dollars to fundraisers, certainly wanting to make their voice heard.

The PRESIDING OFFICER (Mr. MILLER). The Senator's time has expired.

Ms. STABENOW. Mr. President, I ask unanimous consent for 2 additional minutes.

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

Ms. STABENOW. In conclusion, we know the lobbyists' voices are heard on this issue, the drug companies' voices are heard in a multitude of ways. Now is the time for the people's voice to be heard on this subject, and I urge those who are watching today to get involved through fairdrugprices.org, by showing support for a bill that will be brought up in July and will be voted on in this Senate to provide real help for seniors and those with disabilities in our country.

We will bring forward other legislation to lower prices for everyone, for the small businessowner, the manufacturer in Michigan, the farmer, those who are paying high prices through their insurance premium or at the pharmaceutical counter. The time has come to act. We know what to do. Now it is time to do it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his point.

Mr. SPECTER. Is it correct that there is now 30 minutes for the Republicans, with an allocation of 15 minutes to my control?

The PRESIDING OFFICER. There are 27 minutes, of which the Senator has 15.

Mr. MURKOWSKI. May I rise for a question relative to the allocation?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. What is the allocation of time following the Senator from Pennsylvania? Does the Senator from Alaska have morning business reserved for 15 minutes?

The PRESIDING OFFICER. The Senator does not have time reserved but there will be 12 minutes remaining.

Mr. MURKOWSKI. I ask to be recognized after Senator SPECTER. I ask unanimous consent for the remaining time. I do not intend to take all the 12 minutes.

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

The Senator from Pennsylvania.

THE PIECES TO THE PUZZLE

Mr. SPECTER. Mr. President, I thank the Chair for that clarification. I have sought recognition this morning to express my concern that the legislation submitted by the President for homeland security submitted two days ago to the Congress does not meet the critical need for collection and analysis of intelligence information in one place.

Each day there are new disclosures of key information, information which was known prior to September 11, 2001. If it had been activated and put together with other information, this might well have prevented the September 11 attack.

This morning's Washington Post has as its major story, in the upper right-hand corner, "NSA Intercepts On Eve of 9/11 Sent a Warning." The first sentence reads:

The National Security Agency intercepted two messages on the eve of the September 11 attacks on the World Trade Center and the Pentagon warning that something was going to happen the next day.

If that information had been put together with other information which was in the files of Federal intelligence agencies but not focused on, there would have been, I think, an emerging picture providing a warning, not just connecting dots, but a picture which was pretty obvious when all of the pieces were put together.

The FBI had the now-famous Phoenix report, which had been submitted in July 2001 by the Phoenix office, telling about aeronautical training to people with backgrounds which indicated potential terrorist leanings, aeronautical students with a large picture of Osama bin Laden in their room and a background which would have supported the inference that those students in training might well have been put up to something. If that had been put together with the confession that was obtained by a Pakistani terrorist known as Abdul Hakim Murad in 1996, who had connections with al-Qaida, when he told of plans to attack the CIA headquarters in Washington by plane and to fly into the White House, there might have been a pretty sharp focus, especially if linked to the information which had been developed by the FBI field office in Minneapolis, that there was a man named Zacarias Moussaoui, who had terrorist connections to al-Qaida, and that plans were being developed and that he was actually to be the twentieth hijacker.

That information never came to full fruition because of a failure of the Federal Bureau of Investigation to move the matter forward for a warrant under the Foreign Intelligence Surveillance Act.

The Judiciary Committee heard testimony from special agent Coleen Rowley about the difficulties of dealing with the FBI, which requires a standard not in accordance with the law, 51 percent, more probable than not where the standard of a warrant does not require that. Had Moussaoui's computer been examined, it would have provided a virtual blueprint for what was about to happen.

These are very glaring and fundamental defects in our intelligence system. They have existed for a very long time. We have had a situation where the Director of Central Intelligence, who is supposed to be in charge of all intelligence, does not have key components of the intelligence apparatus under his wing. For example, he does not have access to the National Reconnaissance Office. He does not have unfettered access to the National Security Agency, the National Imagery and Mapping Agency, and certain special Navy units. This is a deficiency which has gone on for a long time.

When I chaired the Senate Intelligence Committee during the 104th Congress, I introduced Senate bill 1718. That bill was designed to correct the deficiency that the Director of the Central Intelligence Agency, who nominally and in the public view had access to all of the intelligence information, but, in fact, did not have it. My bill, S. 1718, is only one of many efforts which are currently underway, efforts which are currently under consideration by the White House. However, there is strong opposition by the Department of Defense and opposition by others. I am not characterizing it necessarily as a turf battle. It is a battle which has its origin in the concerns of some in the Department of Defense that the Department of Defense has the responsibility to fight a war and needs access to all of these intelligence matters; that is unique control.

The reality is that a structure can be worked out so the Department of Defense is not deprived of access to any of this information in time of war or at any time. However, the Director of Central Intelligence ought to have it in one coordinated place.

Now, when you create a Department of Homeland Security, it is obviously very difficult to touch upon matters on the broader picture. That is something that must be done and which must be addressed. When this matter was considered, I raised some of these issues in a meeting which Senators had with the White House Chief of Staff Andrew Card and Homeland Security Advisor, Governor Ridge. Recently, there have been additional meetings at the staff level, working together with the White House staff extensively, one of which was last Friday afternoon. During that

meeting, my staff made a specific proposal that on the Department of Homeland Security, there should be a repository in one place to gather all of this information. The suggestion which we submitted was that there should be a national terrorism assessment center, a concept developed by someone who is very experienced in intelligence affairs, Charles Battaglia, who spent years in the CIA, as well as the Navy, and who served as majority staff director for the Intelligence Committee during my tenure as chairman during the 104th Congress.

The Battaglia proposal to establish a national terrorism assessment center, in my opinion, goes right to the mark. It would be staffed by analysts who would come from the FBI, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and a listing of other Federal agencies, including the State Department's Bureau of Intelligence and Research, which would have access to all of this information.

The bill, which was submitted by the President two days ago to establish the Department of Homeland Security, I say respectfully, does not meet this core critical ingredient. For example, referring to intelligence staff, the President's proposal provides at section 201: The Secretary may obtain such material by request.

Mr. President, that is hardly the authority that the Secretary of Homeland Defense needs to do his job. If he has to ask somebody in Washington, DC, for something, it is an enormous uncertainty as to whether he will get it. In fact, it is more probable than not that he will not get it. There is a long trail around here to get information from anyone. I have seen that in detail in my time trying to conduct oversight on the FBI or in conducting oversight when I chaired the Intelligence Committee. That information just is not forthcoming.

The President's bill further provides that the Secretary may enter into "cooperative arrangements with other executive agencies to share such material." Whether or not there will be such arrangements entered into, and whether the other executive agencies will be agreeable to that, is highly uncertain.

The time has long since passed to leave it to the discretion of a large variety of the Federal bureaucrats as to what they will do on intelligence. The time has come for the Congress of the United States in legislation signed by the President to establish central authority in one place, under one roof, to collect all the information which is available. To do any less is dereliction of our duty. That has not been done. The intelligence community has been stumbling along. America stumbled into September 11 because this Congress had not undertaken the approach with the strength to resolve all of these jurisdictional disputes and see to

it that this information was under one roof.

The Congress of the United States has a fundamental responsibility to provide for the security of the United States. When the Judiciary Committee conducts hearings and finds out that the FBI does not have the procedures in place to know what is in the Phoenix report on a potential terrorist with Osama bin Laden's picture on his wall, when the Judiciary Committee commits oversight and finds out that the FBI Minneapolis office cannot get headquarters to request a warrant under the Foreign Intelligence Surveillance Act because they are applying the wrong standard, when the Intelligence Committee conducts oversight on the Director of Central Intelligence and finds his authority lacking because he does not know what many other intelligence agencies are collecting, and when the National Security Agency has on the eve of September 11 specific warnings and these pieces are not put together, the time has come to act.

On this legislation, we ought to move ahead with a national terrorism assessment center. This information, as I noted earlier, was communicated by my staff to the White House staff. We did not have it prepared in time, but we had it this week in draft form. However, the matter is now before the Congress.

For the information of my colleagues, I ask unanimous consent that this draft proposal be printed in the CONGRESSIONAL RECORD. It is by no means a finished product, however it might be of some help as we move ahead with hearings on this very important subject in the Congress.

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

AMENDMENT NO.—

(Purpose: To provide the Secretary of the Department of Homeland Security with timely and objective intelligence assessments on terrorism and actionable intelligence essential to carry out the Secretary's duties as assigned, and to refocus the efforts of Federal law enforcement (including the FBI) on the collection, analysis, and dissemination of intelligence related to terrorism)

At the appropriate place, insert the following:

SEC. ____ NATIONAL TERRORISM ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established the National Terrorism Assessment Center (in this section referred to as the "NTAC"), to provide—

(1) the Department of Homeland Security with the authority to direct the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and other officers of Federal agencies to provide the NTAC with all intelligence and information relating to threats of terrorism; and

(2) the means for intelligence from all sources to be analyzed, synthesized, and disseminated to Federal, State, and local agencies as considered appropriate by the Secretary.

(b) DUTIES OF THE NTAC.—The NTAC shall—

(1) direct the Director of Central Intelligence, the Director of the Federal Bureau

of Investigation, and other officers of Federal agencies to provide the NTAC with all intelligence and information relating to threats of terrorism;

(2) synthesize and analyze information and intelligence from Federal, State, and local agencies and sources;

(3) disseminate intelligence to Federal, State, and local agencies to assist in the deterrence, prevention, preemption, and response to terrorism;

(4) refer, through the Secretary of Homeland Security, to the appropriate law enforcement or intelligence agency, intelligence and analysis requiring further investigation or action; and

(5) perform other related and appropriate duties, as assigned by the Secretary.

(c) MANAGEMENT OF THE NTAC.—

(1) IN GENERAL.—The NTAC shall be under the operational control of the Secretary of the Department of Homeland Security, who shall evaluate the performance of personnel assigned to the NTAC.

(2) DIRECTOR.—

(A) APPOINTMENT.—The NTAC Director shall be a senior officer of the Federal Bureau of Investigation and appointed by the Secretary of the Department of Homeland Security from candidates recommended by the Director of the Federal Bureau of Investigation.

(B) DUTIES.—The Director of the NTAC shall—

(i) ensure that the law enforcement, immigration, and intelligence databases information systems containing information relevant to homeland security are compatible; and

(ii) with respect to the functions under this subparagraph, ensure compliance with Federal laws relating to privacy and intelligence information.

(3) DEPUTY DIRECTOR.—The NTAC Deputy Director shall be a senior officer of the Central Intelligence Agency and appointed by the Secretary of the Department of Homeland Security from candidates recommended by the Director of Central Intelligence.

(d) STAFFING OF THE NTAC.—

(1) IN GENERAL.—The NTAC shall be staffed by analysts assigned by—

(A) the Federal Bureau of Investigation;
(B) the Central Intelligence Agency;
(C) the National Security Agency;
(D) the Defense Intelligence Agency;
(E) the National Imagery and Mapping Agency;

(F) the National Reconnaissance Office;
(G) the Department of Energy;
(H) the Department of Homeland Security;
(I) the Department of the Treasury;
(J) the Department of Justice;
(K) the Department of State; and

(L) any other Federal agency, as determined by the Secretary in consultation with the President or the President's designee.

(2) ADDITIONAL STAFFING.—The Secretary may also require the Immigration and Naturalization Service, Customs Service, Coast Guard, Secret Service, Border Patrol, and other subordinate agencies to assign additional employees to the NTAC.

(3) ADMINISTRATIVE SUPPORT.—Administrative support to employees assigned to the NTAC from other agencies shall be provided by such agencies.

(e) AUTHORITY TO EMPLOY PERSONNEL AND CONSULTANTS.—

(1) IN GENERAL.—The Secretary of Homeland Security may, without regard to the civil service laws, employ and fix the compensation of such personnel and consultants, including representatives from academia, as the Secretary considers appropriate in order to permit the Secretary to discharge the responsibilities of the Department of Homeland Security.

(2) PERSONNEL SECURITY STANDARDS.—The employment of personnel and consultants under paragraph (1) shall be in accordance with such personnel security standards for access to classified information and intelligence as the Director of Central Intelligence shall establish for purposes of this subsection.

(f) TOUR OF DUTY REQUIREMENT.—

(1) SENIOR INTELLIGENCE SERVICE.—Title III of the National Security Act of 1947 (50 U.S.C. 409a) is amended by inserting after section 303 the following:

"PROMOTION TO SENIOR INTELLIGENCE SERVICE

"SEC. 304. An employee of an element of the intelligence community may not be promoted to a position in the Senior Intelligence Service until the employee has served 1 or more tours of duty, aggregating not less than 24 months, in a nonacademic position in 1 or more other elements of the intelligence community."

(2) SENIOR EXECUTIVE SERVICE FOR EMPLOYEES OF FBI.—Chapter 33 of title 28, United States Code, is amended by inserting after section 536 the following:

"§536A. Promotion to Senior Executive Service

"(a) An employee of the Federal Bureau of Investigation may not be promoted to a position in the Senior Executive Service until the employee has served 1 or more tours of duty, aggregating not less than 24 months, in a non-academic position in 1 or more other elements of the intelligence community.

"(b) In this section, the term 'element of the intelligence community' means an element of the intelligence community specified by or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))."

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) SENIOR INTELLIGENCE SERVICE.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 303 the following:

"304. Promotion to Senior Intelligence Service."

(B) SENIOR EXECUTIVE SERVICE FOR EMPLOYEES OF FBI.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 536 the following:

"536A. Promotion to Senior Executive Service."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act, and shall apply with respect to promotions that occur on or after that date.

(g) ACCESS OF DIRECTOR OF CENTRAL INTELLIGENCE TO INTELLIGENCE COLLECTED BY INTELLIGENCE COMMUNITY.—Section 104 of the National Security Act of 1947 (50 U.S.C. 403-4) is amended by adding at the end the following:

"(h) ACCESS TO INTELLIGENCE.—(1) The Director shall have full and complete access to any intelligence collected by an element of the intelligence community that the Director requires in order to discharge the responsibilities of the Director under section 103.

"(2) The head of each element of the intelligence community shall take appropriate actions to ensure that such element complies fully with the requirement in paragraph (1)."

(h) ELECTRONIC NETWORKING OF INTELLIGENCE DATA.—As soon as practicable after the date of enactment of this Act, the Director of Central Intelligence shall implement a program to provide for the full interconnection by electronic means of the intelligence databases of the intelligence community in

order to ensure the ready accessibility by all elements of the intelligence community of intelligence and other information stored in such databases.

Mr. SPECTER. I yield the floor.

YUCCA MOUNTAIN

Mr. MURKOWSKI. Mr. President, I stand to try to enlighten Members about the Yucca Mountain resolution which is going to be before this body. Yesterday, I took to the floor to speak on the current status of the Yucca Mountain debate in the Senate. I bring it to my colleagues' attention this measure has been reported by the Energy and Natural Resources Committee and is now ready for consideration by the full Senate.

There is a process here. I think it is somewhat confusing to Members, and hopefully we will get a better understanding when I share my analysis.

I want to make sure everyone understands that I certainly support the majority leader's ability to control the floor of the Senate and hence the schedule. I hope the majority leader will bring this issue to the floor shortly. I and others are looking forward to working with him, Senator LOTT and others, to try to come to an agreement to move the Yucca Mountain issue. However, should the majority leader choose not to bring this up and asks the Republicans to do it, we are prepared to oblige.

The process laid out is unique in the Nuclear Waste Policy Act. It was intended to eliminate any opportunity to delay, impede, frustrate, or obstruct the Senate and House votes on this siting resolution. That is the reason this expedited procedure was put into the act.

As Senator CRAIG pointed out last week, this was very specific language. It provides that any Senator on either side may move to proceed to consideration of the resolution.

There is a historical association with these procedures. Back when the Nuclear Waste Policy Act was debated in 1982, a central question was how to treat an obligation by the State selected for the repository if, in fact, the State objected—hence the situation with regard to Nevada. Nevada was selected. Nevada has rejected the site.

Back then there was a Congressman by the name of Moakley, the chairman of the House Rules Committee. He was concerned over what he perceived as a constitutional issue—single House action—and sought an approach that would allow a State to raise an objection but also guarantee that a decision would be made without raising constitutional questions. The solution he proposed, and which is included in the legislation, was passage of a joint resolution coupled with expedited procedures that would eliminate any opportunity for obstruction or delay. In other words, trying to make it fair to the State that was affected.

Moakley's State veto provision was added to the House-Senate compromise

bill after Senator Proxmire threatened to filibuster the bill unless it was included. Senator Proxmire described the provisions as making it "in order for any Member of the Senate to move to proceed to consideration of the resolution" to override the State's veto.

That is where we are today on this matter.

Further, as a little history, Senator George Mitchell, who was the majority leader at that time, insisted that the language "should not burden the process with dilatory or obstructionist provisions" and was only accepted in the Senate because we were all assured that there were no procedural or other avenues that would prevent the Senate from working its will within the statutory framework.

Again, I want to quote Congressman Moakley on that provision when the House approved the final measure:

The Rules Committee compromise resolved the issue in a fair manner. We proposed a two-House veto of a State objection but required that both the House and Senate must vote within a short timeframe. So long as the vote is guaranteed, the procedures are identical as a political and parliamentary matter.

The process, which includes the right of any Senator to make the motion to proceed, is that guarantee.

All of this brings me to the point of the majority leader's ability to control the flow of legislation in this body. The majority leader has been very forthcoming in his position on the resolution, and I understand and appreciate that. While I disagree with his position, I do not question his honesty or his integrity. Nor do I wish to hinder his ability to control the floor in normal circumstances.

This situation, however, is not one in which we often find ourselves. In this rather extraordinary case, we find ourselves governed not by the usual rules and traditions of the Senate but, rather, by a very specific and limited expedited procedure—a procedure set out in law, a law that was passed by this body.

Senator DASCHLE chooses to call this fast-track procedure—he mentioned "a violation of the Senate rules." I choose to call it an "exception." But whatever it is, whatever you want to call it, it is the same thing. It is a statutory fast track to consider a type of measure that is not ordinarily before the Senate, nor ordinarily treated in this manner. Extraordinary circumstances often call for an extraordinary procedure, and I think that is what we have before us.

Despite what Senator DASCHLE has indicated in a press conference earlier this week:

This whole procedure, as you know—we locked in a procedure many, many years ago—I believe it was in 1982—

And he continued later in the statement:

But this is what we are faced with. And so given the fact that we're faced with a very un-Senate-like procedure, I have no objec-

tion to that concept. (Here he is referring to a Republican making the motion to proceed) in terms of who would raise the issue on the floor.

Certainly I appreciate the leader's recognition that this measure must come up, and should the majority leader not make the motion, obviously some other Member will. If that is what will happen, it does not in any manner undercut the authority of our majority leader. No Senator, however, has come running to interrupt the present schedule of proceedings by bringing up this resolution.

We have, in fact, had discussions between the majority and minority leaders. We would like to enter into a unanimous consent agreement to minimize any potential disruption to the Senate, but that may not be possible, given the objection of the Senators from Nevada.

I quote from an article that appeared in one of the publications that I was given, in the "Hill Briefs," a reference by Emily Pierce, Congressional Quarterly staff writer, on 6-19 of this year, third paragraph:

And Senator ENSIGN and Senator REID said they aimed to persuade enough Members of both parties to reject the procedural motion, contending it would set a bad precedent. They contend the majority leader should control the agenda rather than leave that task to another Senator.

That is really incidental, but I think it points out that we have two Senators from Nevada who rightly are going to object to moving this matter before the Senate.

Barring what would be any further delays, we can find an appropriate time that is convenient to the schedule of our two leaders to resolve this matter. As to who makes the motion to proceed, I do not know that it really matters very much.

When I was chairman of the Energy Committee, I occasionally came to the floor to move to proceed to some measure reported from the committee. I certainly think it would be equally appropriate for our present chairman to make the motion to proceed to the consideration of this resolution. However, he may not want to do so.

I commend Senator BINGAMAN for an excellent committee report and the deliberate approach that he took to the consideration of the resolution. I commend him. But the bottom line is that, if the majority leader does not want to make the motion, for substantive or whatever reason, the statute explicitly deals with the situation to ensure that the Senate can take action.

As I have said before, the State veto and the congressional joint resolution are extraordinary provisions. A vote on the resolution is essential to the compromise in the agreement of 1982 to go to a two-House resolution.

It offers no precedent for any other situation and by its terms is limited to this specific situation. There are enough substantive issues that we can discuss. We do not need to suggest that somehow an explicit provision in a

statute should be ignored and does not mean precisely what it says.

It is time we focus on substance and I sincerely hope that the two leaders can find a time before the July recess for us to take up this important Yucca Mountain resolution.

I would note that all debate is limited to 10 hours, so it would be possible to take up the resolution one afternoon or evening and have a vote the next morning. That would create very little inconvenience to the leaders' schedule, but I look forward to whatever they can work out.

It is time for either the majority leader or his designee—perhaps the chairman of the Energy Committee who introduced the resolution and so ably guided it through committee—to make the motion to proceed and establish, under the rules of the Senate and the procedures laid out in the act, a time and date certain when the Senate can debate and vote on this resolution—as the act intended.

This matter is long overdue. It is the obligation of this body. The House of Representatives has done its job, and the Senate should do its job.

I thank the Chair. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent to speak as if in morning business and to extend morning business time for 10 minutes.

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

YUCCA MOUNTAIN

Mr. REID. Mr. President, I have heard my friend, the distinguished junior Senator from Alaska speak, as I have heard the Senator from Idaho speak on several occasions during the last few days. I have chosen not to respond because what my friends have spoken about we have heard many times.

We have a situation on which the American people are now focusing. The focus for many years has been whether Yucca Mountain is a suitable site for a nuclear waste depository. Scientifically, that has fallen apart for many reasons. One is that under the statute, Yucca Mountain and/or any other site was supposed to be a facility that would geologically protect the American people from nuclear waste. Yucca Mountain didn't work. They have learned that geologically it can't do that because of the fault lines, because of the water tables, and because of many other facts. They decided to use Yucca Mountain anyway. But they would build an encasement and put it down in the hole. They would have the waste in containers in Yucca Mountain.

The point is that now people are no longer focusing on Yucca Mountain. They are not focusing on Yucca Mountain because they have come to the re-

alization they have to get it there some way. You are not going to wake up one morning and suddenly find thousands of tons of nuclear waste from around the country from different reactors there. No. You will have to haul it there. We have learned they are going to haul it by water, by train, and by truck. They can haul all they want. But the waste is always going to be at these reactor sites. You can't get rid of it. You are producing it all of the time.

When they take a spent fuel rod out, it has to stay onsite for 5 years before they can touch it. Then they have to determine how to move it.

We have known since September 11 that we have a lot of difficulty moving anything dangerous on the highways of this country. The most poisonous substances known to man are in these spent fuel rods.

There is a Web site—www.mapscience.org. It has been up since last Tuesday. You can punch in an address—whether it is Georgia, whether it is Nevada, Virginia, Maryland, or Rhode Island. You will find instantaneously how close nuclear waste will travel to your home address or any other address you enter.

Since Tuesday, we have had about 100,000 people who have focused on that and who have made hits on that site. People from all over this country are now realizing that nuclear waste is not a Nevada problem, it is their problem.

My friends from Alaska and Idaho can come here and talk all they want. But the people who are eminent scientists and who have enough experience dealing with transportation—for example, the former head of the National Transportation Safety Board—agree that this is a bad idea. Jim Hall, the former head of the National Transportation Safety Board has done editorial boards, and he is an expert on transportation safety. He said you shouldn't do it. You can't do it. People say: OK, big shot. What do you want to do with it? That is very easy to answer. Leave it where it is, where there are storage containers, where you can encase and cover them with cement. There are all kinds of ways to protect them onsite, but you can't do those things when you haul the waste. The casks become too heavy.

The majority leader is absolutely right. He does not like this. He thinks it is wrong headed. People have been wined and dined by the nuclear power industry for 20 years. One of the great trips they take is to Las Vegas. They say: Come on. We will show you Yucca Mountain.

They whip them out to the mountain for a few hours and put them up in fancy hotels in Las Vegas for a weekend or so. They have had hundreds of staff out there to look at this. We know how powerful staff is. They come back and say there is a great repository out there.

I acknowledge that my job is easier than my friend, the junior Senator from Nevada. My job is easier because

this battle has been going on for a while. President Clinton vetoed a proposal to change environmental standards at Yucca Mountain. That veto was upheld by a vote of the Senate—33 Democrats and 2 Republicans.

They also tried to establish Yucca Mountain as a temporary place—an interim storage site. President Clinton interceded. That was soundly defeated.

My job is easier than my friend from Nevada. I am working with people who have not voted against this in the past, and who have voted for my position in the past. We had a President who, even though he had a nuclear plant in Arkansas, understood.

But my friends on this side of the aisle must do the right thing. I don't say this negatively. I get campaign contributions also. Even though I get campaign contributions, that isn't how I have to vote. They give me that money because they think I am an honorable person trying to do the right thing.

The fact that for 20-odd years millions of dollars have been given to campaigns around this country, people have to set that aside and do the right thing. It is not easy to do. But they have to do the right thing. I am not in any way trying to demagog the issue other than to say there are occasions when people have to do the right thing.

For my friend, JOHN ENSIGN, and for the people of this country, my friends on the other side of the aisle must do what is fair and understand that the transportation of nuclear waste is not safe.

The Chairman of the Nuclear Regulatory Commission said last week if this bill does not go forward and the veto of the Governor of Nevada is upheld, that it is no big deal. We can and will leave the nuclear waste where it is. That is what the Chairman of the Nuclear Regulatory Mission said last week.

The former member of the NRC, Dr. Victor Gilinsky, said at an Energy Committee hearing: I don't understand what the rush is. They can't transport the stuff in Europe. They have tried. This week they had a big demonstration where people chained themselves to the railroad tracks. Basically, they stopped the trains from hauling it. Germany has given up on it.

The mad rush is because the nuclear power lobby is extremely powerful. But for the good of the people of this country, whether they have a nuclear reactor in their State or not, you can't haul it safely. It is better left where it is until we find the right technological solution.

I guess the reason I came down is that I have just kind of had it up to here on all of these speeches about what a righteous thing they are doing by bringing this forward. It is the wrong thing to do. It is not a Nevada issue. It is an issue that affects everybody in this country.

For anyone to even suggest or intimate that this matter should now be

reported to the Senate in a matter of a minute or two, and the Defense authorization bill should be set aside to take it up—we are talking about giving our men and women in the military additional resources to fight the war on terror and to make this country secure. To even think we would set this aside for that is, to me, distasteful.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2514, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes.

Pending:

Feingold Amendment No. 3915, to extend for 2 years procedures to maintain fiscal accountability and responsibility.

Reid (for Conrad) Amendment No. 3916 (to Amendment No. 3915), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise today to express my support for the fiscal year 2003 Defense authorization bill. I believe this bill provides the needed resources to compensate and to reward the men and women in uniform who are doing an extraordinary job protecting this country across the globe and here at home. I also think the bill will provide the funding and the direction to continue the transformation of our military forces so that we are able to meet the new emerging threats of this new century.

This year, I again served as chairman of the Strategic Subcommittee. This subcommittee focuses on strategic systems, space systems, missile defense, intelligence, surveillance, and reconnaissance programs, and the national security functions of the Department of Energy. The subcommittee and the full committee held seven hearings dealing with matters in the subcommittee's jurisdiction.

The issues addressed by the subcommittee cover a wide range of subjects. These issues include the Nuclear Posture Review, which the Defense Department issued in December, which covers our strategic nuclear plan; the creation of a new Missile Defense Agency, which replaced the Ballistic Missile Defense Organization; increased concerns about the security of nuclear weapons and materials; the need to substantially restructure several space programs; and proposed re-

ductions to the number of deployed nuclear weapons in the context of the new and very commendable agreement with Russia.

Let me turn, first, to the issues of strategic systems.

The strategic systems that fall within the jurisdiction of the Strategic Subcommittee include long-range bombers, the land-based and sea-based ballistic missile forces, and the broad range of matters pertaining to nuclear weapons in the Department of Defense.

In the area of strategic systems, the bill, as reported, adds \$23 million to keep the Minuteman III ICBM upgrade programs and the effort to retire the Peacekeeper on track, as has been requested by the Air Force in their list of unfunded requirements.

The Peacekeeper and the Minuteman III missiles are both land-based missile systems. When the Peacekeeper is retired, Minuteman III will be the only land-based system, so it is very important to ensure, for our nuclear deterrence, that the process of retirement of Peacekeeper and modernization of Minuteman III continues at the appropriate pace.

Under the terms of the Nuclear Posture Review, the Department of Defense plans to eliminate all 50 of the Peacekeeper missiles and download the 500 Minuteman III missiles from their current multi-warhead configuration to a single warhead. This is a significant step in reducing the threat posed by nuclear weapons and one of the major reasons that the United States and Russia were able to come to an agreement.

Reducing the number of warheads on the Minuteman III to one warhead per missile, and removing all of the warheads from retiring Peacekeeper missiles, is a key to achieving the goals of a reduced number of deployed missiles that are at the heart of the agreement with the United States and Russia.

The commitment is to reduce the number of deployed nuclear warheads to the range of 1,700 to 2,200 from the present approximately 6,000 deployed warheads.

Also, this will provide more stability, as missiles with single warheads, in the context of deterrence policy, are a more stable element than multi-warhead missiles.

These are all encouraging developments, but it is necessary to keep this process on track by the additional funds which we have added to this legislation.

The subcommittee is also concerned about ensuring that the long-range bomber fleet is modernized and maintained. These bombers, particularly the B-2 and the B-52, have repeatedly showed their usefulness in conflicts from Desert Storm to present operations. There are no plans to replace these bombers in the near future. In fact, in 2000, when the Air Force last reviewed the projected lifetime of these bombers, they determined they could rely on these bombers for an additional

30 years. The reality is, the pilots who will retire the B-52 and B-2 bombers have not yet been born.

We have to maintain these systems, upgrade their electronics and avionics, to make sure they are still a valuable and decisive part of our forces.

This bill would include an additional \$28 million to address shortfalls in the B-2 and B-52 bomber programs, and also approves the request by the Department of Defense to reduce and consolidate the B-1 fleet.

Adding these additional funds is absolutely necessary if the Air Force projections are correct, and we will have these systems—the B-2 and the B-52—in our inventory for an additional 30 years.

Turning to the area of space, another jurisdiction of the Strategic Subcommittee, we considered a variety of very important Defense Department space programs. These programs include satellite programs that provide communications, weather, global positioning systems, early warning, and other satellites for defense and national security purposes.

Space programs are critical to the effective use of our Nation's military forces, and each day they grow in importance. This is a very important aspect of our deliberations.

We also included in our consideration the ability of the United States to continue to effectively launch space vehicles by looking at the east coast ranges in Florida and the west coast ranges in California.

The bill includes funding at the requested levels for most of the Department of Defense space programs. There are some exceptions, however. The committee has added \$29 million to continue to improve the readiness and operations safety at the east coast and west coast space launch and range facilities. If we cannot launch vehicles into space, we cannot ensure that we have the appropriate constellation of satellites to communicate, to provide intelligence resources, to provide global positioning signals—all the things that are critical to the success of our military forces in the field. These ranges are important, and these additional funds will upgrade their ability to continue to play a vital role in our national security.

The bill also includes reductions in certain space programs. One of these programs is the Space-Based Infrared Radar-High or SBIRS-High satellite program. This is a satellite program which is critical to replacing an older and aging system of satellites that provides early warning of missile launches and other activities of concern to the United States.

The worldwide reach of this satellite system is key to its ability to warn of any launches and to provide other critical intelligence. But this program has been plagued with serious problems. It is overbudget and years behind schedule. It is in the process of being restructured by the Department of Defense.

Reflecting this restructuring, the bill reduces the over \$800 million budget request for SBIRS-High by \$100 million so that this restructuring can literally catch up with the funding stream. I think this is an appropriate way to continue to maintain the defense capabilities of the United States while recognizing a program that is in the midst of serious restructuring by the Department of Defense.

The bill also reduces the requested funding for another satellite that has had a troubled history; and that is the Advanced Extremely High Frequency, or Advanced EHF satellite. This satellite program is designed to ensure that the Department of Defense and the military services will retain the ability to have a reliable and survivable communication. Advanced EHF, like SBIRS-High, is a replacement for a current system. But, here again, the program is in serious trouble, over-budget and behind schedule. It, too, is being structured. This restructuring made \$95 million available that the Air Force requested be shifted to other high-priority programs. And we have followed their advice and their suggestion.

Space programs are critical to the operations of the U.S. military. As I indicated, with each day, they become more and more critical. But several of these programs, not only the SBIRS-High program and the Advanced EHF communications satellite program, are experiencing significant problems with cost growth and schedule slippage.

Some of the problems with the space programs appear to be connected with the oversight and management of the programs. To address this, the bill includes a legislative provision to ensure the adequate oversight of space programs. This provision would direct the Office of the Secretary of Defense to maintain oversight of space programs and would require the Secretary to submit to Congress a plan on how oversight by OSD and the joint staff will be accomplished. This provision is included largely as a result of testimony before the Strategic Subcommittee in March of 2002 and will ensure that OSD remains and retains an oversight role for space programs.

Under Secretary of the Air Force Peter Teets, when testifying before the subcommittee, stated that the Air Force is facing significant challenges in several of our most important space programs. This bill attempts to address these concerns by ensuring that adequate oversight by the Department of Defense is maintained.

Let me again stress the importance of these programs. We have all been amazed by the extraordinary success of our military forces in Afghanistan. If you listened to the reports of the special forces troops conducting these operations on the ground, one of the key weapons they had was not a cannon or an M-16, it was a global-positioning, range-finding, targeting device which will operate magnificently as long as

we have GPS satellites and comparable satellites in the air. So communications and satellites are critical to the special forces soldier on the ground, the aviator in the air, every member of our military forces. We are endeavoring to maintain, to enhance, and to secure the future of our space operations within this legislation.

Let me turn now to another aspect of our responsibilities. That is the intelligence, surveillance and reconnaissance functions. This area includes programs such as the Global Hawk and the Predator unmanned aerial vehicles, or UAVs. We have long supported these very innovative and sophisticated weapons. They have shown their worth, particularly Predator in Afghanistan, and therefore the committee recommends fully funding the administration's request to accelerate the development and procurement of UAVs.

Another area we have supported—and in fact we provide additional support in the legislation—is the acquisition of commercial satellite imagery by the Department of Defense. The bill includes an additional \$30 million to authorize the Department to buy commercially available imagery to supplement and complement the imagery which we collect through our own assets. This will enhance our ability to conduct operations. This is an initiative strongly supported by Senator ALLARD, ranking member of the committee. We join in his support of this very worthy enterprise and endeavor.

Let me turn to some of the aspects in the subcommittee that touch upon the responsibilities of the Department of Energy when it comes to nuclear weapons. We include several provisions addressing DOE programs. The first would ensure that Congress continues to exercise its oversight responsibility with respect to funding for future nuclear weapons activities.

This is absolutely important. In December the administration released a Nuclear Posture Review. This Nuclear Posture Review has been criticized, challenged, identified as perhaps blurring the line between nuclear and conventional responses. This is an area where there is much concern. Again, it reinforces the need for Congress to be informed and responsive to evolving policy with respect to development and deployment and use, potentially—we hope never—of nuclear weapons.

If you look at the Nuclear Posture Review, you will see throughout a new triad which includes offensive strike systems which are described as including both nuclear and nonnuclear.

You will see that in the context and literal words of the Nuclear Posture Review, they have talked about “in setting requirements for nuclear strike capabilities, distinctions can be made among the contingencies for which the United States must be prepared. Contingencies can generally be categorized as immediate, potential, or unexpected.”

In the realm of immediate, potential, or unexpected contingencies, they list

countries such as North Korea, Iraq, Iran, Syria, and Libya. These are countries which may be endeavoring to develop nuclear weapons but at this time are not declared nuclear powers, raising the issue of whether we would abandon a long-term policy that we would not use nuclear weapons as a first strike on a nonnuclear power unless they attack us in conjunction with a nuclear power. This uncertainty, ambiguity, exists. Perhaps it has always existed, but it underscores the need for Congress to be informed, to be part of this evolving discussion and debate about nuclear policy.

Therefore, we would ask that the Department of Energy specifically request funds for any new or modified nuclear weapons. There is no money in this budget for such weapons, but I think at this juncture we have to go on record to ask for that type of specific information and not rely upon finding it buried in some larger account. It is an important issue. It is a critical issue. After the tensions between Pakistan and India, that have not yet subsided totally, no one needs to be reminded about the horrendous impact of the potential use of a nuclear weapon. Therefore, it is vitally important that this Congress be informed of any potential developments of new weapons by the United States.

The budget request did include \$15.5 million for a feasibility study of a robust nuclear earth penetrator weapon. The bill denies funding for this purpose and directs the Secretaries of Energy and Defense to submit a report to Congress setting forth the military requirements, the characteristics and types of targets the nuclear earth penetrator would hold at risk, the employment policies of such a nuclear earth penetrator, and an assessment of the capabilities of conventional weapons against these potential targets.

Once again, in the context of a statement by administration officials about the, perhaps, rejection of long-term policy, the nonfirst use against nonnuclear powers, and the ambiguity that has been created, it is essential to stop and look at justification for creating this weapon system.

We already have a nuclear earth penetrator. It is the B61-11; it has been publicly reported. We have the system in place. It is incumbent upon the Departments of Energy and Defense to say why we need to modify another system to do a similar job.

I will also point out there has been some suggestion that what the Department of Energy might be working on is a small mini-nuke that would be less troublesome in terms of radiation, in terms of the impact. Quite seriously, once we cross the nuclear threshold, the size of the weapon may be less important than the fact that we have crossed the threshold.

From the candidates that might be chosen to modify for this robust nuclear earth penetrator, these are very large weapons, hundreds of kilotons, at

least six or seven times the destructive force that was used upon Hiroshima. We have to be very careful. The bill goes ahead and denies the funds and asks the Department of Energy to justify with the report several parameters which are necessary before they go forward, if they do go forward.

The last DOE provision I would like to speak about is a provision that would focus additional resources, \$100 million, in cleanup efforts to clean up DOE sites throughout the country that have been polluted by the nuclear activities going back more than 50 years. It is essential to make our commitment to communities throughout this country that have hosted DOE facilities and now see the ground around them literally contaminated, in many cases by nuclear operations. This is very important.

Let me turn to one of the most contentious and challenging issues before the subcommittee. That is the issue of ballistic missile defense. I want to take some time and go into some detail because there are misconceptions and misinformation about what the subcommittee did and what the committee finally approved.

Let me start with the very broad picture. The administration requested \$7.6 billion for missile defense. The committee recommends \$6.8 billion, a reduction of \$812 million, or 11 percent. I should point out that the budget for missile defense has grown dramatically in the last several years. We are still funding this program at a very robust \$6.8 billion. The \$812 million reduction in ballistic missile defense was transferred to more immediate and pressing needs in the view of the committee.

The most significant, in terms of dollars, was \$690 million for additional shipbuilding, which will provide advanced procurement for a new submarine, a new destroyer, and a new troop transport ship, all immediate and vital needs for our military forces.

Some of the additional money would be used to increase the security of the Department of Energy facilities. Again, after the last several weeks, where we thought an al-Qaida operative was making his way to the United States to steal radioactive material to construct a "dirty" bomb, the need for enhanced security at DOE sites, as well as many other sites that have radiological material, cannot be underestimated.

Let me talk in general terms about the ballistic missile threat and the programs that are evolving to meet that threat. First, historically and generally, we have categorized this in two ways: short-range threats and the longer range threat of the intercontinental ballistic missile. The reality is that many countries have short-range missiles, some of which are capable of mounting chemical and biological warheads. They are an immediate present threat to U.S. forces deployed throughout the world and to U.S. allies throughout the world.

Intercontinental ballistic missiles are those, obviously, that travel long

distances and are designed to strike the homeland of the United States. Those two distinctions have formed most of our programmatic response for many decades.

The administration has come in and, in some respects, blurred the lines between these two distinctions. Rather than the traditional distinction between theater missile and national missile defense, between the short- and medium-range missiles and the longer range intercontinental ballistic missiles, they have talked about creating a missile defense consisting of the boost phase defense systems—those systems designed to strike a missile when it leaves the launch pad, in the 2 or 3 minutes before it gets into the upper atmosphere; in fact, outside of the atmosphere in some cases—a midcourse phase, as the term indicates, which would destroy the missile in the middle of its flight; and the terminal phase, which is the final point where the missile is heading toward its target, coming down rapidly towards its target.

Now, there is a certain logic to this. I have to be fair about that. If one looks at defense in other contexts, such as the more terrestrial contexts of a land battle, defense in depth is a watchword—long-range fires, intermediate fires, and close fires. So there is a logic to this, and it might be unwitting, but there is a blurring and distortion that I think can be misinterpreted—and I think it has been in many cases—with respect to the actual programs we are trying to develop and the progress on those programs.

One case in point is a recent article in the Wall Street Journal, on June 18, where it talks about discussions by General Kadish, about the Navy theater-wide missile system, on which the Journal opined in this article:

The move would represent the first deployment of a defensive missile shield since a system was first proposed by President Reagan in the 1980s.

What General Kadish was talking about was a theater missile, not a national missile system. In point of fact, the PAC-3 system, a land based theater system, is being operationally tested now and likely will be deployed. Certainly it is further along in development than this proposed sea based system.

This type of blurring of the lines in recalibration and renaming of systems I think has created a lot of misunderstanding. Hopefully, we can add some clarity today.

As I mentioned before, theater ballistic missiles have long threatened forward deployed U.S. forces. For years we have confronted the potential of a real-time missile attack in North Korea and in other places. Long-range missiles were the source of our long and, fortunately, stalemated cold war with the Soviet Union. They had the capacity to fire missiles intercontinentally. We were able to wait them out or, through deterrence, through our strategic policy, we were able to bring

the cold war to a conclusion, and also to have a situation in which now we are making real progress with Russia in terms of strategic arms control. So this distinction between theater missiles and ICBMs is significant.

I think it is appropriate at this point to try to go through the list of the systems which have been developed, which we have been developing, and systems that are the underpinning of this new constellation of missile defenses the administration talks about.

I ask unanimous consent to have printed an article by Philip Coyle, former director of operational test and evaluation in the Department of Defense, in the Arms Control Today of May 2002. It summarizes in excellent detail the systems we are talking about today.

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

[From Arms Control Today, May 2002]

RHETORIC OR REALITY? MISSILE DEFENSE
UNDER BUSH

(By Philip Coyle)

Since it assumed office, the administration of President George W. Bush has made missile defense one of its top priorities, giving it prominence in policy, funding, and organization.

First, the administration outlined an ambitious set of goals that extend well beyond the Clinton administration's missile defense aims. In early January 2002, Secretary of Defense Donald Rumsfeld described the administration's top missile defense objectives his way: "First, to defend the U.S., deployed forces, allies, and friends. Second, to employ a Ballistic Missile Defense System (BMDS) that layers defenses to intercept missiles in all phases of their flight (i.e., boost, midcourse, and terminal) against all ranges of threats. Third, to enable the Services to field elements of the overall BMDS as soon as practicable."

Then, in its nuclear posture review, the administration outlined the specific elements of a national missile defense that it wants to have ready between 2003 and 2008: an air-based laser to shoot down missiles of all ranges during boost phase; a rudimentary ground-based midcourse system, a sea-based system with rudimentary midcourse capability against short- and medium-range threats; terminal defenses against long-range ICBMs capable of reaching the United States; and a system of satellites to track enemy missiles and distinguish re-entry vehicles from decoys.

Finally, to speed implementation, the administration has taken a number of tangible steps. It announced on December 13, 2001, that the United States would withdraw from the 1972 Anti-Ballistic Missile (ABM) Treaty, ostensibly because the treaty was restricting testing of mobile missile defenses against y026ICBMs. In its first defense budget, the administration requested a 57 percent increase in funding for missile defense—from \$5.3 billion to \$8.3 billion, of which it received \$7.8 billion. Then, Rumsfeld reorganized the Ballistic Missile Defense Organization into the new Missile Defense Agency, cancelled the internal Pentagon documents that had established the program's developmental goals, and changed the program's goal from being able to field a complete system against specific targets to simply being able to field various missile defense capabilities as they become available.

All in all, a lot has happened in missile defense in the first year or so of the Bush administration. But have these actions brought

the United States any closer to realizing its missile defense goals, especially deployment of a national missile defense? And what elements, if any, of a national missile defense capability might it be possible for the United States to deploy by 2008, as called for in the nuclear posture review?

Despite the Bush administration's push for missile defense, the only system likely to be ready by 2008 is a ground-based theater missile defense intended to counter short-range targets—i.e., a system to defend troops in the field. Before Bush leaves office, the only system that could conceivably be ready to defend the United States itself is the ground-based midcourse system pursued by the Clinton administration. None of the other elements mentioned in the nuclear posture review as possible defenses against strategic ballistic missiles is likely to be available by 2008.

To understand why, let us examine each of the missile defense programs—starting with the short-range, theater missile defense systems and moving to the longer-range, strategic systems—to see what has happened since the Bush administration took office 16 months ago. The results suggest that the Bush administration should not base its foreign policy on the assumption that during its tenure it will be able to deploy defenses to protect the United States from strategic missiles.

THEATER MISSILE DEFENSES

Each of the U.S. military services has been pursuing tactical missile defense programs designed to defend U.S. troops overseas. None of these programs was designed to defend the United States against ICBM attacks, and none has any current capability to do so. However, the administration hopes to be able to apply some of the technology from these service programs to a layered national defense capable of defending the U.S. homeland. (For an explanation of the various stages of development discussed below, see the box below.)

PAC-3

The Patriot Advanced Capability-3 (PAC-3) is a tactical system designed to defend overseas U.S. and allied troops in a relatively small area against short-range missile threats (such as Scuds), enemy aircraft, and cruise missiles. Developmentally, it is the most advanced U.S. missile defense system, and a small number have been made available for deployment although testing has not yet been completed.

PAC-3 flight testing began in 1997. From 1997 to 2002, 11 developmental flight tests were conducted, including four flight intercept tests with two or three targets being attempted at once. Most of these tests were successful, but in two of the tests one of the targets was not intercepted. In February, PAC-3 began initial operational testing, in which soldiers, not contractors, operate the system. Three operational tests have been conducted, all with multiple targets. In each, one of the targets has been missed or one of the interceptors has failed.

A year ago, PAC-3 was planned to begin full-rate production at the end of 2001. However, problems with system reliability and difficulties in flight intercept tests have delayed that schedule. This means that full-rate production likely will be delayed until more stressing "follow-on" operational tests can be conducted against targets flying in a wide range of altitudes and trajectories. In March, Lieutenant General Ronald Kadish, who heads U.S. missile defense programs, testified to Congress that the full-rate production decision would be made toward the end of 2002 (before operational testing has been completed), representing a delay of about a year since last year. The full system

will be deployed once all operational testing has been completed, perhaps around 2005.

A future version of PAC-3 is being considered for terminal defense of the United States. However, PAC-3 was not designed to counter long-range threats, and no flight intercept tests have been conducted to demonstrate how it might be incorporated in a terminal defense layer. Further, the ground area that can be defended by PAC-3 is so small that it would take scores of systems to defend just the major U.S. cities. A version of PAC-3 that could be effective in a national missile defense is probably a decade away.

THAAD

The Theater High Altitude Air Defense (THAAD) system is designed to shoot down short- and medium-range missiles in their terminal phase. THAAD would be used to protect forward-deployed troops overseas as well as nearby civilian populations and infrastructure. THAAD is to defend a larger area against longer-range threats than PAC-3, but it is not designed to protect the United States from ICBMs.

From 1995 to 1999, 11 developmental flight tests were performed, including eight in which an intercept was attempted. After the first six of those flight intercept tests failed, the program was threatened with cancellation. Finally, in 1999, THAAD had two successful flight intercept tests. The THAAD program has not attempted an intercept test since then, instead focusing on the difficult task of developing a new, more reliable, higher-performance missile than the one used in early flight tests.

A year ago, full-rate production was scheduled to begin in 2007 or 2008, but because there were no intercept tests in 2000 or 2001, that schedule has likely slipped two years or more. In fact, no flight intercept test is scheduled until 2004, and it is therefore unlikely that the first THAAD system will be deployed before 2010.

The Bush administration is considering THAAD for use in a layered national missile defense system. Conceptually, THAAD might be used in conjunction with PAC-3 as part of a terminal defense, or it could be deployed overseas to intercept enemy missiles in the boost phase. However, in its current configuration THAAD is incapable of performing these missions—even once it has met its Army requirements for theater missile defense—and therefore a role for THAAD in national missile defense is probably more than a decade away.

Navy Area Theater Ballistic Missile Defense

The Navy Area Theater Ballistic Missile Defense was the sea-based equivalent of PAC-3. The Navy Area system was being designed to defend forward-deployed Navy ships against relatively short-range threats. But in December 2001 the program was cancelled because its cost and schedule overruns exceeded the limits defined by law. (Ironically, the cancellation came just one day after President Bush announced that the United States would pull out of the ABM Treaty because its missile defense testing was advanced enough to be bumping up against the constraints of the treaty.)

The Navy still wants to be able to defend its ships against missile attack, and the program will most likely to be restructured and reinstated once the Navy decides on a new approach. In the meantime, the Navy Area program is slipping with each day that passes. As with PAC-3, the Bush administration has considered extending the Navy Area system to play a role in the terminal segment of a layered national missile defense. However, at this point the program is too poorly defined to allow speculation about when it could accomplish such a demanding mission.

Navy Theater Wide

The Navy Theater Wide program was originally intended to defend an area larger than that to be covered by the Navy Area system—that is, aircraft carrier battle groups and nearby territory and civilian populations—against medium range missiles during their midcourse phase. In this sense, Navy Theater Wide is the sea-based equivalent of THAAD.

In January, the Navy Theater Wide program conducted its first successful flight intercept test, but a dozen or more developmental flight tests will be required before it is ready for realistic operational testing. About a year ago, full-rate production was scheduled for spring 2007, meaning that the system could be deployed before the end of the decade.

But since then, the Pentagon has given new priority to a sea-based role in defending the U.S. homeland. Navy Theater Wide was not designed to shoot down ICBMs, but the Bush administration has restructured the program so that it aims to produce a sea-based midcourse segment and/or a sea-based boost-phase segment of national missile defense.

Either mission will require a new missile that is twice as fast as any existing version of the Standard Missile, which the system now uses; a new, more powerful Aegis radar system to track targets; a new launch structure to accommodate the new, larger missiles; and probably new ships. As a result, the Navy Theater Wide program requires a great deal of new development. It is unlikely that Navy Theater Wide will be ready for realistic operational testing until late in this decade, and it will not be ready for realistic operational demonstration in a layered national missile defense for several years after that.

Airborne Laser

The Airborne Laser (ABL) is a program to develop a high-power chemical laser that will fit inside a Boeing 747 aircraft. It is the most technically challenging of any of the theater missile defense programs, involving toxic materials, advanced optics, and the coordination of three additional lasers on-board for tracking, targeting, and beam correction. The first objective of the program is to be able to shoot down short-range enemy missiles. Later, it is hoped the ABL program will play a role in national missile defense by destroying strategic missiles in their boost phase.

The ABL has yet to be flight-tested. About a year ago, full-rate production of the ABL was scheduled for 2008. The plan was to build seven aircraft, each estimated to cost roughly \$500 million. At that time, the first shoot-down of a tactical missile was scheduled for 2003. Recently, the ABL program office announced that the first shoot-down of a tactical missile had been delayed to later 2004 because of many problems with the basic technology of high-power chemical lasers—about a one-year slip since last year and about a three-year slip since 1998. Accordingly, full-rate production probably cannot be started before 2010, and the cost will likely exceed \$1 billion per aircraft.

Assuming all this can be done, it is important to note that the ABL presents significant operational challenges. The ABL will need to fly relatively close to enemy territory in order to have enough power to shoot down enemy missiles, and during a time of crisis it will need to be near the target area continuously. A 747 loaded with high-power laser equipment will make a large and inviting target to the enemy and will require protection in the air and on the ground. Finally, relatively simple countermeasures such as reflective surfaces on enemy missiles could negate the ABL's capabilities.

Deployment of an ABL that can shoot down short- and medium-range tactical targets is not likely before the end of the decade, and the Airborne Laser will not be able to play a role in national missile defense for many years after that.

NATIONAL MISSILE DEFENSE

The Bush administration hopes to build a layered national missile defense that consists of a ground-based midcourse system, expanded versions of the theater systems discussed above, and, potentially, space-based systems. The Bush administration does not use the phrase "national missile defense" because it was the name of the ground-based midcourse system pursued by the Clinton administration and because the Pentagon's plans to defend the country are now more robust. But national missile defense is a useful shorthand for any system that is intended to defend the continental United States, Alaska, and Hawaii against strategic ballistic missiles, and it is in that sense that it is used here.

For all practical purposes, the only part of the Bush national missile defense that is "real" is the ground-based midcourse system. It is real in the sense that six flight intercept tests have been conducted so far, whereas versions of the THAAD or Navy Theater Wide systems that might be used to defend the United States have not been tested at all. Space-based systems are an even more distant prospect. For example, the Space-Based Laser, which would use a laser on a satellite to destroy missiles in their boost phase, was to be tested in 2012, but funding cuts have pushed the testing date back indefinitely. Deployment is so far in the future that it is beyond the horizon of the Pentagon's long-range planning document, Joint Vision 2020.

As a result, despite the Bush administration's attempts to distinguish its plans from its predecessor's, Bush's layered national missile defense is, in effect, nothing more than the Clinton system.

Since 1997, the ground-based midcourse program has conducted eight major flight tests, known as IFTs. The first two, named IFT-1A and IFT-2, were fly-by tests designed simply to collect target information. The next six tests, IFT-3 through IFT-8, were all flight intercept tests. IFT-4 and IFT-5, conducted in January 2000 and July 2000 respectively, both failed to achieve an intercept, which became a principal reason why, on September 1, 2000, President Bill Clinton decided not to begin deployment of ground-based midcourse components, such as a new X-band radar on Shemya Island in Alaska.

Another year passed before the next flight intercept test, IFT-6, was conducted. The intercept was successful except that the real-time hit assessment performed by the ground-based X-band prototype radar on the Kwajalein Atoll in the Marshall Islands incorrectly reported the hit as a miss. IFT-7, conducted in early December 2001, was also successful. Until then, all of the flight intercept tests had had essentially the same target cluster: a re-entry vehicle, a single large balloon, and debris associated with stage separation and decoy deployment. Then, in IFT-8, conducted on March 15, 2002, two small balloons were added to the target cluster. This flight intercept test also was successful and marked an important milestone for the ground-based midcourse program.

However, despite these recent successes, there have been significant delays in the testing program. Several of the flight tests were simply repeats of earlier tests, and as a result IFT-8 did not accomplish the tasks set for it in the original schedule. In short, the testing program has slipped roughly two years—i.e., what was originally scheduled to

take two years has taken four. That is not to say that the program has made no progress but rather that key program milestones have receded into the future.

The pace of successful testing will be one of the primary determinants of how quickly the United States can field a national missile defense. If the ground-based midcourse system has three or four successful flight intercept tests per year, as it has during the past year, it could be ready for operational testing in four or five years. If those operational tests also were successful, then whatever capability had been demonstrated in all those tests—which would probably not include the capability to deal with many types of decoys and countermeasures or the capability to cover much of the space through which an enemy missile could travel—could be deployed by the end of the decade or even by 2008.

However, the ground-based midcourse system has difficulties beyond the testing pace of its interceptor. The system requires a new, more powerful booster rocket than the surrogate currently being used in tests—a task that was thought to be relatively easy. That new booster was to be incorporated into the continuing series of flight intercept tests to make those tests more realistic and to be sure that the new booster's higher acceleration did not adversely affect other components or systems on board.

But development of the new booster is about two years behind schedule. Indeed, on December 13, just hours after President Bush announced U.S. plans to withdraw from the ABM Treaty, a test of the new booster had to be aborted and the missile destroyed in flight for safety reasons because it flew off course. Flight intercept tests that were to have used the new booster have come and gone without it. Indeed, development of the booster is so far behind that the Pentagon recently issued another contract for a competing design.

Equally problematic is uncertainty over how the system will track enemy missiles in flight and distinguish targets from decoys. One approach is to use high-power radars operating in the X-band (that is, at a frequency of about 10 billion cycles per second). A prototype X-band radar on the Kwajalein Atoll has been part all of the ground-based midcourse flight intercept tests so far, and technically, X-band radar progress has been one of the most successful developments in missile defense technology.

A year and a half ago, Lieutenant General Kadish testified to Congress that establishing an X-band radar in Alaska was the "long pole in the tent" for missile defense. This meant that the X-band radar was critical to a ground-based midcourse system and that if that radar was not built soon, the program would start slipping day for day. Then, as now, there were many other developments that would take as long or longer than building an X-band radar at Shemya, but the Pentagon's official position was that construction needed to start in the spring of 2001 at the latest. Nevertheless, Clinton deferred taking action on the radar.

Surprisingly, the Bush administration has not requested funding for an X-band radar at Shemya in either of its first two budgets. This may be because the administration views such an installation as inconsistent with the ABM Treaty, which the administration has said it will not violate while the treaty is still in effect. Or the administration may not have requested funding because the Missile Defense Agency has been exploring "portable" X-band radars—that is, X-band radars deployed on ships or barges.

Some defense analysts believe that the Space-Based Infrared Satellite (SBIRS) program could be used in place of the X-band

radar to assist a national missile defense. SBIRS—which would consist of two sets of orbiting sensor satellites, SBIRS-high and SBIRS-low—is designed to detect the launch of enemy ballistic missiles and could be used to track and discriminate among them in flight. However, the program has significant technical problems.

SBIRS-high, which will consist of four satellites in geosynchronous orbit and two satellites in highly elliptical orbits, is to replace the existing Defense Support Program satellites, which provide early warning of missile launches. A year ago, the SBIRS-high satellites were scheduled for launch in 2004 and 2006, but recently those dates have slipped roughly two years because of problems with software, engineering, and system integration. A year ago, realistic operational testing was scheduled for 2007; now, it may not occur this decade, which means that full deployment may not occur this decade. SBIRS-high is also well over cost and is in danger of breaching the legal restrictions covering cost growth.

SBIRS-low is to consist of approximately 30 cross-linked satellites in low-Earth orbit. A year ago, the launch of the first of these satellites was scheduled for 2006, but SBIRS-low has slipped two years because of a variety of difficult technical problems. The developmental testing program for SBIRS-low is very challenging, and realistic operational testing will probably not begin this decade. This could delay deployment of the full constellation of SBIRS-low satellites until the middle of the next decade. SBIRS-low is also dramatically over budget and was threatened with cancellation in the latest round of congressional appropriations.

For now, the administration has been saying that it will upgrade an existing radar on Shemya called Cobra Dane. Under this plan, the Cobra Dane radar would become an advanced early-warning radar with some ability to distinguish among targets. But the Cobra Dane radar operates in the L-band with about eight-times poorer resolution than a new X-band radar would have, raising questions about the effectiveness of any national missile defense using it.

In sum, the only element of a "layered" national missile defense that exists on anything but paper is the ground-based midcourse system pursued by the Clinton administration. Accordingly, it is nearly impossible to predict when, if ever, an integrated, layered national missile defense with boost, midcourse, and terminal phases might be developed. As noted above, given the most recent pace of testing, some part of the ground-based midcourse system could be deployed by the end of the decade or possibly by 2008.

However, the capability such a system would have would be marginal and probably would not be able to deal with many types of decoys and countermeasures or to cover much of the space through which an attacking ICBM might fly. The Bush administration has said it will deploy test elements as an emergency capability as early as possible, but such a deployment would be rudimentary and its capabilities would be limited to those already demonstrated in testing. It would likely not be effective against unauthorized or accidental launches from Russia or China, which might include missiles with countermeasures. It also would not be effective against launches from Iraq, Iran, or Libya since those countries are to the east, out of view of a radar on Shemya.

CONCLUSION

During the first year of the Bush administration, all U.S. missile defense programs—both theater and national—have slipped. In general, the shorter-range tactical missile

defense systems are further along than the medium-range systems, and those medium-range systems are further along than the longer-range systems intended to defend the United States against ICBMs.

PAC-3 is the most developmentally advanced of any U.S. missile defense system, but full deployment will not likely take place before 2005, and realistic operational testing will continue for many years after the first Army units are equipped in the field. The THAAD program has slipped two years or more and will not be deployable until 2010. The Navy Area Wide program has been cancelled, and the Navy Theater Wide program has slipped two years or more and will not be deployable in a tactical role until the end of the decade. If the Pentagon restructures the program so that its priority is boost-phase or midcourse defense against strategic missiles, it will likely take longer. The Airborne Laser has slipped one year and will probably not be deployed as a theater missile defense before the end of the decade.

SBIRS-low has slipped two years and doubled in cost and probably will not be deployed before 2008. For all practical purposes, national missile defense is technically not much closer than it was in the Clinton administration. There have been no flight intercept tests of the boost-phase or terminal-phase elements suggested by the Bush administration, and developmental testing could take a decade or more, depending on the pace of testing and the level of success in each test. The only element that can be flight-intercept tested against strategic ballistic missiles today is the ground-based midcourse system. Part of that system could be deployed by 2008, but elements fielded before then will have only a limited capability.

Thus, while making foreign policy, the Bush administration would do well to consider that probably only a limited-capability version of PAC-3 will be fielded during its tenure and that an effective, layered national missile defense will not be realized while it is in office. It would make little sense to predicate strategic decisions on a defense that does not exist.

It is important for Congress and the American public not to be frightened into believing that the United States is—as some missile defense proponents like to assert—defenseless against even a limited missile attack by a “rouge state” such as North Korea. Powerful and effective options exist, both military and diplomatic.

In Afghanistan, U.S. attack operations with precision-guided weapons have been highly effective. Those same precision weapons would be effective against an enemy ICBM installation. In fact, given current capabilities and the ever-improving technologies for precision strike, it would be fantasy to believe any national missile defense system deployed by 2003 to 2008 would work better and provide greater reliability at a lower cost than the precision-guided munitions used in Afghanistan.

On the diplomatic front, in 1999 former Secretary of Defense William Perry made a series of trips to convince North Korea to stop developing and testing long-range missiles. He was remarkably successful. Although Secretary Perry would not say that North Korea was no longer a threat, it was obvious that the North Korean threat had been moderated. Secretary of State Madeleine Albright was able to build on his trip the next year to secure a pledge from Pyongyang to half flight testing of missiles. Dollar for dollar, Secretary Perry has been the most cost-effective missile defense system the United States has yet to develop. The most straightforward route to missile defense against North Korea may be through diplomacy, not technology.

Many decision-makers in Washington—and, from what one reads, the president himself—seem to be misinformed about the prospects for near-term success with national missile defense and the budgets being requested for it. It takes 20 years to develop a modern, high performance jet fighter, and it probably will take even longer to develop an effective missile defense network. Taking into account the challenges of asymmetric warfare, the time it can take to develop modern military equipment, the reliability required in real operational situations, and the interoperability required for hundreds of systems and subsystems to work together, it would be highly unrealistic to think that the United States can deploy an effective, layered national missile defense by 2004 or even by 2008.

In the meantime, policymakers should be careful that U.S. foreign and security goals and policies are not dependent on something that cannot work now and probably will not work effectively for the foreseeable future. A case in point is President Bush's decision to abandon the ABM Treaty with Russia. That decision was certainly premature given the state of missile defense technology and likely could have been avoided or postponed for many years if not indefinitely.

This is not to say that missile defense technology ought not to be pursued—only that it should be pursued with realistic expectations. Policymakers must be able to weigh the potential merits and costs of missile defense based on a sound understanding of both the technology and the possible alternatives. No one weapon system can substitute for the sound conduct of foreign policy, and even a single diplomat can be effective on a time scale that is short when compared with the time that will be required to develop the technology for national missile defense.

STAGES OF DEVELOPMENT

Missile defense, especially national missile defense, is the most difficult program ever attempted by the Department of Defense—much more difficult than the development of a modern jet fighter like the F-22 Raptor, the Navy's Land Attack Destroyer (DD-21), or the Army's Abrams M1A2 tank complete with battlefield digitization, endeavors that all have taken 20 years or more. Each new major weapons system must proceed through several stages of development, which are listed below. Most U.S. missile defense systems are currently in developmental testing and are therefore not close to deployment.

Research and Development (R&D): The period during which the concepts and basic technologies behind a proposed military system are explored. Depending on the difficulty of the technology and the complexity of the proposed system, R&D can take anywhere from a year or two to more than 10 years.

Engineering and Manufacturing Development (EMD): The period during which a system design is engineered and the industrial processes to manufacture and assemble a proposed military system are developed. For a major defense acquisition such as a high-performance jet fighter, EMD can take five years or more. If substantial difficulties are encouraged, EMD can take even longer.

Developmental Testing: Testing that is performed to learn about the strengths and weaknesses of proposed military technologies and the application of those technologies to a new military system in a military environment. Generally, developmental testing is oriented toward achieving certain specifications, such as speed, maneuverability, or rate of fire. Developmental testing is conducted throughout the R&D and EMD phases of development and becomes

more stressing as prototype systems evolve and mature.

Operational Testing: Testing that aims to demonstrate effective military performance against operational requirements and mission needs established for a system. Testing is performed with production-representative equipment in realistic operational environments—at night, in bad weather, against realistic threats and countermeasures. Military service personnel, not contractors, operate the system, which is stressed as it would be in battle. Operational testing of a major defense acquisition system typically takes the better part of a year and is usually broken into several periods of a month or two to accommodate different environments or scenarios. If substantial difficulties are encountered, several years of operational testing may be required.

Production: The phase of acquisition when a military system is manufactured and produced. Early on, during “low-rate production,” the quantities produced are typically small. Later, after successfully completing operational testing, a system may go into “full-rate production,” where the rate of production is designed to complete the government's planned purchase of the system in a relatively short period of time, about five years.

Deployment: The fielding of a military system in either limited or large quantities in military units. The first military unit equipped may help develop tactics, techniques, and procedures for use of the new system if that has not already been done adequately in development.

All ballistic missiles have three stages of flight.

The boost phase begins at launch and lasts until the rocket engines stop firing and pushing the missile away from Earth. Depending on the missile, this stage lasts three to five minutes. During much of this time, the missile is traveling relatively slowly although toward the end of this stage an ICBM can reach speeds of more than 24,000 kilometers per hour. The missile stays in one piece during this stage.

The midcourse phase begins after the propulsion system finishes firing and the missile is on a ballistic course toward its target. This is the longest stage of a missile's flight, lasting up to 20 minutes for ICBMs. During the early part of the midcourse stage, the missile is still ascending toward its apogee, while during the latter part it is descending toward Earth. It is during this stage that the missile's warhead, as well as any decoys, separate from the delivery vehicle.

The terminal phase begins when the missile's warhead re-enters the Earth's atmosphere, and it continues until impact or detonation. This stage takes less than a minute for a strategic warhead, which can be traveling at speeds greater than 3,200 kilometers per hour.

Mr. REED. The system that is most developed is one I mentioned previously, the PAC-3 system. It is a theater missile system. It is not designed to counter long-range threats. It has been tested rigorously. It is in operational testing now. Phil Coyle states that the administration is considering an advanced version of PAC-3 for a national missile defense. But if you were trying to use it in a terminal phase it would take many systems to defend a rather small area of the United States. We probably would never have the number of systems needed to adequately defend the United States.

Another system we have been developing for years is the THAAD system.

Phil Coyle states that the Administration is also considering use of THAAD along with PAC-3 for national missile defense. But in its current configuration THAAD is not ready for this role. In fact, it is far away from it—perhaps a decade before it could be reasonably used in that way.

The other system being developed as we speak is a Navy theater-wide system. It is a midcourse system as it is currently designed. They are now talking about this system as a potential element of their midcourse national missile defense. Again, there are still significant issues with respect to the use of this system for national missile defense.

As Mr. Coyle points out, if the system were to be used for a midcourse mission, or a boost phase mission, for national missile defense, it would require a new missile that is twice as fast as any existing version of the standard missile which the system now uses. He writes it would require:

A new, more powerful Aegis radar system to track targets; a new launch structure to accommodate the new, larger missiles; and probably new ships. As a result, the Navy theater-wide program requires a great deal of new development. It is unlikely that Navy theater-wide will be ready for realistic operational testing until late in this decade, and it will not be ready for realistic operational demonstration in a layered national missile defense for several years after that.

It is interesting to note that this system is being considered today by the Missile Defense Agency for possible deployment in 2004. It is also interesting, and a bit surprising, because in last year's authorization bill we asked the Missile Defense Agency to tell us what they propose to do with the Navy theater-wide system. We asked for a report on April 30. The response to our request was actually a letter that came to us on May 30, and repeated the questions we asked. It responded to some of the questions in a very cursory way. It didn't give any life cycle cost for us, so it is hard for us to estimate how much this new evolving system will cost. It simply said they redefined the system. That was May 30.

Yet, about 2½ weeks later, they were telling the press that we are deploying this system in 2004. In fact, one of the points they made in the letter is:

The details of the sea-based program block 2006 and out capability are being developed through work that is scheduled to be completed by December 2003. We will be able to provide specifics on the system definition, along with a preliminary assessment of force structure and life cycle cost at that time.

So this work is going to be completed in planning by 2003. Yet this system is being talked about for deployment in 2004.

It just does not seem to make much sense, and it illustrates, I think, the problem we have had in the subcommittee, first of getting reliable information, and second of getting a sense of the direction of all these programs.

We are not trying to micromanage the Missile Defense Agency, but when

we asked a year ago in our report for information specifically about a type of missile system, when we get a cursory response saying, we have renamed it and we will not be able to tell you anything until we conclude in December of 2003 our deliberations, and then 2 weeks later they are talking about the system being deployed in a theater role in 2004, it illustrates, I think, the problems and the issues we have confronted with simply getting the information we need to do our job, to inform our colleagues, to make decisions that are not only important to our national security, but extremely expensive decisions so that we can perform our mission, our role in the Senate.

That is the Navy theater wide system. There are other systems we have developed, and I think it is appropriate to note that the next system is the airborne laser system. This is a program to develop a high-power chemical laser that will fit inside a Boeing 747 aircraft. This is a system that would be designed to shoot down short-range enemy missiles in the boost phase. It has some potential, but it is a major technological effort which is going forward, but not going forward with great speed at the moment.

The final major component is the national missile defense midcourse, or the land-based system, in Alaska, and that system we have supported. We have supported it, but having supported it, we also have serious questions with it. The system was inaugurated, if you will; at least ground was broken last week for a test bed for missiles. There are concerns that the missiles cannot be effectively used in a flight test capacity because of safety concerns and other factors with respect to the local area in Alaska. That is one issue.

The other issue, though, is for several years now in the development of this national missile defense midcourse land-based system in Alaska, the administration and the Missile Defense Agency have talked about using an x-band radar, claiming it as absolutely necessary because of its ability to discriminate the warhead. This is important because the major issue that faces the midcourse intercept is the possibility of countermeasures and decoys. So we need a very fine discriminating radar to determine what is the warhead and what are the decoys. However, That x-band radar has not been funded by the administration. They have declared instead they will use an existing radar, COBRA DANE.

One of the problems with COBRA DANE is it faces the wrong way to provide any coverage of Iran or Iraq and provides only limited coverage of North Korea, if you are concerned with the "evil empire."

Despite that, and in an effort to support sincerely and consistently the mission of developing adequate national missile defense, we have provided robust funding for the Alaska test bed, and that is included in this

bill. However, I do think it is important and appropriate to state our reservations now because they are points we should consider as we go forward.

Let me continue to discuss some of the important issues, particularly some of the actions the committee has specifically taken.

One thing we should point out is we have looked at the theater missile systems. We have particularly found that the Arrow Missile Defense Program is making great progress. We have increased funding for the Arrow missile system. That is a joint United States-Israeli effort for a theater missile system.

We have also fully funded the PAC-3 system, which is the one closest to deployment. It is one that is, again, a theater missile system.

In all of our deliberations, we have striven to ensure deployment of these systems in a timely way, but also ensure these systems are operationally tested and rigorously tested before they are put in the field. That is incumbent upon us.

We also tried to ensure the independent oversight of the Defense Department's Director of Operational Tests and Evaluation is part of the process. One of the concerns I have, frankly, is that in an attempt by the administration for secrecy and flexibility, we will find a situation in which there is no outside objective voice within the Department of Defense. One that is looking at these programs, advising these programs, and making some judgments that are not influenced by the need for a successful program at any cost, or even a program—forget successful—at any cost, but are motivated by the need to deploy effective systems that will defend this country.

The other factor we considered, and consider constantly, is the discussion of contingency deployments, contingency capabilities. One of the reasons we pause slightly is these contingency capabilities and deployments often result in a rush to failure, often result in a situation where the system is pushed beyond its absolute capabilities. A few years ago, that is exactly what happened with the THAAD Program. It failed its first six intercept tests in a rush to deploy the system before it was ready.

The THAAD Program was subsequently totally redone and revamped. It cost hundreds of millions of dollars that were unnecessary expenditures. It is on track now but, frankly, the situation is such that we do not want to repeat that experience in other missile defense programs. We do not want a situation where the pressure for contingency deployments undercuts the need for thorough, deliberate consideration of the operational characters of these systems and the ability of these systems to do the job they are designed to do.

We have looked very closely at what we think are attempts to rush the systems. In one area, we have reduced

funding of THAAD because they have requested what we consider a premature acquisition of missiles before they have actually had missile's first flight test. We have made that judgment.

Let's turn to another aspect of missile defense, and that is the ICBM threat to the United States. It is not as immediate today as the theater missile threat, but it is still a threat.

Fortunately, with our new relationship with Russia, the ICBM threat has decreased significantly. China has a small arsenal of ICBMs, but they typically do not have their missiles on ready status, fueled, and with a warhead on the missile. North Korea seems to be developing an ICBM capability of reaching the United States, although it has voluntarily suspended its long-range missile flight test program. There are other potential adversaries.

This is an issue about which we are concerned, but one of the things we have to recognize with an ICBM is that its launch leaves an indelible signal of the point of departure and our deterrence doctrine is very clear. We have the capacity to strike back, and strike back with overwhelming force. That has been the hinge, really, of our deterrence policy for 50 or more years, and it remains an important part of our policy.

As I have mentioned, the issue of intercontinental ballistic missiles has been with us for many years. We have relied upon deterrence as a mainstay of our defense posture. Today we are developing one system in Alaska that is clearly designed to be a national missile defense system, and this authorization bill supports that effort in Alaska.

As I mentioned, we have taken away resources from some programs that are unjustified or duplicative and simply not advancing what we believe is the common concern of developing adequate missile defense systems, both theater and national. We have taken away approximately \$800 million and applied \$690 million to shipbuilding. But in addition, we have applied resources for security at our nuclear facilities.

One of the things I found startling in press reports was the fact that the Department of Energy asked for considerably more money to protect nuclear facilities, and they were turned down by OMB.

This is a letter to Bruce M. Carnes, who is the Director of the Office of Management Budget and Evaluation, from the chief financial office of the Department of Energy:

We are disconcerted that OMB refused our security supplemental request. I would have much preferred to have heard this from you personally, and been given an opportunity to discuss, not to mention, appeal your decision. We were told by Energy Branch staff that the Department's security supplemental proposals were not supported because the revised Design Basis Threat, the document that outlines the basis for physical security measures, has not been completed. This isn't a tenable position for you to take, in my

view. We are not operating, and cannot operate, under the pre-September 11 Design Basis Threat. Until that is revised, we must operate under Interim Implementing Guidance, and you have not provided resources to enable us to do so.

That is from the Department of Energy to the OMB. We would move resources into the Department of Energy to provide for security of DOE facilities.

But I think this underscores something else, too. It illustrates what I would say are the misaligned priorities between missile defense and other pressing, immediate concerns. Yes, missile defense is important. Yes, we should develop it quickly, thoroughly, and deliberately, but certainly defending and protecting our facilities that have nuclear radiological material is of an immediate and significant concern.

Last week, we were not threatened by an intercontinental missile. We were threatened by a terrorist, an American who became infatuated with the al-Qaida and their rhetoric and came here, if you believe the press reports, to obtain nuclear materials to construct a "dirty" bomb. That is the immediate real threat today.

Yet when the question before the administration was, do we fund security at DOE facilities or do we continue to put resources into missile defense, they made their choice to put resources in missile defense, way above, I believe, the appropriate amount. As a result, we have made adjustments, and I think those adjustments are entirely appropriate.

The other aspect of this, too, when it comes to the issue of resources, is, first, a point that all of these deliberations on the missile defense budget seems to be outside the purview of the Joint Chiefs of Staff. I thought it was shocking when the Chiefs came up and testified that they were not consulted during the preparation of the ballistic missile defense budget. These are the uniformed leaders of our military forces. These individuals are charged with and have taken an oath to the Constitution to protect the country, and yet they were not consulted at all about this budget.

Another point that is critical, and let me quote from Secretary Rumsfeld's testimony before the Appropriations Committee on May 21. He said:

In February of this year, we began developing the Defense Planning Guidance for fiscal year 2004. In the fiscal years 2004 to 2009 program, the senior civilian and military leadership had to focus on the looming problem of a sizeable procurement bow wave beyond fiscal year 2007.

This is shorthand for describing the course of procurement of systems that will be ready for fielding later in this decade.

If all were funded, they would crowd out all other areas of investment and thereby cause a repetition of the same heartaches and headaches that we still suffer from today as a result of the procurement holiday of the 1990s.

This in the context of his plea to cut the Crusader system.

But what is most alarming about this quote is that this bow wave does not include any deployment costs of missile defense at a time when the administration is developing multiple systems which they proposed to deploy at the end of this decade, costing hundreds of billions of dollars perhaps.

As a result, we cannot simply ignore the cost implications of these systems. As I mentioned before, simply to obtain life cycle cost information on any of these systems has proven to be virtually impossible. We asked for that with respect to Navy theater wide and we got a letter back saying, we will not know until December of 2003 and then we will tell you.

We cannot operate without an idea, understanding that it will be amended many times before the end of this decade, but an idea about the cost of all of these systems over several years, procurement and operational deployment. If this bow wave is a crisis today, it becomes a tidal wave when you include missile defense costs. As a result, we have asked again for more specific information about the projected costs associated with the missile defense program.

One of the areas, and an area on which we have focused our reductions, has been systems engineering funding. The Department of Defense Missile Defense Agency has asked for significant amounts of money for systems engineering, BMD systems engineering, in addition to specific moneys they are asking in every one of these component parts, boost phase, midcourse, and terminal, where there is sufficient systems engineering money. So we have directed reductions in this BMD systems engineering.

It seems to us, again, to be an ill-defined area. We have asked for what products they are buying. Mostly, I suspect it is engineering services, or consulting services. It is not hardware. We have asked for this and we have gotten very little in terms of a response. As a result, we have shifted these funds significantly into the aforementioned shipbuilding programs and further security for our Department of Energy laboratories.

These efforts represent an attempt to provide good government, good management to a program. We hope it will accelerate the deployment of an effective missile system that has been operationally tested.

I hasten to add that this does not represent a revisitation of the ABM Treaty debate. The President used his prerogative as President to withdraw. This is not about arms control as much as it is about maintaining good management, informing the Congress, so we can make difficult decisions, so that 5 years from now we are not surprised when that bow wave hits us and suddenly the bow wave becomes a tidal wave because of the inclusion of significant costs of missile defense and for theater missile defense.

There is a consensus to support missile defense, clearly theater and, in

fact, I think also at this juncture clearly national missile defense. I do not think we support that without asking tough questions and making tough choices about how we spend our money, particularly when it comes to the other uses that are so necessary today, the immediate protection of our homeland, the immediate protection of forces around the globe that are confronting our enemies today. So we have to make these judgments and we made these judgments.

In addition to that, we have asked that a whole system of, we think, very sensible reports and information be given to us. I have a disconcerting feeling that there is a deliberate attempt to limit information that we get and it is justified under the guise that we need flexibility, that we have not thought through the problem yet. There may be something to that, but it is particularly distressing when the Director of Test and Evaluation does not have unfettered access to the program. It is particularly distressing when the Joint Requirements Oversight Council, the JROC, chaired by the Vice Chairman of the Joint Chiefs of Staff, does not have a role in these deliberations. It is particularly distressing when the Joint Chiefs of Staff are not consulted in the preparation of this significant budget. The American people, I think, assume that these officials of the Department of Defense are intimately involved in all of these details and have a seat at the table to make judgments and to give advice. Our legislation would do that.

As we go forward, we will continue to ask the tough questions. The specifics of our requests with respect to these issues of oversight include a reiteration of some of the things that we incorporated in last year's request.

Last year, the National Defense Authorization Act required the Agency to submit lifecycle cost estimates for all missile defense programs that it entered into the engineering and manufacturing and development, or EMD, phase. These are the same types of reports that every major weapons system provides to the Congress.

The THAAD missile defense program, I have mentioned before, entered EMD phase 2 years ago. We fully expected those lifecycle costs would be reported to us in a routine way. However, instead of providing the required information for THAAD, the Department chose to reclassify THAAD as no longer being in EMD thereby avoiding, in their view, the congressional requirement to submit the cost estimate.

It seems to be gamesmanship, to avoid responding to an obvious question, an obvious concern: Tell us how much this system will cost over its lifetime. That, again, is the type of nonresponsiveness, either inadvertent or deliberate, that we have encountered. Therefore, it reinforces the need for additional language in this legislation to require appropriate reports, the same types of reports that you get

from mature systems in other areas of defense procurement.

We are not asking for the speculative. We are looking at systems that have had many years of development, which are entering the phases of engineering work. So the issue is defined. We can't do that because it is not defined—sometimes we hear that—that is not at the heart of our request. We have applied the request to major missile defense systems such as the ground and sea-based midcourse program, Airborne laser, and the THAAD program.

It is particularly important to get information because, on the one hand, the administration says these are all speculative, ill-defined, and they are thinking about it. And then they say: We will deploy the system in a very short time, in 2004, for example.

You cannot have it both ways. If we are ready for contingency deployment, certainly the information should be available to the Congress. And this legislation would ask for that information.

We also recommend a provision that requires the Pentagon's director of testing and evaluation to assess the potential operational effectiveness of the major missile defense systems on an annual basis. This would help the administration and Congress determine whether a contingency deployment of a missile defense system is appropriate. There has to be a certain operational threshold before deploying the system. Who better than the director of testing and evaluation to make that assessment.

It also requires the Joint Requirement Oversight Council to annually assess the costs and performance in relation to military requirements. This is the statutory role of the JROC for all military programs. Missile defense is too important to bypass such a review.

As I mentioned earlier, the Chiefs were not even asked to provide their views with respect to these missile defense priorities. That should be corrected also. That should be something the Secretary of Defense would want to have and would insist be included.

Now, we are endeavoring to bring this legislation to the floor representing a commitment to missile defense but also a commitment to the overall defense and security of the United States, to be able to assure our constituents that we have looked carefully and deliberately at all these programs and are aware of these programs, that we support these programs, but we don't do it blindly. We do it on an informed basis and are able to tell them: We are doing what we can, indeed, all we can, in a thoughtful, deliberate, careful, professional way, to enhance the security of the United States in terms of missile defense and in terms of overall defense. We are, in fact, doing our job.

I believe the legislation we have brought from the subcommittee to the committee and to the floor does this. It is a product of careful deliberation. It

is a product of many hours of work by staff and Members. It is a product that is designed to enhance the security of the United States. I believe it does. I hope my colleagues agree and concur.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I hope all Members listened closely to the Senator from Rhode Island. He certainly is qualified by virtue of his service in the Congress, but mostly by virtue of his service in the U.S. Army. The Senator from Rhode Island is the only Senator to graduate from the U.S. Military Academy at West Point, to my knowledge. I always listen closely to what he says. The country is very fortunate to have his expertise.

Mr. WARNER. Would the Senator allow me to associate myself as an extension about observations regarding my colleague. We have some philosophical differences, but he does bring to our committee the wealth of experience he gained in the U.S. military. That is so important.

I also want to discuss scheduling on the floor.

Mr. REID. I am happy to yield without losing the floor.

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

Mr. WARNER. I say to our leader, subject to the pending amendment, we are hopeful to move on to other amendments in due course.

Mr. REID. I respond to my friend from Virginia, the comanager of this bill, Majority Leader DASCHLE announced in his dugout this morning that he wanted Members to offer amendments and that he was going to look very closely early next week, if things are not moving well, at filing cloture on this bill.

We cannot have this bill not completed by the time we leave for the July recess. The committee has worked too hard. The President needs this legislation. The United States military needs it. We have to complete this bill.

I agree with the Senator from Virginia. We have a very important amendment now pending, and we have to figure out some way to get this off the floor. There are many people working on that as we speak.

The Senator from Virginia is absolutely right. Members need to offer amendments. The majority leader spoke earlier today; he very much desires to move this legislation along quickly. If it does not move quickly after a week or so of debate, he will try to invoke cloture.

Mr. WARNER. I thank our distinguished assistant majority leader.

I am assured that the Republican leader worked hand-in-glove with the majority to bring up this bill, providing our committee with this very important period of time prior to the Fourth of July, but we must finish it.

Mr. REID. 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. GRAHAM. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with for purposes of an introductory statement of approximately 5 minutes. At the conclusion, it is my intention to place the Senate back into quorum call.

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

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2652 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. REID. Madam President, for the information of Members, we have had a message from the House. We are going to go back into a quorum call. We are trying to move on that as quickly as possible. As I mentioned to the distinguished Senator from Texas, we are going to modify the second-degree amendment. Then Senator GRAMM has some things he wants to say and a motion he wants to make, of which we are aware. But this should not take long. In a few minutes we should be able to get to the legislation.

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. REID. Madam 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. 3916, AS MODIFIED

Mr. REID. Madam President, I send a modification to the desk to the Reid-Conrad amendment. This is on behalf of Senator CONRAD.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the first word in the amendment, and insert the following:

BUDGET ENFORCEMENT.

(a) EXTENSION OF BUDGET ENFORCEMENT POINTS OF ORDER.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (c)(2)—

(A) by inserting "and" before "312(b)" and by striking "and 312(c)"; and

(B) by striking "258C(a)(5)"; and

(2) in subsection (d)(3)—

(A) by inserting "and" before "312(b)" and by striking "and 312(c)"; and

(B) by striking "258C(a)(5)"; and

(3) in subsection (e), by striking "2002" and inserting "2007".

(b) EXTENSION OF BUDGET ENFORCEMENT ACT PROVISIONS.—

(1) IN GENERAL.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended to read as follows:

"(b) EXPIRATION.—Sections 251 and 258B of this Act and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 2007. The remaining sections of part C of this title shall expire on September 30, 2011."

(2) STRIKING EXPIRED PROVISIONS.—

(A) BBA.—The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended by striking section 253.

(B) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended—

(i) in section 312, by striking subsection (c); and

(ii) in section 314—

(I) in subsection (b), by striking paragraphs (2) through (5) and redesignating paragraph (6) as paragraph (2); and

(II) by striking subsection (e).

(c) EXTENSION OF DISCRETIONARY CAPS.—

(1) IN GENERAL.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)) is amended—

(A) in the matter before subparagraph (A), by striking "2002" and inserting "2007";

(B) by striking subparagraphs (C), (D), (E), and (F); and

(C) by redesignating subparagraph (G) as subparagraph (C).

(2) CAPS.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) is amended by striking paragraph (7) and (8) and inserting the following:

"(7) with respect to fiscal year 2003—

"(A) for the discretionary category: \$766,167,000,000 in new budget authority and \$756,259,000,000 in outlays;

"(B) for the highway category: \$28,931,000,000 in outlays;

"(C) for the mass transit category: \$6,030,000,000 in outlays; and

"(D) for the conservation spending category: \$1,922,000,000 in new budget authority and \$1,872,000,000 in outlays;

"(8)(A) with respect to fiscal year 2004 for the discretionary category: \$784,425,000,000 in new budget authority and \$814,447,000,000 in outlays; and

"(B) with respect to fiscal year 2004 for the conservation spending category: \$2,080,000,000, in new budget authority and \$2,032,000,000 in outlays;"

(3) REPORTS.—Subsections (c)(2) and (f)(2) of section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904) are amended by striking "2002" and inserting "2007".

(d) EXTENSION OF PAY-AS-YOU-GO.—

(1) ENFORCEMENT.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended—

(A) in subsection (a), by striking "2002" and inserting "2007"; and

(B) in subsection (b), by striking "2002" and inserting "2007".

(2) PAY-AS-YOU-GO RULE IN THE SENATE.—

(A) IN GENERAL.—Section 207 of H. Con. Res. 68 (106th Congress, 1st Session) is amended—

(i) in subsection (b)(6), by inserting after "paragraph (5)(A)" the following: "except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since

the beginning of that same calendar year shall not be available."; and

(ii) in subsection (g), by striking "2002" and inserting "2007".

(B) SENATE PAY-AS-YOU-GO ADJUSTMENT.—For purposes of Senate enforcement of section 207 of House Concurrent Resolution 68 (106th Congress), upon the enactment of this Act, the Chairman of the Committee on the Budget of the Senate shall adjust balances of direct spending and receipts for all fiscal years to zero.

(3) PAY-AS-YOU-GO ENFORCEMENT DURING ON-BUDGET SURPLUS.—If, prior to September 30, 2007, the Final Monthly Treasury Statement for any of fiscal years 2002 through 2006 reports an on-budget surplus, section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall expire at the end of the subsequent fiscal year, and the President, in the next budget, shall submit to Congress a recommendation for pay-as-you-go enforcement procedures that the president believes are appropriate when there is an on-budget surplus.

(e) SENATE APPROPRIATIONS COMMITTEE ALLOCATIONS.—Upon the enactment of this Act, the Chairman of the Committee on the Budget of the Senate shall file allocations to the committee on Appropriations of the Senate consistent with this Act pursuant to section 302(a) of the Congressional Budget Act of 1974.

(f) ADVANCE APPROPRIATIONS.—

(1) IN GENERAL.—Section 204 of H. Con. Res. 290 (106th Congress) is amended by striking subsections (a) through (f), (h), and (i).

(2) LIMITATION.—Section 202 of H. Con. Res. 83 (107th Congress) is amended—

(A) in subsection (b)(1)—

(i) by striking "2003" and inserting "2004"; and

(ii) by striking "\$23,159,000,000" and inserting "\$25,403,000,000"; and

(B) in subsection (d), by striking "2002" in both places it appears and inserting "2003".

(g) SPECIAL RULE.—Section 250(c)(4)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(D)(i)) is amended by adding at the end the following: "Any budget authority for the mass transit category shall be considered nondefense category budget authority or discretionary category budget authority."

(h) TREATMENT OF CRIME VICTIMS' FUND.—For purposes of congressional points of order, the Congressional Budget Act of 1974, and the Balanced Budget and Emergency Deficit Control Act of 1985, any reduction in spending in the Crime Victims' Fund (15-5041-0-2-754) included in the President's budget or enacted in appropriations legislation for fiscal year 2004 or any subsequent fiscal year shall not be scored as discretionary savings.

(i) EXERCISE OF RULEMAKING POWERS.—Congress adopts the provisions of subsections (d)(2), (e), (f), (g) and (h) of this section—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each house, or of that house to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either house to change those rules (so far as they relate to 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.

(j) SENATE FIREWALL FOR DEFENSE AND NONDEFENSE SPENDING.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that exceeds \$392,757,000,000 in new budget authority or \$380,228,000,000 in outlays for the defense discretionary category or \$373,410,000,000 in new budget authority or \$376,031,000,000 in outlays for the nondefense discretionary category for fiscal year 2003, as adjusted pursuant to section 314 of the Congressional Budget Act of 1974.

(2) EXCEPTIONS.—This subsection shall not apply if a declaration of war by Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(3) WAIVER AND APPEAL.—This subsection may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

Mr. REID. Madam President, Senator CONRAD, chairman of the Budget Committee, wants to speak about this modification. The chairman of the Judiciary Committee, Senator LEAHY, has been here for a while. Senator CONRAD has graciously allowed him to speak first. Senator LEAHY needs up to 15 minutes as in morning business. Following that, the Senator from North Dakota would be recognized.

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

The Senator from Vermont.

(The remarks of Mr. LEAHY are located in today's RECORD under "Morning Business.")

Mr. CONRAD. Madam President, this is perhaps one of the most challenging years we have faced dealing with the budget of the United States. That is why moments ago I sent a modified amendment to the desk. Let me just outline what is included in that amendment and why I think it is so critically important that we adopt it today.

The Conrad-Feingold amendment sets discretionary spending limits for 2003 and 2004.

It also extends the 60-vote points of order protecting Social Security, enforcing discretionary spending caps, and requiring fiscal responsibility, and it extends for 5 years the pay-go and other budget enforcement provisions that otherwise expire on September 30.

Let me discuss the level of spending that is covered by this amendment. For 2003, it would provide a discretionary spending limit of \$768.1 billion. That is precisely the same as the President's budget for 2003. The President sent us a discretionary spending level of \$768 billion.

I have talked with Mr. Daniels this morning, the head of the Office of Management and Budget. He believes this number is too high by some \$9 billion. Even though that is the President's number, even though that is the number the President sent us, we have not adopted the President's policy because the President has proposed switching certain accounts from mandatory spending to discretionary spending.

Those are the retirement requirements of people in the Federal Government. In other words, he has proposed switching the retirement accounts that come out of the budget of the various agencies from mandatory spending to discretionary spending.

Obviously, that would make discretionary spending more by \$9 billion. That is included in the President's proposal. We have not adopted that part of his proposal. Their argument is that would shift back to the mandatory side of the equation and reduce the \$768 billion by \$9 billion. That is true. They are correct about that.

It is also true that their budget needs to be adjusted in a number of ways, I believe, in order to secure passage in the Congress. The President has cut transportation funding, highway construction, and bridge construction by 27 percent, by \$9 billion. We proposed adding back about two-thirds of that, about \$6 billion. That money has to come from somewhere.

The President has proposed cutting law enforcement by over \$1 billion. I do not think that is realistic at a time when we face terrorist threats to the United States. The President has proposed a smaller amount for education that is even provided for in his own No Child Left Behind legislation. That is going to have to be acknowledged and dealt with before we finish our work. We are not going to cut that program of No Child Left Behind that the President talked about all across the country.

There are other provisions as well that are going to have to be addressed. We are going to need that \$9 billion to meet the needs of the country. Again, it still leaves us with an overall amount that is precisely what the President sent us in his own budget.

In addition to that, there is a second year of budget caps, of restrictions on what can be spent, and that amount is \$786 billion. That is about a 2-percent increase over this year. That is a very sharp restriction on spending, especially given the fact we are under attack, especially given the fact the President, no doubt, will be asking more for defense, more for homeland security. But we have agreed to a cap this year that is exactly the number the President sent us in his budget, and we have agreed on a cap for spending for next year at \$786 billion, about a 2-percent increase over where we are now.

In addition, the amendment I have sent to the desk limits advance appropriations. This was raised as an issue by Members on the other side of the aisle. They wanted a restriction on advance appropriations, so we included that in this bill. And we have included another request from the other side of the aisle to establish a 1-year defense firewall. What that means is, the money that is allocated for defense would go for defense and could not be used for other purposes.

This amendment establishes a supermajority point of order in the Senate

to enforce a defense/nondefense firewall in 2003. Again, this was in response to requests from Members on the other side of the aisle.

This is the circumstance we face that I think we need to keep in mind as we consider this amendment. Last year, the Congressional Budget Office told us we could expect some \$5.6 trillion of budget surpluses over the next decade. That is what we were told just a year ago—nearly \$6 trillion of surpluses. Some of us questioned that. Some of us said: Do not rely on a 10-year forecast. There is too much risk associated with that. But others said: No, there will even be more money. That is what we were told repeatedly.

Now we get to June of this year and look at the difference a year makes. Not only do we not see any surpluses for the next decade, we see deficits of some \$600 billion over the next 10 years.

Where did the money go? This chart shows our analysis of what happened to those surpluses, and the biggest chunk went for the tax cuts that were enacted last year and the additional tax cuts passed this year.

Forty-three percent of the disappearance of the surplus went to tax cuts; 21 percent went to increased spending as a result of the attack on this country—increased defense spending, increased homeland security spending. That is where all of the increase has gone. Twenty-one percent is from economic changes, that is, the economic slowdown that occurred. That is where 21 percent of the disappearance of the surplus occurred. And the last 14 percent is technical changes. Largely, those are underestimations of the cost of Medicare and Medicaid. That is where the money went, primarily to tax cuts; the next biggest is increased spending as a result of the attack on the country; the next biggest reason was the economic slowdown, and actually those two are equal; and the final and smallest reason is underestimations of the cost of Medicare and Medicaid.

That is where we are. What it tells us, as we look over an extended period of time, a 10-year period going back to 1992 when we were in deep deficit, and when the husband of the occupant of the chair came in as President of the United States and fashioned a 5-year plan in 1993 that was very controversial to raise revenue and cut spending, we can see that plan worked.

Each and every year, we were pulling ourselves out of deficit under that plan. In 1997, we had a bipartisan plan that finished the job. As a result, we emerged from deficit. We stopped using Social Security funds for other purposes, and we were running surpluses, non-trust-fund surpluses for 3 years.

Then last year we had the triple whammy: the tax cut that was too large, the attack on this country, and the economic slowdown. We can see now that we are headed for deficits for the entire next decade. That is Social Security money being taken to pay for

the tax cuts, being taken to pay for other items.

In fact, we now estimate some \$2 trillion will be taken from Social Security over the next decade to pay for the President's tax cuts and other spending initiatives. All of that matters, and it matters a lot because of where we are headed.

The leading edge of the baby boom generation starts to retire in 6 years. It is hard to believe, but that is the reality. What that tells us is those surpluses in the trust funds that have helped us offset these deep deficits are going to evaporate; in 2016 the Medicare trust fund is going to turn cash negative; and in 2017 the Social Security trust fund is going to turn cash negative. Then it is going to be like falling off a cliff.

This is a demographic time bomb that we are facing as a society. It is unlike anything we have ever faced before because always in our history the succeeding generation has been much larger than the generation retiring.

In very rapid fire order, the number of people who are eligible for Social Security and Medicare are going to double. We are headed for a circumstance in which there will only be two people working for every retiree. If that does not sober us, if that does not inform our actions, I do not know what it will take.

The first thing we need to do is get these budget spending caps in place for next year and the year thereafter, and couple that with the budget disciplines that give us the chance to fend off ideas for greater spending and for more tax cuts that are not paid for. Yes, we can have spending initiatives. They have to be paid for. We can have additional tax cuts, but they have to be paid for; otherwise, we are going to dig this hole deeper and deeper.

There are real consequences to digging that hole deeper. Mr. Crippen, the head of the Congressional Budget Office, told us that when he appeared before the Senate Budget Committee. He said, in response to a question from me:

Put more starkly, Mr. Chairman, the extremes of what will be required to address our retirement are these: We'll have to increase borrowing by very large, likely unsustainable amounts; raise taxes to 30 percent of GDP, obviously unprecedented in our history; or eliminate most of the rest of the Government as we know it. That is the dilemma that faces us in the long run, Mr. Chairman, and these next 10 years will only be the beginning.

I do not know how to say this with more force or more persuasiveness, but we are coming to another moment of truth on this journey in our economic future. Some will rise and say this spending amount is too much; that \$768 billion is \$9 billion more than the President proposed, even though the \$768 billion number is precisely the number the President sent us. Some will say we ought to wait. Some will say there is some other reason to be opposed.

Another moment of truth is coming very soon, and the question is, Are we going to have the budget disciplines that otherwise are phased out at the end of September? Are we going to have those to discipline the process as we proceed this year? Are we going to have a budget number that can inform the appropriations process as we proceed, a budget number, I again say, that is identical to the budget number the President sent us?

I am swift to acknowledge we have adopted his number but not his policy. It is absolutely correct he wanted to switch \$9 billion from mandatory spending to discretionary spending, and when we do not do that, it allows us to use that \$9 billion in a way different from the way he proposed.

I say to my colleagues, do they really want to adopt a 27-percent cut in highway and bridge construction that puts 350,000 people out of work in this country? I do not think that is the will of the Congress or the will of the American people. We have proposed a reduction from what was spent last year but not as big a reduction as the President has proposed.

Are we really going to cut the COPS Program by over a billion dollars when we have a terrorist threat to this country?

Are we really going to take police off the street? I do not think so. Are we really going to cut the President's signature education program, No Child Left Behind? I do not think so. Those are the fundamental issues that are before us now.

I emphasize to my colleagues that not only is this a spending cap for this year at the level the President proposed in his budget, but in addition to that, it is a spending cap for next year of \$786 billion. That is an increase of over 2 percent. That is very tight fiscal constraint. I am ready to take the medicine to get us back on a course to fiscal responsibility, and I believe most of my colleagues are as well.

This amendment is the product of weeks of negotiation between Republicans and Democrats and is a good-faith effort to capture in an amendment the positions of Democrats and Republicans on what should be contained in the budget for this year and next; what the limits should be on spending for this year and next; what should be the budget disciplines that are continued so we have a way of enforcing fiscal restraint, and it contains a 1-year defense firewall in the Senate, something requested by Members on the other side.

For those of us who believe it is critically important to have a budget process in the Senate, for those of us who believe it is critically important to have budget disciplines in place, this is our opportunity. This is our chance. It may not come again.

I urge my colleagues to very carefully consider their votes on this measure. This should not be a Republican vote or a Democratic vote. This should

be a vote for the country. This should be a vote for the Senate. This should be a vote that sends a signal we are serious about reestablishing fiscal discipline. This is a vote that should send a signal that fiscal discipline matters to the economy of this country. This should be a signal to the markets that this Congress is serious about fiscal responsibility, and this should be a signal that while the President has asked for the second biggest increase in our debt in our Nation's history, all of us are committed to getting back on track towards a course of reducing the debt of the United States, especially in light of the coming retirement of the baby boom generation.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Madam President, the pending amendment and the second degree to it, as modified, are an effort to control spending and protect the Social Security trust fund. That is what it is—pure and simple—to control spending and, by doing so, also protect the Social Security trust fund. That is obviously not a new idea.

What we are doing here is trying to extend a process that has worked, and worked pretty well, for most of the years since 1990. We are trying to give 2 more years of life to the process that helped us do something that a lot of people didn't think could happen—balance the budget without using Social Security in both 1999 and 2000.

What we are trying to do is make sure there is some constraint on the size of the Government.

I remind my colleagues, if we do not pass this amendment, if we do not extend the budget process, then the vast majority of budget process constraints will simply expire on September 30. Our failure to act will mean an almost complete absence of responsible budget limitations.

Again, what our amendment does is not something new. It just tries to keep in place these limitations that made the good fiscal management of this Government possible during the 1990s.

As we saw this deadline coming, this problem that will occur on September 30 with the loss of the rules and constraints, what I have tried to do, with others, is work very hard to come to where we are today. Our amendment is not my idea alone, by any means. It is the result of a collaborative effort extending over several months. Starting in March, my staff has been working with the staff of Senators from about a dozen Senate offices, half Republican and half Democratic. I followed up in a

number of meetings with Senators from other sides of the aisle, trying to build consensus. What we tried to do is get the strongest budget process we could.

My colleagues will recall that we tried to extend the caps for 5 years in an amendment to the supplemental appropriations bill that Senator GREGG and I offered on behalf of Senators CHAFEE, KERRY, VOINOVICH, MCCAIN, and CANTWELL. Half the Senate, a bipartisan group of Senators, actually voted for that amendment, but we were not able to generate the support necessary to get the 60 votes and have the amendment actually adopted.

The amendment before us today is an effort to get the most done that we can. For the first 2 years, it provides almost exactly the same cap levels that were in the amendment of myself and Senator GREGG to the supplemental appropriations bill. It is my judgment, and the judgment of the bipartisan group of Senators with whom I worked to draft this amendment, that this is as strong a budget process that the Senate will actually be able to pass this year. So that is what I am asking of my colleagues—to do at least this much. Let's at least get this done. Let's at least preserve this much constraint and this kind of responsibility, even though many of us would prefer more.

One of the reasons is because in the next decade the baby boom generation will begin to retire in large numbers. Starting in 2016, Social Security will start redeeming the bonds it holds and the non-Social Security Government will have to start paying for those bonds from non-Social Security surpluses. Starting in 2016, the Government will have to show restraint in the non-Social Security budget so we can pay the Social Security benefits that Americans have already earned or will have already earned by that time. If we keep adding to the Federal debt, we will simply add to the burden to be borne by the taxpayers of the coming decade and decades thereafter. That is all we are really doing. It has been said in many political speeches, but it is true—we are just leaving them the bill. We are not doing our job. We are not showing responsibility, if that is how we leave things.

Of course, September 11 changed our priorities in many ways, including how our Government spends money. But September 11 does not change the oncoming requirements of Social Security. As an economist has said: "Demographics is destiny." We can either prepare for that destiny or we can fail to prepare for it.

To get the Government out of the business of using Social Security surpluses to fund other Government spending, we have to strengthen our budget process. That is what this amendment does. That is why we urge our colleagues to support it.

We have sought to advance a goal that has a long and bipartisan history,

and I would like to just recite a little of that history. In his January 1998 State of the Union Address, President Clinton called on the Government to "save Social Security first." That is also what President George W. Bush said in a March 2001 radio address. In his words, we need to "keep the promise of Social Security and keep the Government from raiding the Social Security surplus." That is what President Bush said. It is what the Republican leader, Senator LOTT, said on the Senate floor in June 1999 when he said:

Social Security taxes should be used for Social Security and only for Social Security—not for any other brilliant idea we may have.

It is what Senator DOMENICI said in April of 2000 when he said:

I suggest that the most significant fiscal policy change made to this point—to the benefit of Americans of the future . . . is that all of the Social Security surplus stays in the Social Security fund. . . .

Yes, we should stop using Social Security surpluses to fund the rest of Government because it is the moral thing to do; for every dollar we add to the Federal debt is another dollar our children must pay back in higher taxes or fewer Government benefits.

I do not think our children's generation will forgive us if we fail in our fiscal responsibility today. History will not forgive us if we fail to act. We must balance the budget, we must stop accumulating debts for future generations to pay, and we have to stop robbing our children of their own choices.

We have got to make our own choices. We are doing that today. Let's not take away from these kids their right to make their own choices in their time because we have locked up all the money and we cannot pay the Social Security benefits.

The amendment before us today, I am pretty sure, is the best, last hope to do this this year. I urge my colleagues to support it.

Madam President, the Center on Budget and Policy Priorities has issued a paper that concludes as follows:

These proposals, No. 1, are likely to be workable because they extend enforcement tools that have worked in the past; No. 2, are evenhanded because they treat spending increases and tax cuts in the same fashion, without favoring one or the other; and, No. 3, set targets that appear realistic and thus are more likely not to be blown away by subsequent congressional action.

This analysis by the Center on Budget and Policy is their view of this amendment. It is a positive analysis.

I ask unanimous consent the full text of this analysis be printed in the RECORD.

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

[From the Center on Budget and Policy Priorities, June 20, 2002]

THE FEINGOLD AMENDMENT TO THE DEFENSE AUTHORIZATION BILL: A WORKABLE AND RESPONSIBLE STRENGTHENING OF FISCAL DISCIPLINE

Senator Feingold's amendment to the Defense authorization bill would establish tight

but realistic caps on appropriations for 2003 and 2004, extend for five years the requirement that tax and entitlement legislation be paid for, and extend supermajority enforcement of congressional budget plans for five years. These proposals: (1) are likely to be workable because they extend enforcement tools that have worked in the past; (2) are evenhanded because they treat spending increases and tax cuts in the same fashion, without favoring one or the other; and (3) set targets that appear realistic and are thus more likely not to be blown away by subsequent congressional action.

Key Budget Enforcement Tools are Due to Expire This September 30. Four key tools to enforce budget discipline are scheduled to expire September 30, 2002. If these provisions expire, Congress will find it much easier to increase appropriations and entitlements by unlimited amounts and cut taxes by unlimited amounts. The clear risk is that the large deficits we are currently experiencing would grow even larger rather than decline, leaving the budget in a weak position at just the wrong time—right before the baby boom generation retires and places still greater pressure on the budget. Allowing all these budget enforcement tools to expire could set the stage for highly undisciplined budgeting in the coming months and years.

Congressional Budget Targets. The budget targets in Congressional budget plans are currently enforced by points of order that can only be waived by 60 votes. This means that appropriations and entitlement bills cannot spend more than is provided for in the Congressional budget resolution and tax cuts cannot exceed the level of tax cuts the Congressional budget resolution allows, unless 60 Senators agree. Starting October 1, however, excessive appropriation bills, excessive entitlement increases, and excessive tax cuts can all be agreed to by simple majority vote. The Feingold Amendment keeps these vital 60-vote enforcement mechanisms in place for another five years.

Discretionary Caps. Currently, a statute requires the President to cut appropriations bills across-the-board if, at the end of a session, those bills have breached dollar "caps," or upper limits, set in statute. This law worked well for eight years—from 1991 through 1998—but then was evaded through gimmicks or set aside by statute for the last four years because the caps established in 1997 proved unrealistically tight. The entire mechanism of caps and across-the-board cuts (called "sequestration") expires on September 30 and so does not apply to FY 2003 appropriations bills. The Feingold amendment renews the mechanism for another five years and sets caps for 2003 and 2004 (no such caps currently exist). The 2003-2004 caps in this amendment are at the levels in the recent Gregg-Feingold amendment and are tight but probably realistic.

The Senate Pay-As-You-Go Rule. Currently, a point of order waivable by 60 votes lies against legislation that would increase the cost of entitlements or reduce revenues unless these costs are offset over 1, 5, and 10 years, except to the extent that a budget surplus is projected outside Social Security. This rule expires September 30; the Feingold Amendment would renew it for another five years.

The Statutory Pay-As-You-Go Rule. Under current law, a statute requires the President to cut a selected list of entitlement programs across the board if, at the end of a session, OMB determines that tax and entitlement legislation has not been fully offset for the coming fiscal year, i.e., if entitlement increases and tax cuts have not been "paid for." This mechanism worked well from 1991 through 1998 but broke down when surpluses appeared; Congress wrote ad hoc provisions

setting it aside. Starting October 1, the mechanism effectively expires even though deficits have returned—new entitlement increases and tax cuts will not have to be paid for. The Feingold Amendment renews for five years the requirement that such legislation must be paid for, while turning off this requirement if the Treasury reports that a year has been completed in which the budget outside Social Security was in surplus.

The Feingold Amendment Sets Appropriations Targets For This Year That Can Be Enforced By The Senate. In addition to the extension of the four enforcement mechanisms discussed above, the Feingold Amendment responds to the particular situation faced by the Senate this year because a new congressional budget plan has not been agreed to. While last year's congressional budget plan continues to govern entitlement and tax legislation, it does not govern appropriations. This means that, as soon as the Appropriations Committee is ready, the Senate can begin consideration of appropriations bills at any funding level and pass them by majority vote. The Feingold Amendment would address this problem by requiring 60 votes for any 2003 appropriations bill that exceeds its allocation. The allocations for all the appropriations bills combined must not exceed the statutory cap the Feingold Amendment sets.

HOW TIGHT ARE THE FEINGOLD APPROPRIATIONS CAPS?

If caps are too loose, they do not constitute fiscal discipline. Experience also demonstrates that caps fail to impose fiscal discipline if they are set unrealistically tight. In that event, the caps are inevitably breached, which can lead to a free-for-all on appropriations.

The Feingold caps are tight but realistic. They equal the levels for 2003 and 2004 in the Gregg-Feingold amendment offered three weeks ago. If Congress provides the defense and homeland security increases the President has requested, as appears very likely, these caps would require a *reduction* in FY 2003 funding for all other discretionary programs of \$5 billion below the CBO baseline level—i.e., below the FY 2002 level adjusted for inflation. (It may be said that the proposed FY 2003 cap would be \$36 billion above the 2000 level adjusted for inflation. This is true, but the President's defense and homeland security levels are \$41 billion above the 2002 levels adjusted for inflation. Assuming the defense and homeland security requests are funded, everything else would have to be cut \$5 billion below the CBO baseline.)

These figures constitute restraint. If figures much tighter are agreed to, either the President will not receive his full defense and homeland security increases, or, more likely, the caps will be maneuvered around when appropriations battles heat up because the cuts required in other programs will be too large to be politically achievable. If that occurs, the attempt at restraint will fail and, as has been the case over the last few years, no effective cap will be in operation.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). The clerk will call the roll. The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that the Conrad

second-degree amendment be agreed to; that the time until 3 p.m. today be for debate with respect to the Feingold amendment, as amended, with the time equally divided and controlled by the two leaders or their designees; that during this time, whenever Senator GRAMM of Texas raises a Budget Act point of order against the amendment, and a motion to waive the point of order is made, the Senate vote on the motion to waive at 3 p.m., without further intervening action or debate; provided that no other amendments or motions be in order prior to a vote on the motion to waive the point of order.

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

Under the previous order, the second-degree amendment is agreed to.

The amendment (No. 3916), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3915

Mr. GRAMM. Madam President, I wish to explain why I am opposed to this amendment, why I intend to raise a point of order against it, and why I believe that point of order should be sustained.

Let me begin by saying we have not adopted a budget this year. A budget has never been brought to the floor of the Senate during this session of Congress. We have not been in a similar position since 1974. We are now being asked on a Defense authorization bill to have the Senate commit to a budget figure outside the budget process. In fact, the point of order arises because we are basically going outside the budget process and dealing with an amendment that was not reported by the Budget Committee.

In doing so, we would be committing the Senate to a level of spending that next year is \$9 billion more than the President requested and \$52 billion more than we spent last year. We would be going on record as agreeing to setting a constraint under which we could spend \$25 billion this year that would not be counted until the following year.

In other words, we could actually spend \$25 billion more than the \$9 billion more that we are committing above the level the President requested by what is called advanced appropriations. I do not believe the Senate should lock itself into a budget that has not been approved by the Budget Committee. We had a vote on that budget that was brought up on another bill. Nobody voted for it—not one Democrat or one Republican. We are now being asked to commit to a figure of \$9 billion above the President's, \$52 billion above last year, with the ability to get around that constraint by spending \$25 billion in advanced appropriations. Last year was the largest level of advanced appropriations in American history, and that was \$23 billion. This would set a new global record. And I do not believe this represents good policy.

This is adamantly opposed by the President. OMB has notified Members

today that they are opposed to it. There is no possibility the House will agree to this. I say to any of my colleagues who are tempted by this and by the thought that any kind of budget numbering process is better than none, the bottom line is the House will never agree to this. What they would be doing in the process would be committing to a level of spending \$9 billion above the level the President requested, with a \$25 billion advanced appropriation escape hatch.

I do not believe this is a good deal. I wish we had more than an opportunity to offer an amendment, but a consensus among Members that when we didn't adopt a budget, we needed a permanent budget enforcement process. This would give us the process but at numbers that are grossly beyond the level the President requested and far beyond the numbers I could ever support.

So I hope my colleagues will sustain this budget point of order. I don't think it is good for the Senate to be trying to write a partial budget on a Defense authorization bill instead of bringing a budget up and debating it and amending it. The amendment will be subject to amendment if we do not sustain the point of order. There will be amendments offered. I will offer amendments if we do not sustain the budget point of order.

Let me reiterate briefly that this is \$9 billion more than the President requested, \$52 billion more than we spent last year. This would have advanced appropriations of \$25 billion, which would be the largest in American history, that would be sanctioned under this agreement. The White House is adamantly opposed to this amendment. The House will never accept this amendment. Therefore, it cannot and will not become binding.

I urge colleagues to sustain the budget point of order. This is a budget point of order with a purpose. Sometimes these budget points of order represent sort of a "gotcha" kind of circumstance, where they apply, but the logic of them is kind of convoluted. They are almost accidental. The budget point of order I raise is not accidental. It says that an amendment that alters the budget process has to come through the orderly process of being reported by the Budget Committee or else it is subject to a point of order.

I remind my colleagues that we are under a unanimous consent request. So by making the point of order now, I am not cutting off anybody's debate. That will continue until 3 o'clock. I say that so everybody understands exactly where we are.

The pending amendment contains matter within the jurisdiction of the Committee on the Budget, and it has been offered to a measure that was not reported from the Budget Committee. I therefore raise a point of order against amendment No. 3915 pursuant to section 306 of the Congressional Budget Act.

Let me ask the Parliamentarian a question. Is 3915 the right number, given they have merged the amendments?

The PRESIDING OFFICER. It is 3915, as amended.

Mr. GRAMM. Madam President, I make that point of order against the pending amendment under section 306.

Mr. FEINGOLD. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment.

The PRESIDING OFFICER. The motion is pending. Who yields time?

The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, parliamentary inquiry. Is there a time limit on the situation with which we are confronted?

The PRESIDING OFFICER. Yes. The time is evenly divided up until 3 o'clock.

Mr. DOMENICI. Then we must proceed to a vote?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I thank the Chair.

Who is in charge of the time in favor of the amendment?

Mr. FEINGOLD. Madam President, how much time do we have on our side?

The PRESIDING OFFICER. Forty-one minutes remain for the sponsors.

Mr. FEINGOLD. How much time does the Senator want?

Mr. DOMENICI. May I have 20?

Mr. FEINGOLD. I yield to the Senator from New Mexico 20 minutes.

Mr. DOMENICI. Madam President, it is not often I would come to the floor on a Thursday afternoon when a Defense authorization bill is before us and join in an amendment offered by the chairman of the Budget Committee on the other side, who has failed to produce a budget resolution heretofore. I believe his side of the aisle had a responsibility to do that. They did not do it. That is not the end of the world.

We are today confronted with that situation. The truth of the matter is that there will be an awful lot of Senators pondering the appropriations process and wondering whether Senator PHIL GRAMM from Texas, who knows an awful lot about this, is right when he speaks of the dangers to America of authorizing a budget produced by the Congress, not the President, which would exceed the President's annual appropriation by \$9 billion.

My friend from Texas makes that appear to be a very big issue. Let me suggest that I would not join in producing an alternative to a congressional budget that would permit us to spend between \$9 billion and \$10 billion more than the President in appropriations if I did not see down the road something a lot more onerous than a congressional attempt not only to limit spending for each of the next 2 years, but also to insert the points of order that

are going to keep this Congress from going absolutely wild on entitlement spending during the ensuing months.

I think I could say this is going to be a year without any restraints, if it were the \$9 billion we were arguing about. But I tell you, that is not it. For all the Senators who have been praying for the day when there is no longer a Budget Act, they thought they would be confronting appropriations bills run wild. But the truth of the matter is, it is the entitlement programs that are coming to us during the next 4 months, until October 1, that will have no constraints on them and no 60-vote points of order, which have saved the American people and this Congress from hundreds and hundreds of billions of dollars of outyear, next year expenditures.

For formal purposes, the Senator ought to put my name on the amendment as a cosponsor. This amendment sets caps that is expenditure limitations—for 2003 and 2004 with a Defense firewall in the Senate but only for 2003, and that is good enough. That means in the Senate we will not spend Defense money for domestic programs, but neither will we spend the opposite. We will not spend domestic money for Defense programs. That is what a wall means.

White House, before you get on the telephone and do what Senator PHIL GRAMM said you have done, Mr. President—our President, down on Pennsylvania Avenue—before you say to all the Republicans, "Vote against this," let me make a couple points for you.

One, this is not your budget, Mr. President—I am speaking of our President down at the White House. It is not your budget. You have a budget. The law of America says you produce a budget. I do not know what would happen if you did not, Mr. President, but you did.

Then it says in another place in the law that Congress passes a budget, and that congressional budget is for the use by the Congress in their attempting to get their priorities adopted by the Congress. And, Mr. President, if I were you, I would say: Congress, pass the best one you can, but remember, that does not mean I am going to sign every bill you produce.

The President still has the veto threat on every appropriations bill, if that is what he wants.

I submit to you, Mr. President, my friend down on Pennsylvania Avenue, just because the Senator from Texas has talked about the ravages of his \$9 billion that we might spend in excess of your appropriations, just remember, you can vitiate every one of those with negotiations in the appropriations bills and a veto just like you have today. We cannot change your veto authority.

We have proceeded in a realistic manner with one of two alternatives, and listen up, there are not 20, there are 1 or 2. Do we do this, which is a half-baked budget resolution? It is half-baked because you did not do your job, half-baked because you did not do

your job because you were supposed to produce a budget resolution, and you should not make up your mind that it is too tough this year so we will not do it. I heard somebody on that side say that. That is not the law.

For 27 years, when I was either chairman or ranking member, we produced a budget every single year, no matter how tough it was, no matter who had to vote on issues on which they did not want to vote. Senator Baker sat right there on that table with the appearance of a Buddha, and every Republican who came up, the Buddha would say—and 37 times the Buddha won.

We did precisely what the Republicans wanted to do to move our country ahead. You did not have that. That is not my fault. That is your fault. But it isn't America that ought to suffer from it, nor should Congress be put in a position where they cannot do any work.

I have come to the conclusion it is a lot better to get caps, and they are at pretty meaningful levels. Next year's are pretty low. The one for the budget we are writing today is \$9 billion to \$10 billion over the President's, and I submit when all this day is gone and the rhetoric has simmered down, it is going to be very difficult, even with our President with his pen in hand waiting to veto, it is going to be very difficult to come out of this spending less than the amount that we put in these caps. I hope we can. I will be there attempting to enforce them, for what it is worth. The truth is, those caps are better than none, and the President retains his veto authority.

For the defense of America, for which you asked us for so much money, Mr. President, we put all that money in and we got a firewall, meaning you cannot spend defense money for anything else. That is a very important budget consideration.

We set limits on advance appropriations consistent with what we wanted on this side when we met.

We extend the 60-vote budget points of order, including the pay-as-you-go.

We eliminated a gimmick regarding the crime victims fund, and I think you all have seen that and concurred with it. We showed it to you 10 days ago.

I do not know if 3 o'clock is enough time, or quarter of 3, but I think it is. If somebody wants more time and we need to explain it better, or I need to explain it to my side better, just come down and ask for some time. I think we will get it.

I repeat, I want to talk to two situations for the next 2 minutes. I say to my fellow Senators, through no fault of this side of the aisle, we are in a real predicament today. If we let a whole batch of bills get through and do not put some points of order and some budget-like points of order and some caps on how much you can spend after which the expenditure bills get hit—we have to do that. We cannot sit here and watch this all go down the river, with the economy already in sputtering shape.

Second, the President of the United States does not lose anything in terms of his power, his strength. If anything, he gains a potential for orderliness in the Senate and House as we finish our business that we might not have but for the adoption of this amendment.

My last remarks: I do not know that this is the best bill on which to put this, but I do not know which bill is next. It is sort of the chicken and egg. The appropriators are waiting for the number. We are saying: You know the number. Let's bring an appropriations bill up and we will put this on it.

Others are saying that is too late if you do that. So here is a big authorizing bill. If we approve this—and I urge that we do; Senator STEVENS, if he had time, would be here concurring in this, pledging to stick to the numbers—if we approve this, we can put it on another bill later if, as a matter of fact, this defense bill does not pass or gets tied up in a conference that takes too long.

If anybody wants any further explanation, I will do it here on the floor and seek time, or I will meet them wherever they like and show them what we have done. I believe we might turn somebody. Thanks to Senator FEINGOLD for his courage, and Senator GREGG who is with the Senator on this amendment. If he is not, we must ask him to be a cosponsor because he had a lot to do with it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senator from New Mexico, Mr. DOMENICI, be added as a cosponsor of the pending amendment.

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

Mr. FEINGOLD. How much time remains on our side?

The PRESIDING OFFICER. The Senator has 29 and ½ minutes.

Mr. FEINGOLD. I yield 15 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank my colleague. We have heard some arguments advanced by the Senator from Texas as to why Members should not vote for this amendment. The Senator has said this has not gone through the budget process. I reject that argument by the Senator from Texas. The fact is the numbers that are before us are exactly the numbers that passed the Senate Budget Committee on the budget resolution that I took through the committee. That is a fact.

The fact is, I reported out of the Budget Committee, pursuant to the budget I proposed, \$768.1 billion in discretionary spending for this year. That is precisely the same as what was in the President's budget. It is true we did not adopt his policy. We did adopt his number.

The Senator says this is outside what the Budget Committee has rec-

ommended. It is not outside what the Budget Committee has recommended. It is precisely what the Budget Committee recommended in the resolution I offered—\$768 billion this year, \$786 billion next year. Where is the money going? I say to my colleagues who think that is too much money, here is where the money is going: Last year we spent \$710 billion. The President has asked for, and we have agreed to, a \$45 billion increase for national defense, every penny of it requested by the President of the United States.

The President asked for an additional \$5.4 billion for homeland security. We have endorsed that, every penny of it requested by the President of the United States. Now there is another \$7 billion, \$7 billion on a base last year of \$710 billion. That is a 1-percent increase available for all the other functions of Government, after the increase asked for by the President for defense, after the increase asked for by the President for homeland security.

If we look at the amount of money that is in this budget for this year, the \$768 billion, we have provided for the year thereafter an increase of \$18.4 billion. That is an increase of 2 percent, and that is precisely what was in the budget resolution that passed the committee. It is true, we have not yet considered a budget resolution on the floor of the Senate. That is not unprecedented for June. There have been many times we have not concluded work on a budget. In fact, 4 years ago, we never did complete work on a budget through the whole process.

So we know the reality. We know what has occurred in the past. The fact is, we have passed a budget resolution through the committee. The budget numbers that are in that document are the numbers that are before us today. They represent serious constraint on spending for both this coming year and the year thereafter.

When the Senator from Texas says there is a \$50 billion increase over last year, it is actually a \$58 billion increase. But where is it? Again, I remind my colleagues, it is in defense; \$45 billion of the increase is in national defense, every penny of it requested by the President of the United States.

Is the Senator from Texas saying he is against that increase in defense? And \$5.4 billion is an increase in homeland security, every penny requested by the President of the United States. Is the Senator from Texas against that increase in homeland security requested by the President of the United States? The only other money is \$7 billion for everything else, a 1-percent increase.

Let's get serious about budgets and let's get serious about what is being discussed. The Senator from Texas raises advanced appropriations. Advanced appropriations have been done for many years. Why? Because the school year does not fit the fiscal year of the Federal Government. The Federal fiscal year ends at the end of September. Everybody knows the school

year does not end until May or June. So advanced appropriations were adopted to fit the reality of the school year in America. There is nothing wrong about that. There is nothing wrong with that at all.

The Senator from Texas says the House will never agree. That is not our job, to write a budget that agrees with the House. Our responsibility is to write a budget for this Chamber. We will then negotiate with the House on an overall agreement. The first thing we have to do is reach a conclusion in this Chamber.

What we are proposing, once again, for discretionary spending for fiscal year 2003, is exactly the same number the President sent up in his budget, \$768 billion. That is what was in my mark that passed through the Budget Committee and that is what we are proposing. It is true it is not the same policy as the President proposed. He proposed a different way of spending the money, but he proposed exactly that same number.

I am proud of the way the Budget Committee has performed. The Budget Committee had dozens of hearings and produced a responsible document, one that restrains spending, one that did not contain a tax increase or any delay in the scheduled tax cuts, but one that also called on the Congress to put in place a circuitbreaker mechanism so that next year it will be a responsibility of the Budget Committee to come before our colleagues with a plan to stop the raid on Social Security.

The Budget Committee had more debt reduction than the President proposed, less deficits than the President proposed and said that additional tax cuts can be had, but they ought to be paid for, and to put in place serious restraint on spending, not only for this year but in the years following.

I am proud of that budget resolution. I am proud of the parts of it that are before us now, that give our colleagues a real opportunity to choose. Are we going to have a budget for this coming year and budget caps for the next year? Are we going to have a continuation of the budget disciplines that are critically important to keep this process from spinning out of control or are we not? That is the choice that is before the body.

I want to again thank my colleague from Wisconsin who has been a valued member of the Budget Committee and who came to the floor with something he negotiated on both sides of the aisle. I then became involved with him in an effort and we have negotiated with many more Members on both sides of the aisle. I think we have a responsible package, and our colleagues are going to have a chance to vote in a few moments. I hope they will carefully consider the implications of a failure to pass this amendment.

I yield the floor, and I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, in this modern age, we are used to revisionist history, but I have to say the debate we just heard is one of the most extraordinary examples of revisionist history I have ever heard. I am tempted to get into this debate about this wonderful budget that when it was voted on not one Democrat voted for it and not one Republican voted for it. That is a vote of confidence, or lack thereof, which I have never witnessed before.

The budget that was rejected without a single vote in favor was a budget that set taxes above the level requested by the President the first year, the first 5 years, the first 10 years, and consistently spent more money. In fact, it raided Social Security in the first year more than the President's budget, even though it had taxes higher than the level requested by the President because it increased spending by over \$13 billion. But that is an old debate. Why debate a budget that was rejected unanimously?

Now we are on another debate, and it is a wonderful debate because we have our colleagues who are saying we want to control spending, and we need this budget to control spending. There is only one problem. The budget increases spending. The budget proposes spending \$9 billion above what the President requested.

This amendment before us proposes spending \$52 billion above last year, and it does not stop with spending \$9 billion more than the President wants. That kind of budget constraint we have had a lot of. It not only spends \$9 billion more than the President wants, but it allows \$25.4 billion to be appropriated this year that won't count until next year, what is called advanced appropriations. Last year, we set a record in American history with \$23 billion. This year, in this amendment, we would condone in advance \$25.4 billion, but that is not the worst of it. We have had a budget provision that banned delayed obligations.

Senator DOMENICI was a big proponent of this provision, as I remember. This was to try to deal with this phony little game we play by starting a program on the last day of the fiscal year and claiming in the budget that it costs one-three hundred and sixty-fifth as much as it really does, and then have it permanently in effect.

Interestingly enough, not only does this amendment spend \$9 billion more than the President requested, not only does it say you can spend \$25 billion more than that, it gets us back in the game of deferred obligations by striking subsections (a) through (f), (h), and (i) of House Concurrent Resolution 290. That is the section that deals with deferred obligations.

This doesn't have to be belabored. This is not about controlling spending. This is about spending. This is about force-feeding the President and making the President take \$9 billion more than he requested, setting up a procedure

where we will spend \$25 billion more than that, which will not count because it will be spent next year, and then allowing us to get into the game of spending it, but deferring the spending until a point where it doesn't count. This is an issue about spending, and this point of order is about controlling spending.

The President has not been silent on this. Last night he spoke. I will read what he said:

I know there's going to be some tough choices on these appropriations bills, but I want to make sure that everybody understands with clarity that the budget the House passed is the limit of spending for the United States Congress.

If we adopt this amendment, we will be saying the President wants \$9 billion less, but we are going to go on record saying we are going to spend \$9 billion more. I will be with the President on this issue. Other Members will have to decide where they are.

We have a letter dated today from the OMB Director, and I will read part of it:

It is my understanding that the Senate will continue consideration today of two pending amendments regarding budget enforcement—a Feingold amendment and a Reid/Conrad amendment. I ask that you strongly oppose these amendments and encourage your colleagues to oppose them as well.

Both amendments would lock in a spending cap that is much too high—over \$19 billion more than the President's budget request.

Budget enforcement in Congress is vital and necessary but enforcement at the wrong number could be even more detrimental to our budget outlook.

Now, if we had not waived the budget last week, maybe I would take this seriously. If 60 Members of this body had not last week voted to waive the Budget Act to spend more money, maybe I would take this thing seriously. But I don't take it seriously. We rejected making the death tax permanent. This amendment would spend nine times as much money next year as making the death tax penalty permanent would have cost.

Our colleagues do not have a nickel, they do not have a penny, to let working people keep more of what they earn, but they have billions to spend. They never, ever, have enough to let working people keep what they earn, but they have always got plenty to spend.

This is an effort to bust the President's budget. This is an effort to mandate that we set a budget \$9 billion above the President's level. This is a proposal that would let us back into the gimmick business on deferred obligations. This is a budget that would let us advance appropriate—which is spending money but not counting it until another year—at a level unprecedented in American history. The President does not want this. OMB has asked that we oppose it. I hope my colleagues will oppose it. But I hope they will understand, whether they oppose it or whether they support it, that this

amendment is not about budget control. This amendment is about spending, pure and simple. If you want to spend more, you want this amendment.

Now, I am not saying it is going to be easy in the budget process not having a budget. But we don't have a budget. We have not passed a budget, and I don't believe we are going to see one brought to the floor. People are proud of the budget resolution considered in the Budget Committee, but not proud enough to bring it to the floor to debate it, amend it, and vote on it.

The President has said he will veto appropriations that violate his budget and the budget adopted by the House. What this amendment would do would be to legitimize \$9 billion in additional spending. That is what it does.

Last week, we voted to waive the same points of order to spend money. We have done it over and over again. What we are doing here is legitimizing more spending. If you don't want to do it, you want to vote and sustain this point of order. Those who want to waive the point of order will have to have 60 votes. Maybe they have it. I pointed out earlier, this is not going to become law. I don't think it ought to be passed by the Senate. I don't think we ought to be slapping the President of the United States in the face today.

When the President last night said he was going to hold the line on his budget, to then turn around and do this is to say: You say you are going to hold the line, but we are not going to let you do it.

Count me with the man. Count me with the President. That is what this issue is about.

I hope when people cast this vote, they won't be confused. I hope they will understand. This is not about budget points of order that we just waived last week. This is not about process. This is about spending \$9 billion more spending next year, \$25 billion more spending above that in advanced appropriations, and an unlimited amount of spending through a gimmick. I don't understand why people who support the budget process, after all our effort to get rid of these delayed obligations, can support this amendment. I am sure our colleagues remember the games that were played where we started a program on September 30 of a year so that it becomes law but you only count 1 day of the spending. Why anybody could say this is about controlling spending and could have an amendment that strikes the point of order on deferred obligation, I don't understand. This is about spending, pure and simple.

Don't be confused. If you are for spending, if you are against the President, then vote to waive the budget point of order. But if you are with the President, if you are against all this spending, if you think it has to end somewhere, end it right here today. Let's stop this process today. Do not add \$9 billion more than the President asked today. Do not spend \$25 billion

beyond that in advanced appropriations today. And do not let Congress back in the gimmick business today. Vote to sustain the point of order.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I yield myself such time as required.

The Senator from Texas knows very well that my goal in working on this amendment has nothing to do with trying to upset the President's budget. We have talked together, worked together on the Budget Committee, and he knows exactly what I and other Members are trying to do. We think there ought to be some rules, there ought to be some caps, there ought to be some budget discipline. I don't think he could point to one shred of information or comment I have made throughout the months to suggest it has anything to do at all with trying to disrupt the President.

I remember welcoming the comments of the OMB Director when he suggested some aspects of what we were trying to do made sense. I will work with anybody on this in order to get it done, because in the 10 years I have been in the Senate, we have had rules, we have had budgets disciplines, and they have had good results. Sometimes when the Democrats were in the majority, and sometimes when the Republicans were in the majority, at least on this issue, I have seen this body function, and function well, but only because there were caps, only because there were rules and because there were enforcement mechanisms.

The Senator from Texas complains we are doing this outside of the budget process. I agree with him. This is not the ideal way to do this. But he knows why. He saw the efforts we made in the Budget Committee and the difficulties we had. We could not get it done there. It is not my idea to have to do it on the Defense bill.

The Senator says, even if the Senate were considering the budget resolution, that the resolution could not have accomplished the extension of the budget process that our amendment would do. But the Senator from Texas knows that a budget resolution, unlike this one, cannot constitutionally bind the President or his OMB. We have to pass a law, not just a resolution to extend the Budget Act.

I would say nobody in the history of the Senate knows this better than the Senator from Texas, who is very famous across this country for passing statutes to control Government spending. A statute has much more enforcement power than simply doing it on a budget resolution.

The Senator also suggests this is not going to go anywhere because the House will not accept it. I certainly agree with my chairman, Senator CONRAD. The one thing that makes sure nothing happens is if we do not do anything at all in the Senate. If we send a message to the House that we do not

need rules and disciplines, that is an invitation to them to do nothing.

On the other hand, if we do something here, and even though the Senator from Texas knows it is much less than I wanted to do at the beginning, and less than he wanted to do, maybe it will put a little pressure on the other body. Maybe they will hear from their constituents, who will say: At least in the Senate they still believe there ought to be some limits and some caps and some rules. Why don't you folks in the House do the same thing?

If we do nothing, there is no pressure on them. As the chairman indicated, if we at least put a marker down here, put something in this bill that suggests some limits and some rules, we have a chance that something will come through in a conference report that will achieve bipartisan limitation on this.

We have now heard arguments about the levels in our amendment being too high. We also heard arguments that they are too low. In this respect the debate is taking on sort of the hallmarks of any debate to set a level. There is always going to be disagreement about the amount. But let's be clear about the amount in this 2-year period. The chairman of the committee has indicated we have sought to use what I believe to be the most neutral starting point. The number for 2003 is what the Budget Committee reported. It is what we included in the Gregg-Feingold amendment, for which 49 Senators voted, including the Senator from Texas. On June 5, he voted for these exact 2-year limitations. I admit there were 3 other years there on top of it, but he did vote for these figures for those 2 years.

It is also the most neutral and most appropriate figure because it is our best estimate, as the chairman has pointed out, of what the President's budget request actually requires, what it really is when you cut away the gimmicks and see what the real number is.

I think this is a consensus number that is reasonable. As the Senator from Texas knows, he and I have worked together in various meetings to try to have an even stronger budget process. We have tried to draft amendments, and we reached agreement on a budget process amendment that, had it been enacted, would have created powerful incentives to reduce the deficit and further protect Social Security. I stood ready and I stand ready to work with him to tighten fiscal discipline. In the battle for fiscal responsibility, I want the Senator from Texas to know I am and will be his ally.

But as the Senator from Texas also knows, we did not offer the amendment we drafted. Now the question is, in the absence of that, in the absence of a more perfect solution to the budget process, what will we do?

We really only have a couple of choices. We can stand by and simply do nothing or we can at least do this. That is the choice before the Senate today.

Nobody really believes there are going to be a lot of real opportunities to do this in the future if we do not do it today.

I would prefer a stronger budget process. In fact, not only in committee but on the floor I, with Senator GREGG, fought for a stronger budget enforcement regime, and we offered our amendment to the supplemental appropriations bill.

I voted with the Senators from Arizona and Texas when they sought to limit spending on the supplemental appropriations bill. I stood ready, and I continue to stand ready, to work with the Senator from Texas to fight for the process changes that we worked on together. But the amendment that Senator GREGG and I offered received only half of the votes—it actually needed 60 to prevail.

The efforts to stop spending items on the supplemental appropriations bill fell well short of a majority, and we have not offered the amendment we worked on together.

So we face a very stark choice. We face the expiration of the budget process. We have to face the question, Is the absence of a budget process preferable to the 2-year extension of the existing process that I and Chairman CONRAD and Senator CANTWELL and now Senator DOMENICI offer today? Obviously, it most assuredly is not. Even though there are imperfections in the existing budget process, it does provide some budget discipline. It creates 60-vote hurdles for spending measures that exceed the caps. It requires 60 votes to expand entitlements or cut taxes without paying for the cuts.

These constraints have been a valuable force for consensus. They have helped ensure the work we do in the Senate can garner the support of three-fifths of the Senate, not just a bare majority. I think these are useful bulwarks in the defense of the taxpayers' dollars.

Again, there could be better budget processes. After the adoption of this amendment, if it is adopted, I will still join with others who seek to advance further budget improvements. Even if this amendment is adopted, nothing will stop the Senator from Texas from offering the budget process on which he and I were working.

But at least let's draw the line. Let's at least prevent further erosion of budget discipline. Let's seek further improvement where we can, but let's at least ensure that things do not get worse.

The Senator from Texas may consider the amendment before the Senate today to be half a loaf or maybe even less. I admit the amendment before the Senate today is not perfect, but it is a far better result than doing absolutely nothing, and that is where we are headed. Nothing is what we will get if the Senate votes down this very modest attempt at fiscal discipline.

I urge my colleagues to join at this barricade, if you will, this last stand

this year for fiscal responsibility. I urge my colleagues, more than anything else, to do this to defend the Social Security surplus. I urge them to support this amendment.

How much time do we have?

The PRESIDING OFFICER. The Senator from Wisconsin has 12 minutes; the Senator from Texas has just under 22 minutes.

Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, let me make clear I feel strongly about this amendment, but I have profound respect for my colleague. I am a long-time believer in the Jeffersonian thesis that good men, with the same facts, are prone to disagree.

I point out the Gregg amendment that I voted for had 5 years of budget numbers; not just the 2 years where the budget went up, but 3 years where it went down. So I thought, in terms of the whole package, it was an improvement over nothing. But I do not think it is an accident that this amendment has only the 2 years where spending goes up.

Maybe I was not tending my business, but I do not think that the Gregg amendment struck the provision on delayed obligations. If it did, I was not aware of it, and I would stand to be corrected if anybody corrected me.

I think the Gregg amendment left advanced appropriations untouched, whereas this amendment increases them by \$2.4 billion.

But ultimately, if we are talking about this being a consensus product, there is one person who is not part of this consensus and that is the President.

The President is taking a hard position, and, quite frankly, it is about time. I love our President. I have known him for a long time. I respect him. But I thought last year, in trying to work with both parties and trying to bring a new environment of bipartisanship to Washington, that he let Congress spend too much money. But it was a price he was willing to pay to try to work with everybody and try to be bipartisan. But our President is a Texan. And once you have slapped him once or twice, then he begins to think maybe you mean to fight. The bottom line is the President has said, I am going to limit spending to the budget that I proposed, and to the aggregate number adopted in the House. The amendment before us would add billions of dollars to that. It would not only condone but basically justify \$25.4 billion of spending—in addition to the \$9 billion I spoke of earlier—counted a year later through a process called advanced appropriations. This would be the highest level in American history.

Finally, to add insult to injury—and I asked somebody to explain to me why it is in here—this amendment strikes the language on delayed obligations. If people weren't meaning to cheat, why do they make it legal? If people didn't expect to be in jail, why are they pull-

ing the bars out of the windows? If people aren't expecting to take advantage of something we had stopped in the past, why are they taking the prohibition against it out?

I do not know if my colleague from Oklahoma is aware of it, but the amendment before us in part strikes our old language preventing delayed obligation.

Our colleague will remember the bad old days when you wanted to fund a great big old costly program but you didn't have the money in the budget, so you started it on September 30—the last day of the fiscal year. Then it cost only 1 day. It was just magic. You could spend 365 times as much money by just starting the program on the last day. We finally wised up to that. We stopped it.

Now we have an amendment where our colleagues say they are trying to stop spending. They are not for spending. They want to stop spending. But yet they strike the language on delayed obligations, which is a gimmick that has been used to spend billions of dollars.

I do not know how you could say they don't intend to do it when they are legalizing it.

To sum up—because I know we have others who want to speak, including my colleague from Oklahoma—this comes down to whether you are with the President or you are with the spenders.

With all good intentions—I don't doubt good intentions on the other side—the bottom line is that this amendment, if adopted, gives credence to and gives cover to people who mean to bust the President's budget in three ways: \$9 billion on its face, \$25.4 billion in advanced appropriations, and then cheating with delayed obligation.

If you are with the President, if you are for fiscal restraint, if you want to stop the spending spree in Washington, this is not the way to do it.

I don't mind people making the best arguments they can. But I don't think you can have it both ways. I don't think you can say this is about fiscal restraint, and then say: Oh, by the way, we want to bust the President's budget by adopting this.

I mean you have to be fish or fowl. You are either with the man or you are against the man. I am with the man.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Concord Coalition indicated today that our amendment “provides a strong and needed dose of fiscal discipline.” I ask unanimous consent that a copy of the complete Concord Coalition statement appear in the RECORD.

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

THE CONCORD COALITION,
Washington, DC, June 20, 2002.

CONCORD COALITION SUPPORTS BUDGET
ENFORCEMENT AMENDMENT

WASHINGTON.—The Concord Coalition said today that the Conrad-Feingold-Domenici bi-

partisan budget enforcement amendment provides a strong and needed dose of fiscal discipline. It sets new discretionary spending caps for two years at tough but achievable levels, extends the pay-as-you-go (paygo) requirement for entitlement expansions and tax cuts, and renews important points of order that enforce discipline.

The rapidly deteriorating budget outlook highlights the importance of this amendment. With sudden speed, budget deficits are back and the first time in several years there is no clear agreed upon fiscal goal. As a result, open-ended budgeting is back. Rather than setting priorities and making hard choices, Congress and the President are falling back on the old habit—cut taxes, increase spending, eat up the Social Security surplus, and run up the debt. It's a dangerous path to follow when looming just beyond the artificial 10-year budget window are the huge unfunded retirement and health care costs of the coming senior boom.

Restoring a sense of fiscal discipline—and eventually returning to non-Social Security surpluses—is a very difficult challenge. It is virtually impossible without the type of enforcement mechanisms established in this amendment.

With the discretionary spending gaps, paygo, and vital enforcement points of order scheduled to expire, the choice for policymakers is whether to extend the current mechanisms—and thus maintain a measure of fiscal discipline—or to simply let the entire budget enforcement framework expire and be left with renewed deficits and no mechanism for enforcing fiscal discipline.

In Concord's view the choice is clear. Allowing caps, paygo, and 60-vote points of order to expire is an open invitation to fiscal chaos. The Concord Coalition strongly commends and supports this bipartisan effort to restore fiscal discipline to the budget process.

Mr. FEINGOLD. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, first of all, my good friend, Senator GRAMM, is doing exactly what good debaters do, except that I caught him, so it won't work.

First of all, it is obvious on the point of the President's budget and this budget that this isn't the President's budget, it is Congress's budget. The President's budget is alive. The President's veto powers are alive.

What we are trying to do is pass some constraints that Congress will impose on itself in terms of entitlements, which have the opportunity of going through the roof in hundreds of billions of dollars, between now and October 1 and thereafter with no 60-vote point of order.

Down at the end of Pennsylvania Avenue, Mr. OMB Director, just get the President ready when this Congress sends entitlement programs that are going through the roof, because the 60 votes won't be available here, and they will end up on your desk.

The Senator from Texas said it 10 times, but I will only say it once.

I am with the President. He is the best President we will have in this century. When his first term is finished, that is what we will begin saying about

him. But, Mr. President, do not be fooled by people who want you to get involved in something in which you don't have to get involved. And you lose no prerogatives; you keep all of them.

The second point is, when Senator GRAMM loses his major argument, he turns to another one. So he is up here about as loud as I speak talking about this delayed obligation.

Let me tell Senator GRAMM, just take another look at the late obligations. First of all, it sunsets at the end of this year. So it isn't around. It is literally not around.

Mr. GRAMM. Why didn't you extend it?

Mr. DOMENICI. I don't speak when you are speaking, Senator. Would you mind?

Mr. GRAMM. All right.

Mr. DOMENICI. Would you mind acknowledging that you shouldn't be speaking when I am speaking? I would appreciate it very much.

Mr. GRAMM. All right.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, the second point is, for as long as we have had this provision that he is now telling the President he is going to lose, which provision I invented, we have never used it because it can't be interpreted. We have never been able to interpret what these words mean, which is now the real reason the President should come down on us because we are getting rid of it. It never was used. It will never be used. It is not interpretable. I knew that one year after it was passed, and I considered getting rid of it because it isn't necessary. It wouldn't be used.

My last point is a very simple one.

Fellow Senators, writing a budget resolution is essentially the work of the Congress. The President is not bound by it. He loses no authority. He can veto every bill that comes through here if it doesn't meet what he wants. But I will tell you, fellow Senators, if you think you can live within the President's budget with no problems, then I suggest to you that you had better look at what is eliminated from the budget: \$1.2 billion for veterans' medical care, \$1.2 billion for the violent crime trust fund, and \$1.7 billion for State and local enforcement. They are not in his budget.

We will have to decide whether we are going to put them in and cut something else. Nonetheless, this will not change the President's prerogative to veto every single bill.

But, Mr. President—I am not speaking to you, Mr. President, but I am speaking to the President down the street on Pennsylvania Avenue—if something like this is not adopted, then remember this afternoon when Senator PHIL GRAMM said there was an invitation to spend, and see what you have when entitlement programs come down to your desk because they passed up here 51 to 48, or 51 to 49 because

there was no 60-vote point of order to keep them from breaking the budget because we will not have that protection unless this amendment is adopted.

I would say for an afternoon that it is a pretty good piece of change for the American people and a pretty good way for the President to say, I will veto, but I would rather not have all the entitlements coming up here. Which entitlements? You know what they are. They have to do with the various medical programs. They have to do with everything we are going to be looking at for Medicaid reforms and Medicare reforms. Sixty votes is not going to be applicable.

It seems to this Senator, Mr. President, that you ought to stick to your work and to your veto authority, and you ought to let us do our budget because we can help you a lot when we don't send you all the entitlement bills.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, first of all, I am not telling the President anything. The President was telling me. I read what the President said last night. I am joining my voice with the President's, but I am not speaking for the President.

Second, our problem is that the whole budget enforcement expired—not just this one provision. We are extending the rest of it. We are not extending this provision.

The bottom line is, this is about \$9 billion. Senator DOMENICI says we can't live within the President's budget. I believe we can live within the President's budget. And the President has asked us to try.

Now, granted, the President can do whatever he wants to do. The question is, Do Republican Senators want to vote to go on record for a budget number that is \$9 billion more than the President says he is going to stand behind? I think that is why it comes down to the question of whether you are with him or whether you are against him. I am with him.

Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Texas controls 14½ minutes.

Mr. GRAMM. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Texas for his remarks. I will just make a comment. I see the chairman of the Budget Committee is in the Chamber. Bring the budget to the floor. I can tell you, my colleagues—who might have listened to my very good friend, Senator Domenici, who says, let's vote for this amendment—this amendment is going absolutely nowhere, even if it is adopted—and it is not going to be adopted—because it is on the Department of Defense bill, I tell my colleague.

It does not belong on the Department of Defense bill. I have urged Senator WARNER and Senator LEVIN that they should table this amendment. It does not belong on this bill. Maybe we will make a budget point of order it is a little higher—it does not belong on this bill.

I am on the Budget Committee. Let's bring the budget before the Senate. Then we can have a good debate. Are we going to change points of order? Are we going to change on whether or not you can have end-of-year spending gimmicks that we have banned in the past, which evidently this one-day budget is going to do? Are we going to reverse that? I would like to know. I am on the Budget Committee.

I tell my good friend from Nevada, I believe the Senate procedures should work. Now, for whatever reason, the majority has not decided to call up the budget. So this is the second time that various Senators have said: Well, let's do the budget on whatever authorization bill is going through the Senate. That is not the way it should work. It is not the way it has worked. I have been in the Senate for 22 years, and it has never worked this way.

We have always passed the budget, and it has not been easy. I will tell the majority, I know it is not easy. I will help them try to work it. I want to see the Senate pass a budget. I do not happen to agree with the majority's budget, but I will help to try to formulate the process to go through the budget procedure to pass a budget. I believe in it. But it does not belong on DOD authorization.

Let's just assume that it passed. I hope and I believe it will not, but let's just assume that it passes. OK. So the Senate passes the Senate budget—or part of the Senate budget, because I do not believe this is the entire Senate budget. I do not think this is what passed the Senate Budget Committee, which I serve on, and we spent a couple days in markup. But we had lots and lots of hearings. It was a lot more extensive.

I don't know the difference between this and what passed out of the Senate Budget Committee, but I did not vote for it when it came out of the Senate Budget Committee. But I know one thing: It doesn't belong on the DOD authorization bill. I know my friends and colleagues from the House, and they would say: Thank you very much. That is not going to be accepted in conference. You have wasted your time—totally, completely.

Budgets have to pass both the House and the Senate if you want to have a binding budget. It does not do any good just to pass it in the Senate by one amendment on one day. That has no impact whatsoever. So we are absolutely wasting our time.

I urge my colleagues—I urge the majority because this is not in the minority's capability. The majority should bring this budget as passed out of the Budget Committee and try to pass it

on the floor. That is what we should do. Instead, we have this game, and it just happens to be the Democrats' budget. Obviously, the President does not want it.

My Budget Committee staff tells me it is \$21 billion higher than the figure the President submitted. It is not a 1-year budget; it is a 2-year budget. Wow. OK, it is \$21 billion. We increased the amount you can have on advanced appropriations, something that probably not three people in the Senate really understand. But we are going to increase that figure from \$23 billion to \$25 billion. Oh, we are going to do that. Oh, now we are going to be changing the rules of the Senate dealing with end of the year, beginning new programs, delayed obligations. Oh, we are changing that.

Wait a minute. I say, if we are going to do all these things, let's do it on a budget. Then, when we eventually pass it—it may not have my vote—but when we eventually pass it, it goes to the conference with the House, with budget conferees, not with DOD conferees. DOD conferees in the House would laugh this off. We don't agree with that. It is dropped.

The President is against it. He would say he would veto it if it is in the DOT authorization bill. It has no business being in DOD authorization.

We have to learn in the Senate at some point to have a little discipline and say, when we are going to bring up the DOD authorization bill, we are going to stay on DOD. That means the managers of the bill have to table non-germane amendments. That means the majority has to bring up a budget in a timely manner, which the law says we are supposed to bring up and pass by April 15. And now we are past June 15, and we have not had the budget brought up on the floor.

The majority needs to bring it up. It does not belong on this bill. It is not going to be included in this bill, I hope. I believe a budget point of order will be sustained. It takes 60 votes to pass it, as it should, because the budget statute says it has to come out of the Budget Committee, not to be done on DOD authorization. Oh, we are going to have Senator WARNER and Senator LEVIN be the conferees on the budget? It is not going to happen. We are wasting our time.

I am embarrassed for the Senate and the way this Senate is being run, the fact that we did not bring up a budget. And then some people say: Well, we will take pieces of it and put it on DOD authorization. That is absurd. And it just happens to be a couple of pieces that say: Oh, we are going to spend billions of dollars more than the President anticipated.

I will be happy to consider pay-go. I will be happy to consider a lot of different things that are in the germane jurisdiction of the Budget Committee on a budget resolution. But to do it on DOD authorization, I think, is just a total, complete waste of time.

The point of order that it does not belong on this bill is exactly right. I am sure—and I hope—that our colleagues will sustain that point of order.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Senator from Oklahoma argues that we should not have brought up this amendment on this bill.

This bill authorizes appropriations for the majority of appropriated spending. It may well be the largest spending bill we consider this year. So I think it is absolutely appropriate to consider the total amount of appropriate spending on this bill.

Mr. NICKLES. Will my colleague yield for a question?

Mr. FEINGOLD. For a question.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I respect my colleague from Wisconsin. I have agreed with him on many issues dealing with fiscal matters.

Wouldn't you agree we should have a budget resolution that passed the Senate Budget Committee for consideration by both Democrats and Republicans so we would go through the budget procedure as we have always done for the last 20-some years?

Mr. FEINGOLD. It would be great to have a budget resolution, but far more important, far more useful is a statute to guarantee that these caps and enforcement mechanisms exist to bind both Houses, a mechanism that is actually the law of the land.

So this is far more important. This is an appropriate vehicle to do it.

Mr. President, I yield the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

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

The PRESIDING OFFICER. Five minutes remains for the Senator from North Dakota.

Mr. CONRAD. Mr. President, I say to my colleague, the Senator from Oklahoma, that the Senator from Oklahoma argues against himself. He gives advances as a reason to oppose putting it on this measure, that it will never pass both Houses, and that a budget has to pass both Houses.

I say to my colleague, one of the key reasons we have not brought the budget resolution to the floor is because the House passed a 5-year budget when the requirement of the law is a 10-year budget. The President submitted a 10-year budget. We passed a 10-year budget through the Senate Budget Committee. The House passed a 5-year budget, even though they cut taxes and committed to spending money outside the 5-year window.

In addition to that, they used rosy scenario forecasts.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I will not yield.

They used an estimate of Medicare expenses in the House that says Medi-

care is going to rise at the lowest percentage in the history of the program.

Now, how are we ever going to reconcile a 10-year budget in the Senate, which is what the law requires, with a 5-year budget in the House, when we used Congressional Budget Office estimates, which we are supposed to do, and they used Office of Management Budget estimates because it made it easier for them to cover up the raid on Social Security in which they were engaged?

That is a fundamental reason that we have passed a budget resolution through the committee and not brought it to the floor because we know we would spend a week of the Senate's time and never be able to reconcile with the House because they have adopted rosy scenario forecasts, and they have adopted a 5-year budget when a 10-year budget is required.

Mr. NICKLES. Will the Senator yield for a quick question?

Mr. CONRAD. No, I will not yield.

We hear, over and over, this is more money than the President's budget. Well, the President's budget is exactly the same amount as in this amendment. The President called for \$768 billion in discretionary spending. It is true, we did not adopt his policy. There is a \$9 billion difference because he wanted to transfer money from mandatory spending to discretionary.

Do you know what he wanted to transfer? He wanted to transfer the cost of Federal employees' retirement and claim it was discretionary rather than mandatory. I have not found anybody who thinks that is a wise policy. Clearly, it is required that we pay the retirement costs of Federal employees. That is not discretionary.

The fact is, the President's discretionary number is exactly the same as the number we have. We didn't adopt his policy, but that is his number.

Now, let's look, in comparison, to last year. Last year we spent \$710 billion in discretionary. These are the increases: \$45 billion for defense, every penny of it requested by the President; \$5.4 billion in homeland security, every penny requested by the President. The only difference is \$7 billion, the difference between last year and this year, that is going to other things. All of the rest of the increase is for defense and homeland security, every dollar requested by the President.

There is \$7 billion more, 1 percent, for all the rest of Government. That doesn't even keep pace with inflation. Between 2003 and 2004, we are capping spending at \$786 billion, an \$18 billion increase, a 2-percent increase, for total discretionary spending by the Federal Government. That does not even keep pace with inflation, either. For those who say this is spending, spending, that doesn't pass the laugh test. This is a cap on spending, a cap on spending at the same number the President proposed, a cap on spending for the second year that allows a 2-percent increase

for all of domestic spending. That is defense, parks, law enforcement—all the rest.

The fact is, without this amendment passing, there will be no budget. There will be no budget disciplines. They expire on September 30. That is the reality.

This is a choice that really matters. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 20 seconds remaining. Who yields time?

Mr. GRAMM. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 8 minutes 25 seconds.

Mr. GRAMM. Mr. President, first, I want to respond. Our dear colleague from North Dakota said that the President submitted a budget that actually cut some programs. Can you imagine it? Can you imagine it? In \$2 trillion of spending, the President was able to find some low priority items so that when a vicious set of terrorists attacked and killed thousands of our people we could redirect some of that money.

Our colleagues are shocked. In fact, our colleagues can give you 100 taxes that they are willing to raise. They can give you dozens of tax cuts they are willing to take back. But they can't give you one Government program that they are willing to cut. And they are stunned that in a \$2 trillion Government, the President was able to come up with about \$10 billion of things that we might defer or do without so we could instead grab a few terrorists by the throat and break their necks.

I am not stunned. I am proud. We are the only people in the world who never set a priority, who never had to make a hard choice. The President is willing to make choices. That is one of the reasons I am supporting the President.

It is true that this amendment before us does have some things from the budget resolution considered in committee. But basically three of the things are things that spend more money. The President said last night and the OMB Director wrote us this morning, asking us to oppose this amendment to help the President hold the line on spending. That is what this issue is about.

It is not just about \$9 billion that our colleagues want to spend and the President doesn't want to spend. It is also about \$25 billion more spending now that won't count until next year. And then there is the whole issue about this delayed obligation where you can play these games when you start a program.

It is true that the amendment before us has some support, but when I look at the President's position and when I look at the position before us, if our colleagues had offered the President's number without this delayed obligation and without the \$25 billion of spending that doesn't count until next year, I would have voted for it. I would have been a cosponsor of it. But it

spends \$9 billion more than the President wants. He is pretty adamant about it. It opens up a floodgate for advanced appropriations where we spend it now so that when next year comes we say, we can't possibly hold the line on spending because we have already committed to spend part of it. Only Government could get away with that. No person in the real world could possibly get away with that.

The issue before us is, Are you with the man, or are you against the man? The President asked us to hold the line on spending. He asked us to enforce his budget. Now are we going to go on record and say: Thank you, Mr. President, we appreciate your letting us know what you think, but we are going to raise spending \$9 billion above what you want whether you like it or not? That is not part of any budget. It is part of a 2-year deal where we increase spending, but it really boils down to that.

I raised a point of order. So the question is, Are there 60 Members of the Senate willing to say to the President: We are going to basically commit ourselves and condone \$9 billion of spending you didn't ask for? Or are we going to stand with the President.

I urge my colleagues, this is a good day to start fiscal responsibility. This is a good day to start saying no to business as usual in Washington, DC.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Republican leader.

Mr. LOTT. Parliamentary inquiry: Do we have an agreement to get the vote at 3 on this issue?

The PRESIDING OFFICER. Three is correct.

Mr. LOTT. How much time remains on each side?

The PRESIDING OFFICER. Three and a half minutes controlled by the Senator from Texas; 21 seconds controlled by the Senator from Wisconsin.

Mr. LOTT. Mr. President, I yield myself some time out of my leader time to comment on this issue.

First, this situation has been caused by the fact that we don't have a budget resolution. I think that is very unfortunate. Ordinarily, we try to get a budget resolution by April 15 or as soon thereafter as possible. Usually we get one done by May. Here we are in June. We have not heard anything about when it might come up. Apparently it never will. That presents us problems in terms of what is the aggregate cap, what are the enforcement mechanisms that we are going to use to try to control spending, keep it within some reasonable amount.

I also recognize without these caps, some orderly disposition to the subcommittees, it is going to be very difficult to hold the line when these various appropriations bills come to the floor.

I don't know when that might be. We need to get going on the appropriations bills. Usually in June we do anywhere

between two and five appropriations bills. Then in July we usually do anywhere between, I guess, five and as many as nine. Right now I see none anywhere in sight. We have done a supplemental after a very difficult time. It is not clear when we will get going on appropriations.

I believe the House is going to pass the Defense appropriations bill and then the military construction appropriations bill before the Fourth of July recess. So that will begin the process. That is good.

I think to do this number and this procedure on this bill at this time is a mistake. First, this is the Defense authorization bill. You need some vehicle on which to put this. If not here, then where, somebody might ask. But now that this door is open, we are being advised that we are going to have all kinds of nongermane amendments on the Defense authorization bill. I had been pleading with Senator DASCHLE to call this issue up. And to his credit, he did. He could have gone to other issues, but he did the right thing and moved to Defense authorization.

Now we will be off on a discussion of taxes and Mexican trucks and perhaps an abortion amendment. I am hearing all kinds of things. At some point we will have to get back to Defense authorization itself. That is point No. 1. I believe this is the wrong place to do it.

Secondly, while the mechanisms have been improved—there is a firewall in here now, and also some clarification with regard to advanced appropriations—the number, 768, is still a problem. That is about \$9 billion above the President's request. Some people maintain—and I am sure it has been maintained—we are going to have to have more than what was asked for in the original budget as we try to move to a conclusion this year. Somebody even said: "You are fighting over twosies and threesies here." It is \$2 billion here, or \$3 billion for the supplemental, and \$9 billion there. Pretty soon, all those billions add up to real money.

So while I understand what we are trying to accomplish, I am concerned about how we go forward from here. I think the number is still too high. I think this is the wrong bill on which to be putting this. It is similar to the debt ceiling. If we are going to do this, probably we need to do it clean. That won't be easy. But a lot of people were shocked that we were able to move the debt ceiling the way we did in a bipartisan vote; 15 or so Democrats voted with most of the Republicans. We didn't do a budget resolution, and I think that is a travesty, but we are going to have to come to some agreement on how we proceed and how we get to a conclusion at the end of this fiscal year.

My urgent plea is that we look for a number that is closer to what the President and his advisers have indicated they could accept.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. How much time remains?

The PRESIDING OFFICER. The Senator from Wisconsin controls 21 seconds.

Mr. FEINGOLD. I yield that remaining time to the Senator from North Dakota.

Mr. CONRAD. Mr. President, we cannot very well have it both ways. You can't, on the one hand, decry not having budget discipline and a budget, and, on the other hand, oppose those very provisions. That is what this vote is about. It is a budget and it is budget discipline provisions. They are critically needed. I hope colleagues will support it.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I believe my colleague is right on one point. You can't have it both ways. You can't say I am for fiscal restraint and then say we are going to make the President take \$9 billion he doesn't want.

I think this boils down to a question, Are you with the President or are you against him? The President asked us to hold the line on spending. I am with the President, and therefore I am going to vote against waiving the budget point of order. I urge my colleagues to do the same.

The PRESIDING OFFICER. The question is on agreeing to the motion. The Senator from Wisconsin.

Mr. FEINGOLD. 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 legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—59

Akaka	Domenici	Lincoln
Baucus	Dorgan	McCain
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Gregg	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Shelby
Clinton	Kennedy	Snowe
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Landrieu	Torricelli
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—40

Allard	Bond	Burns
Allen	Brownback	Campbell
Bennett	Bunning	Cochran

Craig	Hutchinson	Sessions
Crapo	Hutchison	Smith (NH)
DeWine	Inhofe	Smith (OR)
Ensign	Kyl	Specter
Enzi	Lott	Thomas
Fitzgerald	Lugar	Thompson
Frist	McConnell	Thurmond
Gramm	Murkowski	Voinovich
Grassley	Nickles	Warner
Hagel	Roberts	
Hatch	Santorum	

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. GRAMM. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMENICI. I ask to speak for 1 minute.

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

Mr. DOMENICI. I worked very hard this afternoon and today for what I thought was the right approach. I am back on board, and I will do everything I can to see that we keep some process and there is some order for the remainder of the year in getting our work done.

I thank you very much.

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. BYRD. 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. BYRD. Mr. President, has the Pastore rule run its course?

The PRESIDING OFFICER. Yes, it has.

Mr. BYRD. Mr. President, I speak out of order.

The PRESIDING OFFICER. The Senator from West Virginia.

(The remarks of Senator BYRD are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, there are a number of people who want to speak on matters not related to the Defense bill at this time. I think it would be appropriate—I have spoken to the Republicans—to go into a period of morning business. It is my understanding that the Senator from Illinois wishes to speak for 10 minutes, the Senator from North Dakota for 10 minutes, and the Senator from Maine for 10 minutes.

Why don't we go into a period of morning business for 40 minutes with 20 minutes on this side and 20 minutes on their side, with the Senator from Illinois recognized first?

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

Mr. REID. Mr. President, I ask unanimous consent to modify my request, and that I be recognized following the 40 minutes.

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

The Senator from Illinois is recognized.

AMTRAK

Mr. DURBIN. Mr. President, I take the floor to alert my colleagues in the Senate and those who are following this debate that at a hearing this afternoon before the Transportation Subcommittee—

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend.

The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I am glad my colleague, the Senator from West Virginia, is in the Chamber because he attended this hearing. He may not have been present when the questions came. We asked the administrator of Amtrak what was ahead in the days to follow. At this moment in time, Amtrak needs \$200 million interim financing to continue operations across America. Mr. Gunn, who testified before Chairman PATTY MURRAY's Transportation Subcommittee, alerted us this afternoon that unless the interim financing of \$200 million is secured by Wednesday of next week, Amtrak will cease all operations—all operations—not scaled back but cease all operations.

Mr. Gunn explained it was necessary in order for them to park the trains, take the precautions necessary to guard them, and to prepare for the ultimate shutdown, which could begin as early as the middle of next week.

We then asked Mr. Rutter, who is the head of the Federal Railroad Administration, what was the status of the Amtrak request for \$200 million. He alerted us that they were in the process of evaluating it, and he believed they would be able to get back to Amtrak with the answer early next week.

If you will do the math, you will understand we are talking about 24 to 48 hours separating the decision by the Bush administration on interim financing for Amtrak and the suspension of all Amtrak service across the United States.

I said to Mr. Gunn that I believed we had a moral obligation to notify Governors across the United States with Amtrak service of this looming transportation disaster. Let me say for many of us who believe in Amtrak and national passenger rail service that it is absolutely disgraceful that we have reached this point.

At some point, this administration should have stepped forward to work with Congress to make certain that Amtrak service was not in jeopardy. Now we face the very real possibility of a disastrous transportation situation as early as next week.

We heard this morning from Secretary of Transportation Norm Mineta, a speech he gave to the Chamber of Commerce about his vision of the future of Amtrak. It is a vision which is not new. It is the same vision that Margaret Thatcher had in England when she took a look at British rail service and decided to privatize it, to separate it, and to try to take a different route. It turned out to be a complete failure—not only a failure in the terms of the reliability of service but a failure in terms of safety.

The administration's proposal on Amtrak is a disaster waiting to happen. It is literally a train wreck when it comes to the future of national passenger rail service.

If you believe, as I do, that our Nation should seek energy security, that we should try to find modes of transportation to reduce pollution and traffic congestion, which is getting progressively worse and we can't ignore it, then we cannot and should not walk away from Amtrak.

This administration's position at this point is going to create a crisis in transportation. We need to maintain not only the very best highways and the safest airports in America, but we need national passenger rail service. We need leadership in the White House and at Amtrak with a vision of how to turn that rail service in the 21st century into something that we can point to with pride and effectiveness.

We don't have that today. Mr. Gunn has been drawn out of retirement and has been heading Amtrak for just a few weeks. This didn't occur on his watch. He is a competent administrator who wants the resources to make Amtrak work. Instead, what this administration has given him is a doomsday scenario where literally Amtrak service

could be terminated across America next week. What it means for the Northeast corridor is probably a dramatic change in terms of the way the families and businesses would have to operate. What it means in my home State of Illinois is that thousands of passengers and thousands of employees will have their future and their transportation in jeopardy. It didn't have to reach this point, but it has.

I sincerely hope my colleagues will join me in urging the Bush White House to respond tomorrow—not next week but tomorrow—favorably for financing of Amtrak so we can tell the Governors across America that this emergency is not going to happen.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2662 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that I may proceed as in morning business for not to exceed 6 minutes.

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, of course, but I think there was a unanimous consent agreement previously that had me following the Senator from Maine with 10 minutes. If I might inquire about the timing here.

Is the Senator from Michigan going to speak after the Senator from Virginia?

Mr. WARNER. Mr. President, I am a cosponsor with the Senator from Maine on this legislation. I can reduce my time to 3 minutes.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Virginia be given 6 minutes, if this is all right with Senator DORGAN, and then Senator DORGAN be recognized to proceed as in morning business.

Mr. DORGAN. Yes, I think by previous unanimous consent.

Mr. LEVIN. For 10 minutes, as in morning business.

Mr. DORGAN. I certainly would not object to the Senator from Virginia being recognized if I am recognized as previously agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. I thank my good friend for his usual and customary senatorial courtesy.

(The remarks of Mr. WARNER pertaining to the introduction of S. 2662 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the two leaders are going to confer in a few minutes. How much longer is the order in effect to have morning business?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. REID. From this point?

The PRESIDING OFFICER. Yes.

Mr. REID. That should be ample time. The two leaders should be back by then. The two managers of the bill will have an announcement at 20 till, 25 till.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I follow the Senator from North Dakota in morning business.

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

The Senator from North Dakota.

AMTRAK

Mr. DOGRAN. Mr. President, my colleague from Illinois, Senator DURBIN, a moment ago spoke of the dilemma now faced by Amtrak, the company that provides rail passenger service.

The Secretary of Transportation earlier today provided a glimpse into his and the administration's view of what to do about Amtrak. It is clearly devastating, if you believe that we ought to have rail passenger service.

I confess, I like trains. I grew up in a small town where a train called the Galloping Goose used to come through. We gathered to watch the train come through our little town. I like trains. This isn't about being nostalgic or liking trains. It is about whether you think our country should have rail passenger service. The testimony this morning by Mr. Gunn was that by mid next week, unless the financing is made available, Amtrak will shut down. By mid next week, we will have no rail passenger service because it will shut down, unless the Department of Transportation and the other relevant agencies get together on the financing package necessary.

It is important that we have rail passenger service. Aside from the urgent circumstances that face us next week, the other question is this: What will the long-term plan be for an Amtrak rail passenger system that works?

The Secretary of Transportation said today that this is his plan: Let's take the Northeast corridor and cut it off and sort of semiprivatize it and sell it—I am not quite sure to whom—and then we will let the rest of the system work on its own. That is a quick, effective way to kill Amtrak. Yes, there will be Amtrak service from Boston to Washington; that will continue. And the rest of the Amtrak rail passenger service will die. Just as certainly as I am standing here, we will see the collapse of rail passenger service in the rest of the country.

Last year, over 80,000 people boarded Amtrak in North Dakota. Anybody who wonders is Amtrak important, ask yourself what happened on September 11 following the devastating attacks by terrorists. Every single commercial airplane, every private airplane was

forced to land. They had to find an airport and land and stop that airplane. But Amtrak kept moving across the country, hauling people back and forth across the country. Rail service is an important part of this country's transportation system. It is that simple.

To come up with a plan that says, by the way, what we will do is cut off the Northeast corridor, which is the most lucrative part of the system, and separate it from the rest of the country, is a way of saying, let's kill Amtrak in most of America.

Talk about a thoughtless public policy proposal. This is it.

This Congress has some work to do. This administration needs to address next week. Mr. Gunn says that Amtrak is going to shut down. The President of Amtrak says he is going to shut down midweek unless the Department of Transportation and others get their act together and provide the interim financing necessary. They have an application filed.

One of my colleagues asked the people when they will act on that application. Answer: Maybe next week.

It ought to be now. This is not exactly a surprise. This problem with Amtrak has been lingering for a long time, and this Congress seems incapable, unwilling, or unable to make decisions that will put this rail passenger system on a sound financial footing. Some of my colleagues believe we just should kill Amtrak; let it die. What they forget is that we subsidize every other form of transportation. You name it, we subsidize it.

They say: But we don't want to have a rail passenger service that is subsidized. Everyone has the right to their opinion. But I think this country is well served, strengthened, and we are improved by having a national system of rail passenger service. No, it does not go everywhere. It does not connect every city to every other city. But it is a national system that connects the Northeast corridor to routes throughout our country in a way that is advantageous to millions of Americans.

This Congress and this administration have to wake up, and they have to wake up now. If we don't, and if they don't, we could find mid next week a country in which all rail passenger service is gone. If we don't, and if they don't, we could find beyond that, if they find the interim financing for next week, we could find a rail passenger system in which we have this crazy scheme of cutting off the Northeast corridor, creating some sort of quasi-private or quasi-public system with that, and saying the most lucrative portion of Amtrak shall not be available to assist in offsetting other revenues from other parts of the system. And we will inevitably create an Amtrak system that dies everywhere in the country except for the Northeast corridor. That is not a vision that is good for our country.

This is not the kind of issue that ought to hang up the Congress. It is

not complicated. We deal with a lot of complicated issues. This is not one of them. It is very simply a question to this administration that has been sitting on its hands for a long time on this issue. It ought to stop. It ought to take some action. And this Congress ought to take action for the long term.

The question is this: Do you believe in rail passenger service or not? Do you believe this country is strengthened by having a national system of rail passenger service? If you believe it is not and you don't like rail passenger service and you want to kill Amtrak, just go ahead and do it, if you have the votes.

But what is happening is inaction, both by the administration and inaction by Congress, which is slowly but surely strangling the life out of this system called Amtrak.

It makes no sense to me. Let's make a decision.

I count myself on the "aye" side. I say aye when you call the roll to ask do we want to support Amtrak; do we want to have a national rail passenger system in our future. The answer is clearly yes. I hope my colleagues will agree. I hope we can all agree to stop all of the foot dragging going on on this important question.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

PRESCRIPTION DRUGS

Mr. WELLSTONE. Mr. President, there was an interesting piece in the Washington Post this morning, a senior aide to Republicans on the House side saying we want to—something to the effect of—write a prescription drug plan that basically is what the pharmaceutical industry wants.

I look at the House bill, and I report to the Senate that is exactly what we have: A bill that is made for the industry. The White House has no plan. They are talking about a discount comparable to going to the movie and you get a dollar or two off the ticket, but it has nothing to do with whether or not we will have prescription drugs that will be affordable.

The House Republicans have said low-income people earning roughly under \$11,000 are not going to have to pay anything. But when you look at the fine print, that's not true. If you have burial expenses worth \$1,500 or more, if you have a car that is worth more than \$4,500, then all of a sudden you might not be eligible for the protections for the low-income. That is stingy.

Then the thing that people are worried about is the catastrophic expenses. We must have a prescription drug plan that really responds to what we are hearing from all of our constituents: "Senator you must keep the premiums low; you have to keep the deductibles and the copays affordable; and you have to cover catastrophic expenses"—that is what people are terrified of, big expenses they can't afford.

What this Republican plan says is: We will provide a little coverage, up to \$2,000. But between \$2,000 and \$3,800 we won't cover anything.

That is nonsensical. It certainly is not a step forward for Minnesotans; it is a huge leap backwards.

I also want to mention to colleagues that the Republicans basically don't want to have a plan built into Medicare.

Now, I say to the Presiding Officer, the Senator from South Dakota, you can appreciate this with a smile. The Republicans don't want to have anything built into Medicare because they are scared that it might put restrictions on drug companies' price gouging. That is what Republicans are scared of. As a result, they say: We are going to farm it out to Medicare HMOs and to private insurance plans. But the private insurance plans are saying: We are not going to do this because the only people who will buy the prescription drug only plans are the ones who need it, and we need some people in the plan who don't need it; otherwise, we cannot make any money on it; it won't work.

Then they say the monthly premiums will be \$35 and the deductibles will be \$250. It turns out that this is not the case. Those numbers are merely suggestions. It could be that the deductible in one part of my state is \$250, and \$500 in another part of Minnesota, and \$750 in some other state.

I want to say on the floor of the Senate that you have these pharmaceutical companies pouring in all this money at the \$30 million fundraising extravaganza last night—\$250,000 a crack, or whatever, that I am reading about. Then you have some of the people saying we are going to basically write something that suits their interest. This is what we are dealing with.

I will keep pushing hard. I know you have to get 60 votes, and I know some people are going to be reluctant about this because we are going to have to take on the prerogatives of drug companies. But I think we ought to do the following: First of all, for low-income people, we ought to say, you are not going to pay anything, because they cannot afford it. Then we should set a 20 percent beneficiary copay. I would rather see us do that. Then we should set a catastrophic cap at \$2,000 a year; after that, you don't have to pay anymore of the cost of your prescription drugs. That is good catastrophic coverage. That makes sense.

How is it affordable? In two ways. First: Prescription drug reimportation from Canada, with strict FDA safety guidelines. There is no reason that Minnesotans, and people all over the United States, should not be able to reimport prescription drugs that were made in the U.S. back to the U.S. Pharmacists could do it, and families could too and get a 30-, 40-, 50-percent discount. There is no reason to vote no—except the pharmaceutical companies don't want it.

Second: and the Chair is interested in this as well—there is no reason the Federal Government's Department of Health and Human Services cannot represent senior citizens to become a bargaining agent and say: We represent 40 million Americans, and we want the best buy. We want a commitment from the industry to reduce the prices. Give us the best buy. Charge us what you charge other countries, charge us what you charge veterans, charge us what you charge Medicaid. We can get huge reductions in costs and huge savings.

Mr. President, I have been talking about a book and Tom Wicker wrote it—it's fictional, but based on the life of Senator Estes Kefauver and the way the pharmaceutical industry did him in. The companies have become too greedy, arrogant, and people in this country have had it, and it is time for us to make it crystal clear that this Capitol and this political process belong to the people of South Dakota and Minnesota, not these pharmaceutical companies.

The House plan is not a great step forward. It is a great leap backward. We are going to have a big debate on the floor in July. I cannot wait for it. I think a lot of these positions we take are going to be real clear in terms of whom exactly do we represent, the pharmaceutical industry or the people in our States.

I thank the Chair. 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.

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

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

MARRIAGE TAX PENALTY

Mrs. HUTCHISON. Mr. President, I want to talk about an amendment I am intending to propose to the armed services bill, although I understand there may be an agreement that everyone will oppose amendments that are not considered germane.

I want to talk about the amendment because I think it is very important. We now have the House making permanent the marriage tax penalty relief. We passed marriage tax penalty relief last year in our Tax Relief Act, and it was signed by the President. It would begin the process of giving marriage tax penalty relief to the 40 million couples in our country who now suffer from a marriage penalty. In fact, it is 21 million couples across the country—over 40 million people—who are taxed simply because they are married.

The Treasury Department estimates that 48 percent of married couples pay this additional tax. According to a study by the Congressional Budget Office, the average penalty paid is \$1,400. Fortunately, last year we took a step in the right direction. We are in the

process of a repeal of the marriage tax penalty, with a full repeal to occur in 2009. It does this by equalizing the size of the standard deduction. So if you are single and you have the standard deduction and you get married, that will just be double rather than about two-thirds of the total, as it is today.

We also increase the width of the 15-percent bracket, so that if two people in the 15-percent bracket get married or if two people in the 28-percent bracket get married, the 15-percent tax bracket will be doubled, so that you will at least have an equalization in the first tax bracket. Unfortunately, that will sunset in 2011.

Last week, the House passed a permanent repeal of the marriage tax penalty. Now it is the Senate's turn. Senator BROWNBACK, Senator GRAMM, and I would like to make the marriage tax penalty repeal permanent, just so that married couples will know what to expect not only from now until 2009 or 2011 but beyond, to eliminate forever this kind of penalty, with the standard deduction—at least in the 15-percent bracket.

Now I want to talk about how this affects military families. There are more than 725,000 members of the military who are married. That represents more than half of the Armed Forces. Of these, 79,000 are married to another member of the military. So these 40,000 "military couples" represent almost 6 percent of the Armed Forces.

Consider the effect of the marriage tax penalty on two people who risk their lives every day to protect us. I will show this chart because I think it is very important. A lance corporal and a private first class in the Marine Corps will pay \$218 more in taxes if they marry today. An important provision of the authorization bill we are debating is military pay raises. The same lance corporal and private first class will receive a 4-percent pay raise, according to the authorization bill we are debating today. But the marriage penalty would take back 16 percent of that increase. So of the \$218, 16 percent is going to go in marriage penalty taxes.

If a technical sergeant and a master sergeant in the Air Force get married, they will pay a penalty of \$604. That eats up 17 percent of the pay raise we are debating today. Two Army warrant officers would pay \$852 more to Uncle Sam, or 25 percent of their pay raise.

Two Navy lieutenants who marry would pay more than \$1,500 in additional taxes annually, giving up 34 percent of their pay raise.

We are trying to make life better for those in our military. To give them a pay raise with this hand and on the other hand penalize 79,000 of the people who are already sacrificing to be married to someone else in the military, possibly having to be in a separate part of the world from that spouse, to ask them to endure a marriage tax penalty that would take away as much as 34 percent of the pay raise we are giving them to make their lives better be-

cause they are out there in the field protecting our freedom, which does not make sense to me.

That is why I had hoped I would be able to offer this amendment. However, it is my understanding there are now talks about taking away any non-germane amendments from this bill. I do not disagree that we want to pass the armed services bill, that we want to make sure the bill goes through. I certainly applaud that. I do, however, think that eliminating the marriage tax penalty would be a huge help for our military, particularly since we are giving them the pay raises with this bill that we hope will make life better for them.

I know there are a lot of negotiations ongoing. I hope at some point we will be able to eliminate the marriage tax penalty not only for the 40 million people who are now paying, but for our military personnel especially. We are trying to give them this better quality of life to tell them how much we respect and appreciate the job they are doing for our country.

I would like to offer this amendment. I think I am going to be kept from doing that, but I want an up-or-down vote on making the marriage tax penalty permanent so that people will not have to wonder if the year 2011 is going to give them another big marriage tax penalty.

We have spoken in Congress; the President has signed the tax relief bill. It is essential we go forward and make these tax cuts permanent so people can make plans. Whether it is the death tax, whether it is the bracket tax cuts, whether it is the adoption tax credit, whether it is marriage tax penalty relief—we had a balanced package of tax relief for all the people who pay taxes in our country.

At a time such as this, with our economy teetering—and certainly if anyone is watching the stock market and corporations and the whole skittishness of our economy, they should see that we need some stability—we need the ability to free up consumer spending by taking the money out of the Government coffers, where hard-working people are putting it, and let them keep more of the money they earn in their pocketbooks.

I hope very much I can offer this amendment—if not on this bill, certainly on a bill we will be able to pass this year. There is no reason not to make the tax cuts we have already made permanent so people know how much they are going to have to pay the Government from their hard-earned dollars. So many people are losing their jobs; so many people are having a hard time making ends meet today. I certainly want to make sure our armed services bill passes. I do not want to load it with extraneous amendments. I do not think this is extraneous. I think being able to give them pay raises they can keep is certainly something we should do for our military, but to take away 34 percent of the pay raise we are

giving them in a marriage tax penalty does not make sense to me.

I certainly hope I will be able to offer this at the appropriate time. I want to make sure we are doing everything we can for the Armed Forces of our country. I hope the distinguished majority leader will allow making permanent the marriage tax penalty bill a priority for this session of Congress.

I thank the Chair. I yield the floor.

Mr. LEVIN. 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.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

Mr. DASCHLE. Mr. President, over the course of the last hour or so, I have had a number of conversations with the distinguished Republican leader and the chairman and ranking member of the Armed Services Committee. We have been discussing how we might proceed on the Defense authorization bill.

I know there are Senators on both sides of the aisle who have amendments they would like to have considered, and they are certainly within their rights to offer these amendments.

My concern is that if we find ourselves in debates on unrelated issues for an extended period of time, there is the real danger that we will not finish our work prior to the time we leave next week. I have already indicated publicly and privately to anyone who is interested in the schedule that we must finish this bill before we leave. That is an absolute necessity. So I do not want any Senator to complain about any misunderstanding they may have. I want to be as clear and unequivocal about that as I can: We will finish this bill before we leave.

As we have discussed how we might ensure that happens, of course one option would be to file cloture. Unfortunately, there are defense-related amendments that may be relevant and may be related to the Defense bill but not technically germane.

I have consulted with the Republican leader, and we have concluded, with the support of the chairman and ranking member—and I thank both of them for their willingness to support this effort—we have concluded that we will move to table or make a point of order against any amendment which is not defense related from here on out in this debate. We do it regretfully because we oftentimes are supportive of some of these amendments on both sides.

I know an amendment was going to be offered on marriage tax penalty, and I know some of my Republican col-

leagues and perhaps Democratic colleagues would be interested in the amendment. There are amendments on this side that I will move to table that I would otherwise support.

We have come to the conclusion that the only way we can complete our work is by taking this action. So I am announcing at this point that from here on out, all amendments that are not related to the Defense bill are amendments that either Senator LOTT or I or our colleagues on the Armed Services Committee, Senators LEVIN and WARNER, will move to table or will file a point of order against.

I want to notify all of our Senators that will restrict significantly the opportunities they have to offer additional amendments, but we intend to follow through, and we hope that sends a clear message. We want to complete our work. While we respect Senators' rights to offer amendments, we need to get this legislation done.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I concur with this agreement, and I will support it. The leadership on both sides of the aisle and the managers of the legislation on both sides of the aisle will support this effort.

There is no more important issue for us to deal with right now than to pass the Defense authorization legislation that is necessary for our military men and women to do their job, including the equipment they need, the pay they need, and the quality of life they need, both here and when they are abroad. So we need this Defense authorization bill.

We have already passed the supplemental appropriations to pay for some of the costs of the war against terror, particularly with regard to our efforts in Afghanistan but other places also. Now this will do the Defense authorization for the next fiscal year.

These bills are never easy. In fact, they are always hard. Year after year, though, under the leadership of Senator WARNER and now with Senator LEVIN, we have done it. We need to do it again. It should be our highest priority.

I have urged that this legislation be moved at a time when we can get it done before the July 4 recess. Senator DASCHLE has called it up in a timely way. Now we see that without this agreement between now and when Senator DASCHLE would probably have to file cloture and then get cloture sometime next week, the amendments that would be brought up on both sides of the aisle would be, more often than not, nongermane to the Defense bill.

Senator DASCHLE is right, one of the first ones right out of the box I am for. I think we ought to make the cuts in the marriage penalty tax permanent, unequivocally. There are young men and women who are married or want to get married and want to know what they can count on. We ought to do that, and I am looking forward to find-

ing a way to vote on that again as I did last year.

Having said that, it is not germane to this bill. There will be other amendments that can be offered on both sides of the aisle that are not germane. They may be good and we need to consider them, and maybe we can find a way to consider them, but we have important work to do. It is not as if this Defense authorization bill does not have more amendments that will need to be considered. There are a couple of big ones that I know of, maybe more than a couple—I would say more like five or six. So we have our work cut out for us to finish this bill on its substance, on relevant amendments, in order to finish this work in a reasonable time on Thursday and hopefully in such a way that we could get an agreement to proceed on the Yucca Mountain issue.

I know Senator REID would just as soon I talked all day and not said that, but we have work to do and then we have work to do after that.

I support this effort. I think it is the right thing. I thank Senator WARNER for going to Senator LEVIN. They talked about this and then came to us and suggested this was the right thing to do, and I certainly concur. I commend them for being willing to take that stand.

By the way, this is good precedent. We might want to consider managers doing this on other bills when they are basically attacked by nongermane amendments to the underlying bills. If the manager will stand up on both sides of the aisle and say we are going to table this or we are going to make a point of order because it does not relate to this very important issue we are considering, we can move our legislation a lot quicker. There are culprits on both sides, and sometimes I am one of them, but in this case it is the right thing to do and maybe it will set a pattern for us for the rest of the year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I do not wish to precede my chairman, but I want to make sure I say this while both leaders are on the floor. The distinguished majority leader talked in terms of relevancy; the minority leader spoke in terms of germaneness. My understanding is that the standard is relevancy to be decided by the chairman and the ranking member in this case, and we will exercise that fairly but very firmly. We are committed. When I approached the chairman with this proposition, I said I will move to table on our side, he will move to table on his side or make points of order, as the case may be.

The distinguished Republican whip participated in the conversations, and I judge that what I am saying is consistent with all who are listening at this time.

Mr. NICKLES. Absolutely.

Mr. WARNER. I thank the leadership. This goes back to the days when

I was privileged to be in the Senate with Senator Stennis, who will always be the person who started me on this course of action; that is the way he worked. That is the way John Tower, Barry Goldwater, Scoop Jackson, and those who preceded us worked when it came to the issues of national defense. They managed those bills with great skill, and less dependence, of course, on cloture. I hope this will be the direction in which we will move.

Mr. LOTT. Will the Senator yield for two points?

Mr. WARNER. Yes.

Mr. LOTT. I think Senator DASCHLE was very careful to say this would not apply to the Defense authorization relevant amendments. There are some that could be offered that they might prefer they not be offered, but they would relate to military hospitals, for instance, as opposed to germane ones, which would clearly be eliminated by a cloture vote. Several of the amendments that have been pending or are being considered, or suggested would be offered, clearly were not relevant or germane.

The other thing is, I really was impressed when the Senator referred to a fellow Mississippian, John Stennis, whom I had the honor of succeeding.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank our leaders. It is a very difficult and challenging job to be leaders in this instance. They have proven so many times over the years and proven it again this afternoon the importance of taking a very difficult step, but it is a necessary step if we are going to get the bill passed.

I heard Senator WARNER with his commitment, and I join him in making that commitment that we will move to table or otherwise make a point of order against amendments which are not relevant to this Defense bill. It is a better approach than a cloture approach because at least relevant amendments which are not technically germane but are relevant to defense will be offered and will not be tabled because of any agreement between us.

I also thank our whips. Senator REID, as always, is right there helping to make the wheels move and to grease those wheels, as well as Senator NICKLES. I thank the two of them, but again thank our two leaders for taking this very difficult step and committing to either table or make a point of order against amendments which they may very strongly support. That will go for Senator WARNER and myself. I know of a bunch of them already that I very strongly support but because of the need to get this bill passed I will be constrained to move to table or make a point of order.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I thank my colleagues for their comments and their support for this agreement. The Senator from Virginia made

a constructive suggestion that the two of them be the determinants of relevance, and I think that is a very appropriate way to proceed. We will have our managers make that decision, and I will stand behind the decision our managers make on these amendments.

Given that understanding, let me say it is our understanding Senator MURRAY's amendment having to do with military hospitals will be offered shortly. I would not expect that the debate on the amendment would be completed tonight, but I would expect that the vote would be sometime tomorrow morning. I do not want that amendment to be all we do for the remainder of the week. So hopefully we can dispose of the amendment either tonight or tomorrow. We will consult with her on how much time may be required. We have debated this before. We have had votes on this on many occasions. So it would be my hope that we would not have to debate it at length, but we will return to the floor to make some announcement about the remainder of the evening and a vote on the Murray amendment either tonight or tomorrow morning.

Given the fact that it is late in the afternoon, I would not be surprised if we would have to wait until tomorrow morning, but there may be hope we can complete it within a couple of hours. So we will consult with colleagues on both sides of the aisle with regard to the Murray amendment.

Senators may lay their amendments down. We will see if we can get a unanimous consent agreement on the Murray amendment. If there is the possibility of reaching agreement on time on the amendment, that vote will still occur tonight.

I yield the floor, 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.

Mrs. MURRAY. 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. 3927

Mrs. MURRAY. Mr. President, I am hoping we will have an agreement and I will be able to offer my amendment shortly, so we can have a time agreement tonight and hopefully move to a vote on this quickly.

To save time, I will now begin a discussion of the amendment I will offer. I hope to shortly send an amendment to the desk on behalf of myself, Senator SNOWE, Senator MIKULSKI, and Senator BOXER.

Every day since the attacks of September 11, the men and women of our Armed Forces have been working overtime—often in hostile, dangerous environments—to protect our citizens and to secure the freedoms and values that we cherish.

This Department of Defense authorization bill will ensure they have the

equipment and resources they need to protect us.

Surprisingly, as the women of our military fight for our freedoms overseas, they are actually denied some of those freedoms during their service. Here at home, women have the right to choose. They have constitutionally protected access to safe and legal reproductive health services. But that is not the case for military women serving overseas.

So I will this evening offer an amendment to ensure that military personnel serving overseas have access to safe and legal abortion services. As many of you know, I have offered this amendment for the past several years, and I continue to urge my colleagues to support these efforts.

Under current restrictions, women who have volunteered to serve their country—and female military dependents—are not allowed to exercise their legally guaranteed right to choose—simply because they are serving overseas. These women are committed to protecting our rights as free citizens, yet they are denied one of the most basic rights afforded all women in this country.

This amendment does not—and let me stress does not—require any direct Federal funding of abortion related services. My amendment would require these women to pay for any costs associated with an abortion in a military facility.

In addition, this amendment does not—and again let me stress does not—compel a medical provider to perform abortions. All branches of the military allow medical personnel who have moral, religious or ethical objections to abortion not to participate. This amendment would not change or alter conscience clauses for military medical personnel.

This is an important women's health amendment.

Women should be able to depend on their base hospital and military health care providers to meet all of their health care needs. To single out abortion-related services could jeopardize a women's health.

Opponents of this amendment will argue that the military does now ensure access for women. But under current practices, a woman who requires abortion related services can seek the approval of her commanding officer for transport back to the United States. Once in the United States, she can seek these services at her own expense, but she is not afforded medical leave.

In addition to the serious risk posed by delaying an abortion, this policy compromises a woman's privacy rights by forcing her to release her medical condition and needs to her superiors. She must seek and receive the approval of her commanding officer with no guarantee that this information will be kept confidential.

This policy also forces women to seek abortions outside of the military establishment in foreign countries. Many

women have little or no understanding of the laws or restrictions in the host country and may have significant language and cultural barriers as well.

In this country, we take for granted the safety of our health care services. When we seek care in a doctor's office or clinic, we assume that all safety and health standards are adhered to. Unfortunately, this is not the case in many countries.

From 1995 until 2000, the previous administration and former Secretary of Defense Cohen supported this amendment. They argued it was an important protection for military personnel and dependents. They did not assume there would be any difficulty carrying out this requirement. They were confident that the Defense Department would be able to determine the cost of these services as well as ensure the availability of providers.

The Department of Defense has been on record in the past in support of this amendment by stating that it was unfair for female service members serving in overseas location to be denied their constitutional right to the full range of reproductive health care. Despite the support of the previous administration, opponents still argued that allowing privately funded abortions in overseas military facilities was somehow beyond the abilities of the Department.

Opponents have argued that there is no way to determine the costs of these services, despite the fact that private hospitals must determine per-unit costs of per-procedure costs, every single day. Opponents also argued that the military might have to contract for these services and assume liability for these contractors. This is no different from what the Department does for all military personnel. If a neurosurgeon or highly trained specialist is required to meet the needs of our military personnel, the Department can and does contract for these services and of course insures the quality of these services by assuming the liability.

I remind my colleagues that prior to 1988, the Department of Defense did allow privately funded abortions at overseas military facilities. Clearly, it can be done. I should also point out that it must be done today in certain circumstances.

Under current law, the Department allows for privately funded abortions in the case of rape or incest. It also may pay for abortions in case of life endangerment.

For our opponents to argue that the Department cannot handle or does not want to be responsible for providing privately funded abortions at overseas military facilities, is to argue that the Department cannot protect military personnel and dependents who have been raped, who are a victim of incest, or whose life is endangered.

Is this what we are saying to the estimated 100,000 women who live on military bases overseas?

Regardless of one's view on abortion, it is simply wrong to place women at

risk. Ensuring that women have access to safe, legal, and timely abortion related services is an important health guarantee. It is not a political statement. It is essential that women have access to a full range of reproductive health care services.

This amendment has been supported by: the American College of Obstetricians and Gynecologists, the American Medical Women's Association, Physicians for Reproductive Choice and Health, Planned Parenthood of America, National Family Planning and Reproductive Health Association, and the National Partnership for Women and Families. These organizations support this amendment because of its importance to women's health care.

I would also like to read a letter I recently received from retired General Claudia Kennedy, the Army's first woman three-star general. Before she retired in June 2000, she was the highest ranking female officer of her time. She writes:

DEAR SENATORS SNOWE AND MURRAY: I am writing to express my support of your efforts to amend the National Defense Authorization Act for Fiscal Year 2003 to ensure that servicewomen and military dependents stationed overseas have the ability to obtain abortion services in U.S. military medical facilities using their own, private funds.

The importance of access to abortions for military women has not been discussed in public media very often, since many of the issues that related to non-military women also are a part of the social and medical environment of military women. However, some distinctions do exist, making it imperative that our soldiers have access to safe, confidential abortion services at U.S. military hospitals overseas. Let me just relate an experience of one of my soldiers about 15 years ago.

I was a battalion commander of an intelligence battalion in Augsburg, Germany from 1986 until 1988. One day a non commissioned officer (NCO), who was one of the battalion's senior women, came into my office and asked for permission to take a day off later in the week and to have the same day off for a young soldier in the battalion. She said the soldier was pregnant and wanted an abortion—yet had no way to have an abortion at the U.S. Army medical facility in Augsburg. She had gotten information about a German clinic in another city, and they were going there for the procedure. The soldier did not have enough money to return to the USA for the abortion. Further, she did not want to have to tell her predicament to her chain of command in order to get the time and other assistance to go to the States. I told the NCO to go with her and to let me know when they had returned.

Later the NCO told me that the experience had been both mortifying and painful. . . . no pain killer of any sort was administered for the procedure; the modesty of this soldier and the other women at the clinic had been violated (due to different cultural expectation about nudity); and neither she nor the soldier understood German, and the instructions were given in almost unintelligible English. I believe that they were able to get some follow up care for the soldier at the U.S. Army medical facility. But it was a searing experience for all of us—that in a very vulnerable time, this American who was serving her country overseas could not count on the Army to give her the care she needed.

During that same time frame, and in the early 1990's when I was a brigade commander

of an intelligence brigade in Hawaii, I noticed that there were Army doctors who displayed posters which were extremely disapproving of abortion . . . creating a climate of intimidation for anyone who might want to discuss what is a legal option. Since the doctors are officers and far out-rank enlisted soldiers, and since the soldiers have no way to choose which doctor they see on sick call, it was only with good luck that a young soldier might be seen by someone who would treat her decision with the respect she deserved.

What makes the situation of a soldier different from that of a civilian woman? She is subject to the orders of the officers appointed over her. Every hour of her day belongs to the U.S. Army, and she must have her seniors' permission to leave her place of duty. She makes very low pay and so relies on the help of friends and family to pay for travel for medical care that is not given by the Army.

Of all the reasons we lose soldiers we lose soldiers from their place of duty (for training, injuries, temporary duty elsewhere, and other reasons), pregnancy accounts for only 6% of all reasons for soldier absence. Yet, this feature of women (that they sometimes become pregnant) is offer cited as an attribute that makes them less desirable as soldiers. While I believe that the difficult decision to end a pregnancy should be completely individual, the institution cannot have it both ways: to deny women safe and reasonable access to abortion (in a world in which there is no 100% effective birth control), and at the same time to complain that women are pregnant.

I commend your efforts to remove this irrational and harmful barrier to the health and well-being of our soldiers serving America.

Madam President, I could not have said it better myself. Our female military personnel deserve better than what they are getting. As we send out troops into the war on terrorism to protect our freedoms, we should ensure that female military personnel are not asked to sacrifice their rights and protections as well.

I recognize the urgency in passing the fiscal year 2003 Defense authorization bill. It provides important support for our military personnel and infrastructure.

I thank the chairman and ranking member of the Senate Armed Services Committee for their efforts to move this legislation.

I stand ready to support whatever measures we need to consider to ensure that our military is ready to respond to this new world threat.

I only ask that female military personnel and their dependents be given the support they deserve when serving in overseas military locations.

I yield the floor at this time.

Again, I will offer my amendment as soon as we have a time agreement. Hopefully, that can be very soon because I know we want to vote on this and move on.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, for the information of Members, what we are going to try to do tonight is make sure that everyone who has anything to say about this amendment has the opportunity to speak. Whether you are for it

or against it, come over and tell us how you feel. The majority leader has indicated we will schedule a vote in the morning. We are trying to work that out now with him, but probably around 9:45 in the morning.

Mrs. MURRAY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that there be 60 minutes for debate tonight with respect to the Murray amendment No. 3927, with the time equally divided and controlled in the usual form; that no amendment be in order to the amendment, prior to a vote in relation to the amendment; that when the Senate resumes consideration of the bill on Friday, June 21, following the opening ceremony, the time until 9:45 be equally divided and controlled in the usual form; that at 9:45 a.m., without further intervening action or debate, the Senate vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Madam President, reserving the right to object, I just got a call in of somebody who may want to speak. If we can hold this for a minute, I think we can check it out.

Mr. REID. Why don't we just increase the time to 90 minutes?

Mr. BROWNBACK. I need to check this out, if I can. I will object at this point, but I hope we can get it done quickly.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, we require an awful lot from our service men and women. First of all, we urge them to volunteer to serve in the military. Then, we send them all over the world to serve our Nation's interests. When we ask them to serve in foreign countries, the least we can do is ensure that they receive medical care equal to what they would receive in the United States.

Service women and dependents who are fortunate enough to be stationed in the United States and who make the difficult decision to have an abortion can, at their own expense, get a legal abortion performed by an English speaking doctor in a modern, safe American medical facility.

Military women stationed overseas do not have the same opportunity. They can seek the permission of their commanders to return to the United States to obtain an abortion, or they can seek an abortion in foreign hospitals by foreign doctors, many of whom don't speak English, and who may have different medical standards. These choices are not acceptable.

I can only imagine how difficult it would be for a female officer or enlisted person to have to go to her commander and ask for time off to travel to the United States to get an abortion. This is a very personal and difficult decision even under normal circumstances.

The alternative of seeking an abortion from a host nation doctor, who may or may not be trained to U.S. standards, in a foreign facility, where the staff may not even speak English, is an equally unacceptable alternative. Our servicewomen deserve better.

Our laws recognize the right of women to choose. This amendment would restore the ability of our female service members stationed overseas to exercise their constitutional right to choose safe abortion services at no cost to DOD.

The amendment to be offered does not require the Department of Defense to pay for abortions. All expenses would be paid by those who seek the abortion. The abortions would be performed by American military doctors who volunteer to perform abortions.

Military women should be able to depend on the military for quality health care, no matter where we may ask them to serve their country. This amendment gives service women stationed overseas the same range and quality of medical care available in the United States. We owe them at least that much.

I hope soon there will be a unanimous consent agreement entered into that would allow Senator MURRAY then to offer her amendment on this subject. I hope tomorrow morning we can expect a vote on this amendment and that the Senate will adopt the amendment.

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. REID. Madam 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. Madam President, I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Madam President, I just received a communication from the leadership. May I have another 3 or 4 minutes?

Mr. REID. Of course. 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. REID. Madam 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. Madam President, I ask unanimous consent that there now be a period of 60 minutes for debate with respect to the Murray amendment No. 3927; that the debate be completed tonight; that the time be equally divided and controlled in the usual form; that no amendment be in order to the amendment prior to a vote in relation to the amendment; that on Friday, June 21, when the Senate resumes consideration of the bill at 9:30 a.m., the Senate vote, without any intervening action or debate in relation to that amendment.

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

Mr. REID. Madam President, for the information of all Members, the chairman and ranking member of the committee of jurisdiction of this matter have a very important committee meeting at 9 o'clock tomorrow morning. We asked them if they would allow us to go forward with the vote at 9:45 a.m., and they said they have a very important witness, Secretary Wolfowitz. They agreed to that 15 minutes.

I indicate to the two managers of the bill, we will drag this vote out so they can stay at their meeting until 9:45 a.m. or a little longer. We are not going to stick to our usual iron-fast rule that the votes are completed quickly. This vote might take 30 or 40 minutes.

Mr. WARNER. Madam President, I thank the distinguished leader. Yes, we are having a very important hearing, but I am certain we could determine a point during the course of that hearing and the time normally allowed for the vote for us to adjourn for, say, 10 minutes, so that all of our members could vote and return to the hearing. I am sure the chairman would agree to that.

Mr. REID. We hope everyone will get here as quickly as possible. That being the case and this having been agreed to, there will be no rollcall votes tonight. The majority leader asked me to make that announcement.

Mr. WARNER. The time under our control will be controlled by the distinguished Senator from Kansas.

Mr. REID. And the time on this side will be controlled by the sponsor of the amendment, Senator MURRAY.

AMENDMENT NO. 3927

Mrs. MURRAY. Madam President, I call up amendment No. 3927 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself and Ms. SNOWE, proposes an amendment numbered 3927.

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

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

The amendment is as follows:

(Purpose: To restore a previous policy regarding restrictions on use of Department of Defense facilities)

On page 154, after line 20, insert the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "RESTRICTION ON USE OF FUNDS.—".

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Madam President, I ask the Senator from New Jersey how much time he wants.

Mr. CORZINE. Five minutes at the most.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from New Jersey, and then we will go to the other side.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I rise today in support of the Murray-Snowe amendment to the Department of Defense authorization bill.

As the Senate considers this authorization bill of great importance to our military, one that I support, and I think most Members will, it is critical to guarantee U.S. servicewomen and military dependents access to safe and comprehensive reproductive health care services.

Current law prevents women in the military from using their own money to access abortion services at overseas Department of Defense facilities, except in the cases of life endangerment, rape, or incest.

Frankly, I think it is an outrage that women in the military—who make the ultimate commitment to this country—are in turn denied a freedom protected by the Constitution and afforded all women in this country. It is hard for me to imagine.

This ban discriminates against women and their families by restricting their legally protected right to choose simply because they are stationed overseas.

Surely we do not believe that American citizens who risk their lives in service to this country deserve fewer rights than other Americans enjoy?

Because of the ban on access to abortion services at military base hospitals, women are forced to choose between often-inadequate local health care facilities or sometimes extensive and costly travel. In both cases, the current ban has the effect of severely jeopardizing women's health.

Let there be no exaggeration about the scope of the Murray-Snowe amendment. This is not about federal funding

of abortion. This amendment would simply allow women to use their own private funds to do what they would have the right to do at home, to access services at overseas U.S. military hospitals.

In addition, it will not force providers, doctors or others, to perform abortion services. All three branches of the military already have conscience clauses that will remain intact.

Finally, this amendment respects the laws of host countries.

I urge my colleagues to support our women in the military by supporting this amendment. Surely, women who serve our country have the same rights as those who are here at home in private life. I thank Senators MURRAY and SNOWE for their leadership on the issue. I think it is extremely important that we respect the right of choice.

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

The Senator from Kansas.

Mr. BROWNBACK. I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BROWNBACK. Mr. President, I rise in opposition to the Murray amendment. I think it is regrettable that we would tie up the DOD authorization bill with one of the most contentious issues of our day. Yet that is what is regrettably taking place in this legislation.

On February 10, 1996, the National Defense Authorization Act for Fiscal Year 1996 was signed into law by then-President Clinton with a provision to prevent the Department of Defense medical treatment facilities from being used to perform abortions, except where the life of the mother is endangered or in cases of rape or incest. This provision refers to the Clinton administration policy instituted in January 1993 permitting abortions to be performed at military facilities. From 1988 to 1993, the performance of abortions was not permitted at military hospitals except when the life of the mother was in danger. That had been the longstanding policy.

The Murray amendment, regrettably, which would repeal this culture of life provision, attempts to turn taxpayer-funded Department of Defense medical treatment facilities into, unfortunately, abortion clinics. Fortunately, the Senate has refused to let this issue of abortion adversely affect our armed services and rejected this amendment in the year 2000 by a vote of 51 to 49. We should reject it again this year. It is I think very harmful and wrong that we would hold America's armed services hostage to abortion politics using the coercive power of government to force American taxpayers—that is who pays for these facilities, the American taxpayers—to fund health care facilities where abortions are performed. This would be a horrible precedent and would put many Americans in a very difficult position.

Americans are being asked to use their taxpayer dollars to fund some-

thing that many people find absolutely wrong and completely disagree with, and we are asking people to use taxpayer dollars to fund the Department of Defense medical facilities to do something with which they disagree.

I realize we are terribly divided as a nation on the issue of abortion. That is painfully obvious and has been so for the past 30 years, but here we step into the issue of taxpayer funding, the use of taxpayer-funded facilities for abortions, and that is generally a terrain where most of the public has been quite in agreement we should not use taxpayer dollars.

They may say privately you can go ahead with abortion, other people say no, you should not do that, but generally when you are saying use taxpayer-funded facilities, most people have said we should not go there, we should not use taxpayer-funded facilities for something that many people in the public believe is terribly wrong. That is why I oppose this amendment.

When the 1993 policy permitting abortions in military facilities was first promulgated, military physicians, as well as many nurses and supporting personnel, refused to perform or assist in elective abortions. In response, the administration sought to hire civilians to do these abortions. Indeed, there is a CRS study we have on this topic which said that in the 6 years preceding the 1988 ban—I am reading directly from this CRS report dated June 5, 2000—military hospitals overseas have performed an average of 30 abortions annually. Last spring, though, when the military medical officials surveyed 44 Army, Navy, and Air Force obstetricians and gynecologists stationed in Europe, they found that all but one doctor adamantly refused to perform the procedure. That one holdout, too, quickly switched positions. No military medical personnel willing to perform abortions have stepped forward in the sprawling Pacific theater either.

We can look at that and say there is not access to the service or we can say that the military personnel are just very uncomfortable and they do not want to do this in the medical facilities that are paid for by taxpayer dollars.

Military facilities around the world operate as outposts of the U.S. Government. These are our facilities. They are seen as our facilities. They operate in many countries with differing ideas, with differing faiths, and with differing views on abortion. They do not want to be, as military personnel, having those abortions performed in these facilities operated and controlled by the U.S. Government. They do not want to perform the abortions themselves either.

This amendment would allow doctors to use U.S. Government military personnel to perform a procedure that many countries and many cultures view very negatively and as wrong. I think we should listen to what some of our doctors are saying and, in the military, what some of them are saying by

their actions. Therefore, if the Murray amendment were adopted, not only would taxpayer-funded facilities be used to support abortion on demand, but resources would be used to search for, hire, and transport new personnel simply so abortions could be performed, and this is abortion on demand.

I want to make that clear as well because the current law provides for the use of these facilities for abortions when the life of the mother is endangered or in cases of rape or incest. So we are talking about the issue of abortion on demand.

One argument used by supporters of abortions in military hospitals is that women in countries where abortion is not permitted will have nowhere else to turn to obtain an abortion. However, DOD policy requires military doctors to obey the abortion laws of the countries where they are providing services, so they still cannot perform abortions in those locations if they are in a country that has those laws.

Military treatment centers, which are dedicated to healing and nurturing life, dedicated to a culture of life, should not be forced to facilitate the taking of innocent human life, the child in a womb, abortion on demand, where the life of the mother is not at stake or it is not a case of rape or incest. We already provide for that.

I urge my colleagues to table the Murray amendment and to free America's military from abortion politics. American taxpayers should not be forced to fund the destruction of innocent life when many are deeply affected and believe this is not the sort of thing for which their taxpayer dollars should be used. Enough people are disappointed on some things we spend taxpayer dollars on without going into such a divisive area in our country, using taxpayer-funded facilities to allow abortions to take place.

If passed, this amendment will have a tremendously detrimental impact on this DOD authorization bill, probably effectively killing it if this amendment is included. I therefore urge my colleagues to reject this amendment, for the benefit of the DOD authorization bill and the benefit of the taxpayers who do not view this as the right way to use their facilities, paid for at taxpayer expense, turned over as abortion clinics.

It is a very divisive issue and an issue that is difficult for most Members to discuss. It is an issue on which we all have taken a position. All positions are clear on this topic. I hope we do not hold hostage this very important bill that is needed for this country in the time of this war on terrorism. Do not hold it hostage to such a difficult, divisive issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I see my colleague from Maine, Senator SNOWE, a cosponsor of this amendment, who has worked

diligently with me. I ask how much time she needs.

Ms. SNOWE. As much time as I may consume.

Mrs. MURRAY. I yield to the Senator from Maine as much time as she may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I commend Senator MURRAY for her leadership, once again, on this most important amendment to the Department of Defense authorization. I commend her for her commitment and perseverance on this issue. Ultimately, we will prevail. I hope that will occur on this reauthorization. I am pleased to join my colleague in support of this amendment to repeal the ban on abortions at overseas military hospitals, an amendment whose time has long since come.

Year after year, time after time, debate after debate, we revisit the issue of women's reproductive freedoms by seeking to restrict, limit, and eliminate a woman's right to choose. Think of Yogi Berra: I have the feeling of déjà vu all over again. To that, I add: The more things change, the more they stay the same. Here we are debating the issue again.

The most recent changes ought to truly give Members pause; all the more impetus to ensure that things don't stay the same. We must remember that when we are considering this Defense authorization during a time of war, when Americans, both civilian and military are fighting terrorism all across the globe, both men and women. In fact, more than 34,000 women were serving overseas as of April this year. We have combined, between women in the service and dependents, more than 100,000 abroad. We recognize the impact that the failure to repeal this ban has on so many of these women.

Think of the changes that have occurred since 1973 when the Supreme Court affirmed for the first time a woman's right to choose. That landmark decision was carefully crafted to be both balanced and responsible while holding the rights of women in America paramount in reproductive health decisions.

Importantly, while it has not always been easy, that right stands protected today; that is, unless, you happen to be a female member of the Armed Forces or a female dependent of a military member stationed overseas. How ironic it is that the very people who are fighting to preserve our freedoms, those who are on the front lines defending this war on terrorism or other parts of the globe, are supporting those who are fighting, are currently the least protected in terms of the right to make choices about their own personal health and reproductive decisions.

That is why I stand to join my colleague, Senator MURRAY, once again, in overturning this ban on privately funded abortion services in overseas military hospitals, for military women and dependents based overseas, which was

reinstated in the fiscal year 1996 authorization bill, as we all know. It is a ban without merit or reason that put the reproductive health of these women at risk.

Specifically, as we know, the ban denies the right to choose for female military personnel and dependents. It effectively denies those women who have voluntarily decided to serve our country in the armed services safe and legal medical care simply because they were assigned duty in another country. What kind of reward is that? Why is it that Congress would want to punish those women who so bravely serve our country overseas by denying them the rights that are guaranteed to all Americans under the Constitution?

Our task in this debate is to make sure that all of America's women, including those who serve in our Nation's Armed Forces and military dependents, are guaranteed the fundamental right to choose.

Let's review the history of this issue. First and foremost, I remind my colleagues since 1979 the Federal law has prohibited the use of Federal funds to perform abortions at military hospitals. However, from 1979 to 1988, women could use their own personal funds to pay for the medical care they need.

In 1988, the Reagan administration announced a new policy prohibiting the performance of any abortions at military hospitals even if it was paid for out of a woman's private funds—a policy which truly defies logic.

In January of 1993, President Clinton lifted the ban by Executive order, restoring a woman's right to pay for abortion services with private, non-Defense Department funds.

Then, in 1995, through the very bill we authorize today, the House International Security Committee reinstated this ban which was retained in the conference. That effort kicked off the debate which we are now having today.

Let me reiterate—and it is a point that needs to be made perfectly clear—President Clinton's Executive order did not change existing law prohibiting the use of Federal funds for abortion, and it did not require medical providers to perform those abortions. In fact, all three branches of the military have conscience clauses which permit medical personnel with moral, religious, or ethical objections to abortion not to participate in the procedure. I believe that is a reasonable measure.

With that chronology fresh in everyone's mind, we should state for the record to the opponents of this amendment that the argument that changing current law means that military personnel and military facilities are charged with performing abortions, and that this, in turn, means that American taxpayer funds will be used to subsidize abortions, is wholly and fundamentally incorrect. Every hospital that performs the surgery, every physician that performs any procedure on

any patient must determine the cost of that procedure. That includes the time, the supplies, the materials, the overhead, the insurance, anything that is included in the expense of performing that procedure is included in the cost that is paid by private funds. Public funds are not used for the performance of abortions in this instance. That is an important distinction to reinforce today. I know it is easy to confuse the debate, to obfuscate the issues when, in fact, what we are talking about is a woman using her own private insurance or money in support of that procedure. We are not talking about using Federal funds.

This amendment we are fighting for is to lift the ban on privately funded abortions paid for with a woman's private funds. That is what we need to understand today. That is what this issue is all about. A woman would have the ability to have access to a constitutional right when it comes to her reproductive freedom to use her own funds, her own health insurance, for access to this procedure.

I think when it comes to health care and safety of an American soldier, sailor, airman, marine, or their dependents, our armed services should have no better friend and ally than the Congress. I would argue that is the case in most situations, but obviously there is a different standard when it comes to the health of a woman and her reproductive decisions.

Timing is everything because for those women who are in the military or were military dependents overseas between 1993 and 1996, they were able to have access to abortion services using their own private funds at a military hospital.

If it is true that timing is everything, all those women who served overseas since 1996 have lost everything when it comes to making that most fundamental, personal, difficult decision. I repeat that—it is a very difficult decision. It is a very personal decision. It is a decision that should be made between a woman, her doctor, her family. It is a constitutional right. It is a constitutional right that should extend to women in the military overseas, not just within the boundaries of the United States.

I cannot understand how anyone could rationalize that we could somehow discriminate against our women who are serving in the military because they happen to be abroad. I think it is regrettable because it is shortchanging women in the military and the military depends on women serving. We could not have an all-volunteer force without women serving in the military.

I think it is regrettable that somehow we have demeaned women, in terms of this very difficult decision that they have to make. There has been example upon example given to us, to my colleague Senator MURRAY, about the trying circumstances that this prohibition has placed on women who serve in the military abroad. I do

not think for one moment anybody should minimize or underestimate the emotional, physical hardship that this ban has imposed, a ban that prohibits a woman from using her own private health insurance, her own private funds to make her own constitutional decision when she happens to be in the military serving abroad.

The ban on abortions in military hospitals coerce the women who serve our country into making decisions and choices they would not otherwise make. As one doctor, a physician from Oregon, recalls his days as a Navy doctor stationed in the Philippines, he describes the experiences and hardships that result from this policy. Women have to travel long distances in order to obtain a legal abortion. Travel arrangements were difficult and expensive. In order to take leave, they had to justify taking emergency leave to their commanding officer. Imagine that circumstance. So that everybody knows.

Some women, alternatively, have turned to local illegal abortions. In other circumstances, their dignity was offended and often their health was placed at risk, which was certainly reinforced by the letter that was sent to both Senator MURRAY and me from Lieutenant General Kennedy, who is now retired. She was the highest ranking woman in the military. She talked about the humiliation and the demeaning circumstances in which many women were placed, not to mention putting their health at risk.

I hope we can reconcile the realities of the existing ban by overturning this prohibition in law and granting to women in the military the same constitutional right that is afforded women who live within the boundaries of the United States of America.

I never thought that women should leave their constitutional rights at the proverbial door, but that is what this ban has done. These constitutional rights are not territorial. Women who serve their country should be afforded the same rights that women here in America have.

I think this ban is not consistent with the principles which our Armed Forces are fighting to protect, and which the American people so overwhelmingly support. I hope we move forward, and I hope we would understand that women in the military and their dependents overseas deserve the same rights that women have here in this country. They have and should have the protections of the Constitution, no matter where they live.

I hope the Senate will overturn that ban and will support the amendment offered by Senator MURRAY and myself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 12 minutes 30 seconds.

Mrs. MURRAY. I thank my colleague from Maine for her excellent state-

ment, and I yield to my colleague from North Carolina such time as he should consume.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I thank Senators LEVIN and WARNER for their leadership on this important bill. It is an important bill for the country and we need to move forward on it. It is important work they have done. I also thank my colleague from Washington, Senator MURRAY, for her leadership on this amendment. Women who serve our country in the military should have a right to use their own private money to pay for safe, legal medical care that they themselves choose. I wish to express my strong support for Senator MURRAY's amendment. We appreciate very much her leadership on this issue.

I also want to take a minute to talk about the issue of homeland security. In the last couple of weeks, everybody in Washington has been talking about the administration's plan to reorganize a whole range of Government bureaucracies into a new Department of Homeland Security. Now Congress is rushing to complete this massive reshuffling in just a matter of weeks.

I do not oppose this reorganization effort. In fact, I think it might do some real good in the long run. I applaud the very serious people on both sides of the aisle who are trying to make the plan the best it can possibly be. But I am troubled that Washington is becoming so caught up with reorganization that we are losing sight of our most urgent priorities. Everybody is asking who will report to whom? Who will be in what building? Who will get the corner office?

We are beginning to convince ourselves that by reshuffling the bureaucracy, we are going to solve the real problem—that Government reorganization can win the war on terrorism.

We cannot allow preoccupation with reorganization to distract us from the clear and present danger from terrorists who are in our midst as we speak. Our most urgent priority is simple: to find the terrorists, infiltrate their cells, and stop them, stop them cold. In order to do that, I think we need to address three critical questions directly related to prosecuting the war on terrorism today.

No. 1, are we doing enough, everything in our power, to track al-Qaida, Hezbollah, Hamas, and every other terrorist organization within our own borders? To be more specific, are we doing enough to develop and deploy the human intelligence needed to infiltrate these organizations?

No. 2, does the FBI know foreign intelligence information when they see it? And do they recognize all the uses of that information? For example, if the FBI acquires foreign intelligence information in the course of a criminal investigation, do they see the importance of that information, not just for their criminal prosecution but also in

the ongoing effort to disrupt terrorists in their activities?

No. 3, having recognized the importance of information, is the FBI effectively sharing that information, both within the FBI itself and with other elements of the intelligence community?

No. 1, are we getting the information we need about the terrorists in this country? No. 2, are we recognizing all the uses of that information? No. 3, are we effectively sharing that information among those who need to have it in order to react to it?

I believe the answer to all three of those questions is no. As a member of the Intelligence Committee, I believe these issues are fundamental to our ability to fight terrorism. They must be fixed now. And they do not require reorganization of existing bureaucracy.

There is no question that we should reorganize the Government to meet the challenges of the future. But there is no substitute for the urgent steps we must take now, immediately, to meet the dangers of the present.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWNBACK. Mr. President, I yield 10 minutes to our colleague from Arkansas, Senator HUTCHINSON.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. HUTCHINSON. Thank you, Mr. President. I thank the distinguished Senator from Kansas for leading the opposition to this ill conceived amendment. I thank him for his courage and conviction in this area of human life. I thank him for yielding time.

I rise today in very strong opposition to the amendment that is being put forward by the Senator from Washington. This amendment would allow abortion on demand on military facilities overseas. In fact, it would force the American people—including those millions who are strongly opposed to abortion and who are pro-life—to help pay for abortions. I know the opponents of this amendment argue otherwise. But I think a little thought shows the fallacy in that proposition and that, in fact, it would force those who have very deep conscientious convictions against abortion to help pay for abortion on our military bases.

Abortion is an issue that continues to divide our Nation. The Defense authorization bill should be focused on ensuring that our military has all the resources to fight and win our Nation's wars. It is unfortunate that this bill has year after year been the vehicle to attempt to advance a pro-abortion agenda.

In 1976, Congress adopted what has come to be known as the Hyde amendment. This amendment essentially prohibits the use of Federal funds for performing abortions. It has been upheld by the U.S. Supreme Court as constitutional.

I share the view of millions of Americans that abortion is a destruction of

human life and that it represents one of the great moral outrages of our day and one of the great moral questions of our generation.

The Hyde amendment ensures that the tax dollars of these citizens who deeply believe abortion is something that is morally objectionable—it ensures that those citizens are not forced to pay for something to which they so object. It ensures that their money is not used for what they consider to be the murder of the unborn.

This is the foundation of my objection to the Murray amendment. My colleagues claim that no public funds will be used for these overseas abortions. However, military facilities overseas were built with Federal tax dollars. The medical equipment was paid for by the U.S. Government. The military personnel facilities are paid from the Federal Treasury.

Under the Murray amendment, will a portion of the cost of the construction of the military facility be charged to the woman seeking an abortion or will this funding come from the pockets of the taxpayers, millions of whom believe abortion is a reprehensible practice?

It would be impossible—technically impossible—to accurately calculate the cost of reimbursing DOD for an abortion. It is not feasible with existing information systems and support capabilities to collect billing information relevant to a specific encounter within the military health care system. Military infrastructure and overhead costs cannot be allocated on a case-by-case basis. It is clear that the Murray amendment runs counter to both the letter and the spirit of the Hyde amendment.

A military health care professional cannot be forced to perform a procedure, such as abortion, that runs against their moral beliefs. That is a good thing. But it is a recognition we have had in the U.S. military that physicians who have moral convictions against abortion can't be forced to do that to which they morally object. In these cases, the military will be forced under the Murray amendment to contract out to civilian physicians.

In 1993, President Clinton issued an Executive order allowing privately funded abortions at military facilities. That is what we are voting on tomorrow morning. Every military medical professional stationed in Europe and Asia refused to perform an abortion—every single one; all of our military. I think it speaks very highly of them. Every one of these military medical professionals in all of the continent of Europe and all of the continent of Asia, to a person, refused to perform abortions. Think about that.

Military funding will have to be used to pay a nonmilitary doctor to come into a military hospital to perform an abortion. That, I think, is objectionable to most Americans, regardless of how you feel about abortion. It is unconscionable that this body is consid-

ering pushing the military into the business of performing abortions.

We are engaged in a global war unlike any in our Nation's history. The Defense authorization bill should be a vehicle to ensure that our military has all the resources it requires to protect the American people. Unfortunately, in this case it is being used to advance a pro-abortion agenda.

This amendment addresses a problem that does not exist. Servicemembers can use military air at virtually no cost to travel back to the United States for any medical procedure—any medical procedure.

As the former chair and current ranking member of the Personnel Subcommittee, I have spoken with thousands of our military personnel all over the world. They have concerns about many things—concerns about military pay, about housing, and about vaccines against biological weapons—but not once have I heard a complaint about not being able to get an abortion on a military base overseas.

It is the policy of the Department of Defense to follow the laws of the nations in which our bases are located. Many nations ban abortion. The Murray amendment would subvert the laws of those countries that host American military personnel. South Korea bans abortions. Saudi Arabia bans abortions. Essentially, the Murray amendment would require Department of Defense personnel to perform crimes in the nations that are hosting our military.

This amendment was defeated in the House of Representatives on May 9 by a vote of 215 to 202. Should this amendment pass the Senate and be added to the Senate Defense authorization bill, it will be a heavy weight on this bill. The conference committee will be sharply divided on this issue, as are the American people. This amendment will become the bone of contention in the conference committee, as it has been in previous years and as abortion issues have been in previous years. It will complicate what many of us already believe and anticipate will be a difficult conference. It will complicate this conference on the DOD authorization bill at a critical time in our Nation's history, when we need to speak with one mind and one voice and when we need to move ahead in unity to fight this war on terrorism. To see the DOD authorization bill bogged down on an emotional and divisive issue, which should not be in this legislation, is a disservice to those men and women who are fighting this war on terrorism around the world.

The Defense authorization bill includes the funding that our military desperately needs to fight the war on terrorism. It includes the pay raise of our troops. It includes funding for important initiatives aimed at improving the quality of life for military families. This bill is not the forum for a fight on abortion.

I regret that the amendment is being offered. It will place the Senate and the

conferees in the position of having to fight this issue out in what will undoubtedly be a protracted, prolonged debate in the conference committee.

Our military medical facilities are designed to save lives, not destroy them. I ask my colleagues to not turn them into abortion clinics. Please do not place this very heavy burden on the men and women of our military, especially while they are risking their own lives in defense of the American people against international terrorism.

I remind my colleagues, it violates the spirit and the letter of the Hyde amendment. No matter how you simplistically present it, you cannot allocate all of the various costs involved in this procedure to military personnel, to a tax-funded facility with tax-funded personnel, and to equipment purchased by the taxpayers. You simply cannot determine what that individual would have to pay to privately pay for the abortion.

It is really not a problem. It is not something we hear a hue and cry about from men and women in the military. And it violates, in many cases, the host country's laws and will put our own military in a position of violating the current Department of Defense policy, and a right policy, that we should recognize and respect the laws of the countries in which we are being hosted.

Frankly, and finally, it creates a great practical problem in bringing this legislation to finality and getting it to the President's desk and moving on at a critical time, as our Nation continues to fight this war on terrorism.

I ask my colleagues on both sides of the aisle and on both sides of the abortion issue to think long and hard about the wisdom of attaching this amendment to the DOD authorization bill.

I thank the Chair. And I thank the Senator from Kansas for yielding this time.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes 20 seconds remaining.

Mr. BROWNBACK. Mr. President, I will be brief and allow the Senator from Washington to speak.

Some comments have been made. I certainly appreciate the excellent comments my colleague from Arkansas made. I think he very succinctly put forward that this is not a major problem. It could create problems in host countries.

We do not need to turn our military facilities into abortion clinics and use Federal funds to pay for something a lot of taxpayers believe is deeply wrong, the killing of life.

There is one argument that has been raised that I want to address directly, and that is that we are denying women their constitutional right if they can't use a military facility to have abortion on demand.

Remember, currently, women are allowed to have an abortion in cases involving the life of the mother, rape, or incest. That is allowed at military facilities today. So we are strictly talking about the category of abortion on demand at military facilities.

It has been raised that we are denying women a constitutional right. That is not the case. What we are talking about here is the use of taxpayer-funded military facilities. If that is denying women their constitutional right to an abortion, I would presume you would have to say we are denying that here because we do not provide abortions in federally funded facilities in the United States. We do not do that. That would be contrary to the Hyde amendment.

This is not denying women a constitutional right. They can have an abortion in other places. The Senator from Arkansas was commenting about how that could occur. This is strictly about the use of Government-paid facilities which we do not allow anywhere else in the world because of the Hyde amendment.

The Hyde amendment says you cannot use federally funded facilities, Federal dollars to pay for abortions. It is well-established U.S. law, a well-established U.S. position. We would now cut an exception to that if we allowed abortions in military facilities. The Clinton administration had done that for a period of time, but that has not been the law in this country for some period, since 1996.

So we are not denying women a constitutional right. This is about the use of federally funded facilities, which we do not allow anywhere, for the conducting of an abortion. I think that is a point we should make very clear in this debate.

With that, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleagues who have cosponsored this amendment with me—Senator SNOWE, Senator MIKULSKI, and Senator BOXER—and remind my colleagues that what we are simply asking for is that the women who serve us in military uniforms overseas have access to safe, legal, reproductive health care systems.

This system today does not let them have that. They are serving in the Philippines or Germany or wherever we have asked them to go, and they want access to affordable health care.

I would remind my colleagues that it is not just the women who are in the services; it is the dependents of these who are in the services, as well, who are being denied. They have to go to their superior officer to ask permission—usually an older person, usually a man—for leave to come back to the United States.

They have to wait for transport on a C-17 or other military equipment, which could take time, putting their health in jeopardy. They have to be

subjected to giving up their privacy rights because, most likely, they will have to tell their officer why they want to come back to the United States. So they are putting their life and their health and their health care at risk. And these are women who are serving us overseas.

All we are asking with this amendment is that they have the ability to go to a military hospital—where we have health care equipment, where we have safe equipment, where we have good doctors—to pay for their own health care for which they are asking.

I have heard over and over again that these are taxpayer expenses. The women will pay for the services. We are not asking for them to have taxpayer support.

Mr. President, this makes complete sense. It is common sense. We should treat our military women who are serving us as equal citizens to the women who live in the United States.

I urge my colleagues to support this amendment tomorrow morning.

I am more than willing to yield back my time. I see our whip is on the floor. And I see Senator BROWNBACK is in the Chamber. I am willing to yield back our time if he is ready to end this debate as well.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I would like to respond to the comments of the Senator from Washington when she talks about the demeaning situation that women in our military have to go through and operationally discuss what her amendment would do.

She is saying they have to go to a superior officer, frequently a male, to ask for permission. If the Murray amendment were to pass, we currently do not have any military doctors—according to the last survey we received from CRS—who are willing to conduct abortions. This was the CRS statement I cited and the Senator from Arkansas cited.

The Senator from Washington is saying, OK, we are going to use U.S. military bases as an abortion clinic. The abortion is going to be performed there. Somebody is going to have to recruit a medical doctor who is not on the military base because you cannot force the military doctors to perform the abortion. Somebody is going to have to get the approval for that to take place. Somebody is going to have to secure the medical facility there at the military base for use in performing the abortion.

The notion that women have given up all their rights to privacy or their dependents have given up all their rights to privacy without having the Murray amendment—I would say that it is exactly the opposite, that it is more likely if they do have the Murray amendment. They are going to have to get the military facility, recruit a physician in that host country for them to then conduct the abortion there on the base. Do you think there will not be

significant military personnel who will know all this is taking place, that there will not be more people who will know this is taking place rather than under the current situation?

Again, this is strictly the issue of abortion on demand. It is not about the life of the mother, rape, or incest.

So I would submit that the argument that a woman has given up her right to privacy by virtue of not having the Murray amendment and the use of a military facility—it is the exact opposite. If we go this way, there are going to be a lot more people who will be knowledgeable that a woman associated with the military is having an abortion. So this is not a legitimate argument on the use of a military facility.

Mr. President, I hope we do not tie the Department of Defense authorization bill up with abortion politics by inserting this language. I think if we do, it is going to ensure that there is going to be protracted negotiations with the House, which disagrees adamantly with this language. And it would ensure protracted discussions with the President, the administration, which adamantly disagrees with the providing of abortions on military bases. And it would really, I think, upset a number of people in the military who do not agree with abortion. They are there to protect and to honor life, not to take it.

To add this language is the wrong way for us to go, the wrong way for us to direct our military personnel to proceed. And it is going to protract the negotiations, if not even kill the overall Department of Defense authorization bill.

So I urge my colleagues, wherever they are on the issue of abortion, to simply look at the issue of providing for the common defense at a time we need to be united in that, and to not insert something like this that is so divisive in this country.

I yield the floor and yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. On behalf of Senator MURRAY, I yield back her time.

The PRESIDING OFFICER. All time is yielded back.

Mr. DORGAN. Mr. President, yesterday, the Senate approved a Committee amendment that authorizes military retirees to concurrently receive both military retired pay and veterans disability compensation. I am glad it did so. This is a matter of fundamental fairness.

This is an important issue for veterans. About 530,000 military retirees either are or could eventually be impacted by this issue.

Current law requires that military retired pay be reduced dollar-for-dollar by the amount of any VA disability compensation received.

There is no reasonable excuse for this offset. By faithfully fulfilling their required length of service, veterans

earned their retired pay. That retired pay is for service performed in the past. It should not be reduced because a veteran is awarded disability compensation by the Department of Veterans Affairs because he or she was wounded on active duty or otherwise lost earning capacity due to service-connected disabilities.

It is absurd that today, in Afghanistan and elsewhere, military personnel risk losing their retirement pay if they are wounded or seriously injured. A military career is filled with hardships, family separations, personal sacrifices, and all too often being placed in harm's way. Denying a military retiree an earned benefit, his or her military retirement pay, is unconscionable.

Last year, the Senate approved legislation authorizing concurrent receipt. However, the final version of the Fiscal Year 2002 National Defense Authorization Act that came out of conference authorized concurrent receipt only if the President proposed legislation that would provide offsetting budgetary cuts. Unfortunately, the Administration opposes concurrent receipt, so this essentially doomed concurrent receipt in 2002.

This year, the Committee bill for fiscal year 2003 that we are considering phases in concurrent receipt over five years for retirees with disabilities rated at 60 percent or more. The Committee amendment that we passed extends that benefit to all disabled veterans.

The Administration has issued a statement threatening a presidential veto of the Defense Authorization Bill if it authorizes concurrent receipt of both retired pay and disability compensation. The Senate should not be swayed by that threat.

Taking care of our veterans should be considered a part of our national security. That is why I am concerned that, while the President has proposed increasing military spending in fiscal year 2003 by about \$48 billion, his budget increases spending on veterans health care by less than \$2 billion, which is far less than needed.

This country made a promise to the men and women who risked their lives in defense of this nation. They were promised that their needs would be met by a grateful nation. Authorizing concurrent receipt will be a big step toward fulfilling that promise.

More than 200 hundred years ago, George Washington warned that "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive veterans of earlier wars were treated and appreciated by our nation." He could not have been more right. That is why we need to make sure that the Fiscal Year 2003 Defense Authorization Act authorizes current receipt.

Mr. KYL. Mr. President, In 1959, the City of Mesa, AZ wrote the Navy asking for an aircraft to display at one of its parks. In 1965, the aircraft, a Navy

Panther, was donated for static display to Mesa Parks and Recreation from the Naval Air Station at Litchfield Park. The aircraft was used as a centerpiece for a children's playground.

In 1994, the City of Mesa auctioned off the relic as surplus equipment to Richard Oldham for \$100. The City of Mesa sold the aircraft to Mr. Oldham in an open bidding process, and he has temporarily lodged it at the USS Hornet Museum in California. He intends for it to be transferred to the Women's Airforce Service Pilots, (W.A.S.P.), Museum in Quartzite, AZ.

According to the Naval Historical Center, it is a common for the Navy to conditionally donate aircraft, in what amounts to a long-term loan, to municipalities and museums. Donation of aircraft to city parks is conditional upon Congressional termination of title. Absent evidence of the U.S. Government's intent to make the donation unconditional, (a permanent transfer), the Navy would still hold title to the aircraft. Under section 3, article 4 of the United States Constitution, only Congress can make laws pertaining to the disposal of Federal property. Since there is no evidence in the Navy's or the City of Mesa's files that the Navy intended to give away the aircraft permanently, the aircraft still legally belongs to the Navy, and it would appear that Mesa did not have the right to sell the aircraft to Mr. Oldham.

I understand the Navy is willing to enter into a long-term loan agreement with the USS Hornet Museum and with the W.A.S.P. Museum; however, it would still be in the possession of the government.

Congress has in the past approved legislation to permanently transfer ownership of Federal property. One recent example is in the FY98 National Defense Authorization Act. Section 1023 transferred two obsolete Army tugboats to the Brownsville Navigation District, Brownsville, TX. Section 1025 of the same act transferred naval vessels to the governments of Brazil, Chile, Egypt, Israel, Malaysia, Mexico, and Thailand. Congress does not transfer property to individuals, but to organizations, municipalities, and countries. The W.A.S.P. Museum is a non-profit museum and is eligible to receive such a relic aircraft. Aircraft 125316 will find an appropriate and welcome home in the W.A.S.P. museum where it may continue to serve the nation as an important piece of our nation's military history.

Ms. LANDRIEU. Mr. President, I wish to address two amendments I will soon offer to S. 2514, the Defense authorization bill. The first amendment is critical to the training and future deployments of the Interim Brigade Combat Teams, and is, therefore, vital to both Louisiana and our national security. This amendment designates Louisiana Highway 28 between Alexandria, LA, and Leesville, LA, a road providing access to the Joint Readiness Training Center at Fort Polk, as a Defense Access Road.

Fort Polk has been designated as a home for one of the new, transformational Interim Brigade Combat Teams IBCTs. Furthermore, I am proud to say that Fort Polk will serve as the training site for all IBCTs.

Louisiana Highway 28 is one of the primary access roads into and out of Fort Polk. Highway 28 is the direct route from Fort Polk to the former England Air Force Base in Alexandria, Louisiana. I mention this because any military equipment designated for Fort Polk that is transported via C-130 must be trucked to Fort Polk if it is non-wheeled or non-tracked from the former England AFB. If military vehicles are tracked or wheeled, they then trek the forty miles from England to Fort Polk along Hwy. 28. No matter how the equipment arrives at Fort Polk, the heavy trucks and military vehicles cause tremendous wear and tear to Highway 28.

With the coming of the IBCTs to Fort Polk, the stresses on Hwy. 28 will only be exacerbated. Louisiana Highway 28 is a two lane highway that currently operates over capacity, as it already has a traffic volume of 2,000 cars per day. When you add 2,000 cars a day and 10 training rotations a year to a two-lane highway, the deterioration of the road surface and the congestion of the roadway will lead to numerous accidents, and possibly fatalities.

The commanding general of Fort Polk, Brigadier General Jason Kamiya, and the people of Louisiana want to see Hwy. 28 expanded to four lanes. A four lane highway will improve the safety conditions on the roadway, and four lanes will allow for faster deployment of units stationed and training at Fort Polk. During times of war, like we find ourselves in now, it is critical that units can deploy to the battlefield as quickly as possible. But, it is also important that our military achieve quick deployments in training because our service men and women will fight only well as they train.

The designation of Highway 28 as a Defense Access Road will allow the Department of Defense to work with the State of Louisiana to pool funds to make necessary repairs to the highway and increase the road surface to four lanes to best accommodate the IBCTs. DOD will only be required to participate in funding to the degree to which usage of the highway is out of the ordinary due to the military installation or military activity. It only makes sense that the Federal Government would aid State Governments to make repairs caused by federal usage or alterations to the highway requested by the Federal government. Finally, there is no cost associated with the authorization.

The second amendment pertains to the most crucial problem facing our United States Navy, both today and in future generations, the dwindling size of the Navy fleet. The 2001 Quadrennial Review stated that the Navy must maintain a fleet size of least 310 ships to achieve its mission. This amend-

ment makes it the policy of the United States for the budget of the United States for fiscal years after FY 2003, and for the future-years defense plan, to include sufficient funding for the Navy to maintain a fleet of at least 310 ships. Additionally, the President must certify within the budget of the United States that sufficient funding has been allocated to maintain a fleet of 310 ships. If such a certification is not made, the President must explain within the budget of the United States why the certification cannot be made. Today, Navy ships sail globally to ensure a world-wide American presence and to immediately respond to threats against America's national security. This amendment will make certain that the President funds a fleet at least capable of meeting the Navy's current mission objectives or explains why the Navy will fall shy of a 310 ship fleet.

Without the Navy, the United States could not have prosecuted the war in Afghanistan as successfully as we have. On numerous occasions throughout the war, our armed forces have been denied access to land bases in foreign countries from which our forces could operate. Nevertheless, when our armed forces cannot forward deploy because there are no willing host countries, the U.S. Navy provides our military with acres of floating sovereign territory from which the U.S. military can deploy. Without the firepower, logistics, and transport capabilities of the Navy, our ability to retaliate to the terrorist actions of September 11th would have been compromised.

However, if Congress and the President do not allocate critical resources to shipbuilding, the Navy will soon fall well below the minimum level of ships required for the Navy to properly provide for America's defense, a job the Navy has performed so admirably. Today, the Navy has approximately 315 ships in its fleet, a number which cannot dwindle or the Navy's operations will be gravely challenged. This year, the President's budget funded only 5 ships. The Senate has taken needed action to provide an additional \$690 million in advance procurement funding for 2 surface ships and a submarine. If current shipbuilding rates are sustained, the Navy will only have a fleet of 238 ships within 35 years. That is simply unacceptable. 310 ships is the lowest allowable floor, but Congress and the President should strive to maintain a Navy of at least 350 ships to guaranty America's sovereign needs on the high seas.

Accordingly, this amendment makes it the national defense policy of the United States to uphold a Navy of at least 310 ships, as spelled out in the Quadrennial Defense Review of 2001. Moreover, shipbuilding must be a priority of the President, and the President must certify in future budgets and in future year defense plans, beginning with FY 2004, that sufficient funds have been made available to sustain a fleet of at least 310 ships or explain why

such funds have not been made available. I hope the Senate will support this amendment to provide for our Navy which has provided for the American people since the Revolutionary War.

MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

INTERNATIONAL PEACE TROOPS IN AFGHANISTAN

Mr. REID. Mr. President, I love to read. I love to especially read history. One of the fine experiences I have had was reading a book by James Michener entitled "Caravans." It was about the history of Afghanistan. I read this book many years ago. Michener had already written "Hawaii" and some other books that were very famous, but this was a bestseller, and rightfully so.

I really developed a strong, positive feeling about the people of Afghanistan after having read that book.

As a result of what has happened to our country being so heavily involved in Afghanistan in the last 15 years, 20 years, I have reflected many times, since I read that book and since we have been so heavily involved in Afghanistan, about the people of Afghanistan and what has happened to them. Of course, I have given speeches on the Senate floor about how the reign of terror of the Taliban was a reign of terror to everyone in Afghanistan, but especially women. And during that period of time, women suffered irreparably in many instances.

The reason I mention this today is that during and since the Loya Jirga that has been held in Afghanistan, delegates who have spoken out for human rights, including the Minister of Women's Affairs, have been threatened and in many instances intimidated.

These threats going on in Afghanistan today, along with continued reports of violence and intimidation in the provinces, point to the imperative need for U.S. support for the immediate expansion of peace troops in Afghanistan. We need peacekeepers. I am disappointed that the administration is saying: Fine, we will make sure we have a presence in Kabul, but the rest of Afghanistan can try to fend for itself.

As I have indicated, in the provinces outside of Kabul, there are bad things happening to a lot of Afghan people but especially the women. Despite pleas from the United Nations, the Afghan interim government, and the women's rights community and people from throughout the world, governments throughout the world, the Bush administration has refused to expand the international security assistance force

beyond Kabul. The restoration of democracy and of rights for women in Afghanistan depends on maintaining security, reestablishing democracy, and creating a functional central government that can provide services and oversee reconstruction to that country that needs reconstruction.

Without an expansion of the International Security Assistance Force and without adequate resources for reconstruction, Afghanistan will again descend into chaos—not “could” or “might,” but “will.” The United States cannot again abandon the Afghan people, especially Afghan women who have suffered so much. We cannot allow terrorism, al-Qaida, the Taliban, and human rights violators to thrive again in Afghanistan.

As I reflect back as I stated when I started my remarks today to reading this book of these people who are so strong and had such a great tradition and see what has happened to them, it is sad.

I urge President Bush, Secretary Rumsfeld, and Secretary Powell to provide full U.S. support for the expansion of an international peace force in Afghanistan. To do less is to indicate that we do not care about Afghanistan and to underscore that we do not care what is happening to the women of Afghanistan as we speak.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

AMENDMENT NO. 3938

Mr. LEVIN. Mr. President, I offer an amendment on behalf of Senator WARNER and myself that would authorize the Department of Defense to cancel longstanding debit and credit transactions that cannot be cleared from the Department's books because they have been misrecorded in the wrong appropriation. I believe this amendment has been cleared.

Mr. WARNER. Mr. President, it has been cleared on our side, also.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. WARNER, proposes an amendment numbered 3938.

The amendment is as follows:

(Purpose: To authorize clearance of certain transactions recorded in Treasury suspense accounts and cancellation of certain check issuance discrepancies in Treasury records, all of which relate to financial transactions of the Department of Defense)

On page 217, between lines 13 and 14, insert the following:

SEC. 1010. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.

(a) CLEARING OF SUSPENSE ACCOUNTS.—(1) In the case of any transaction that was entered into by or on behalf of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(b) RESOLUTION OF CHECK ISSUANCE DISCREPANCIES.—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(c) CONSULTATION.—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) DURATION OF AUTHORITY.—(1) A particular undistributed disbursement may not be canceled under subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that discrepancy.

(3) No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

The PRESIDING OFFICER. If there is no further debate, the amendment is agreed to.

The amendment (No. 3938) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3939

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of myself and Senator WARNER. It will establish a pilot program allowing the Secretary of Defense to authorize the Defense Logistics Agency to provide logistics support and services for weapons systems contractors when it is in the best interest of the Government. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. WARNER, proposes an amendment numbered 3939.

The amendment is as follows:

(Purpose: To authorize the Secretary to provide logistics support and logistics services to weapon system contractors)

On page 90, between lines 19 and 20, insert the following:

SEC. 346. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

(a) AUTHORITY.—The Secretary of Defense may make available, in accordance with this section and the regulations prescribed under subsection (e), logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

(b) SUPPORT CONTRACTS.—Any logistics support and logistics services that is to be provided under this section to a contractor in support of the performance of a contract shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor.

(c) SCOPE OF SUPPORT AND SERVICES.—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) LIMITATIONS.—(1) The number of contracts described in subsection (a) for which the Secretary makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed \$100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess of five years, including periods for which the contract is extended under options to extend the contract.

(e) REGULATIONS.—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only

when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of resources used, but not paid for, by the Department of Defense.

(4) A requirement to credit to the General Fund of the Treasury amounts received by the Department of Defense from a contractor for the cost of logistics support and logistics services provided to the contractor by the Department of Defense under this section but not paid for out of funds available to the Department of Defense.

(5) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(6) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) **RELATIONSHIP TO TREATY OBLIGATIONS.**—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) **TERMINATION OF AUTHORITY.**—(1) The authority provided in this section shall expire on September 30, 2007, subject to paragraph (2).

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the expiration of the authority or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority—

(i) to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date of the expiration of the authority; or

(ii) to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

Mr. WARNER. Mr. President, this is an administration proposal, and there is concurrence on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3939) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3940

Mr. LEVIN. Mr. President, on behalf of Senator WARNER and myself, I send an amendment to the desk which will transfer funding for the Compass Call aircraft between two lines within the aircraft procurement Air Force account. This is a technical correction that the Air Force has asked we make in the budget request.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. WARNER, proposes an amendment numbered 3940.

The amendment is as follows:

(Purpose: To provide for the amount for the Compass Call program of the Air Force to be available within classified projects)

On page 23, between lines 12 and 13, insert the following:

SEC. 135. COMPASS CALL PROGRAM.

Of the amount authorized to be appropriated by section 103(1), \$12,700,000 shall be available for the Compass Call program within classified projects and not within the Defense Airborne Reconnaissance Program.

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3040) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3941

(Purpose: To reallocate \$5,000,000 of the authorization of appropriations for Other Procurement, Navy, for the integrated bridge system to items less than \$5,000,000 from the Aegis support equipment)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration, and I ask the clerk to read the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SESSIONS, proposes an amendment numbered 3941:

On page 17, strike line 14, and insert the following:

SEC. 121. INTEGRATED BRIDGE SYSTEM.

(a) **AMOUNT FOR PROGRAM.**—Of the amount authorized to be appropriated by section 102(a)(4), \$5,000,000 shall be available for the procurement of the integrated bridge system in items less than \$5,000,000.

(b) **OFFSETTING REDUCTION.**—Of the total amount authorized to be appropriated by

section 102(a)(4), the amount available for the integrated bridge system in Aegis support equipment is hereby reduced by \$5,000,000.

Mr. WARNER. Mr. President, this is a technical amendment to correct the procurement line associated with the integrated bridge system in the other procurement and Navy funding account. My understanding is it is cleared on the other side.

Mr. LEVIN. The amendment has been cleared, and we support it.

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3941) was agreed to.

Mr. WARNER. 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. 3942

Mr. LEVIN. Mr. President, I send an amendment on behalf of Senator CLELAND to the desk. This amendment would strike section 344 of our bill which added logistics support functions, acquisition logistics, supply management, system engineering, maintenance, and modification management to the core functions the Secretary of Defense must consider when making determinations about what capabilities should be retained by Government workers in Government-owned/Government-operated facilities. I understand the amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, proposes an amendment numbered 3942.

The amendment is as follows:

(Purpose: To strike section 344, relating to clarification of core logistics capabilities)

Strike section 344.

Mr. WARNER. Mr. President, this amendment has been cleared on this side. I ask unanimous consent that a letter relevant to this amendment be printed in the RECORD.

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

THE UNDER SECRETARY OF DEFENSE,

Washington, DC, June 14, 2002.

Hon. SAXBY CHAMBLISS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CHAMBLISS: I am writing regarding the "clarification of required core logistics capabilities" provisions of section 335 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as passed by the House, and section 344 of the National Defense Authorization Act for Fiscal Year 2003, as reported by the Senate Armed Services Committee on May 15, 2002. These provisions would expand the definition of core logistics functions from maintenance and repair to include acquisition, supply, systems engineering, and modification management.

The Department understands that the objective intended by these provisions is to maintain the full range of logistics capabilities necessary to support current and future essential weapon systems and equipment over their entire life cycle. Clearly, the Department has, and plans to retain, a sufficient cadre of logistics specialties to meet this objective. Specifically, we will retain sufficient supply, maintenance and repair, and logistics program management capabilities to sustain our essential equipment over its entire life cycle with the appropriate mix of government personnel, contractor personnel, and public-private partnerships. The specific identification of these skills will be documented through the ongoing Department of Defense core competency review, through implementation of the Future Logistics Enterprise (FLE) initiative, and with supporting policies. I will report to the committee once the requirement for these skills is appropriately documented.

We also understand that there is concern that the Air Force has not yet completed a long-term depot strategy. The Air Force will submit its long-term depot strategy to the Congress in September 2002.

Thank you for considering our views in this matter.

Sincerely,

E.C. ALDRIDGE, JR.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3942) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3943

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of Senator COLLINS of Maine which is a technical amendment to correct the Navy research development funding line associated with the laser welding and cutting program. My understanding is this amendment has been cleared on the other side.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Ms. COLLINS, proposes an amendment numbered 3943.

The amendment is as follows:

(Purpose: To reallocate \$6,000,000 of the authorization of appropriations for RDT&E, Navy, for laser welding and cutting demonstration to force protection applied research (PE 0602123N) from surface ship and submarine HM&E advanced research (PE 0603508N)

On page 26, after line 22, insert the following:

SEC. 214. LASER WELDING AND CUTTING DEMONSTRATION.

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, \$6,000,000 shall be available for the laser welding and cutting demonstration in force protection applied research (PE 0602123N).

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test,

and evaluation for the Navy, the amount available for laser welding and cutting demonstration in surface ship and submarine HM&E advanced technology (PE 0603508N) is hereby reduced by \$6,000,000.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3943) was agreed to.

Mr. WARNER. 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. 3944

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator LANDRIEU. This amendment would delete a requirement in the bill that any waiver or deviation from a test and evaluation master plan be approved by the director of operational test and evaluation. I believe the amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 3944.

The amendment is as follows:

(Purpose: To make various amendments to the subtitle on improved management of Department of Defense test and evaluation facilities)

On page 37, beginning on line 14, strike "Under Secretary of Defense for Acquisition, Technology, and Logistics" and insert "Director of Operational Test and Evaluation".

On page 41, line 14, strike "Chapter 643" and insert "Chapter 645".

On page 46, line 20, insert "the Under Secretary of Defense for Personnel and Readiness and" after "consult with".

Strike section 236 and insert the following:

SEC. 236. COMPLIANCE WITH TESTING REQUIREMENTS.

(a) ANNUAL OT&E REPORT.—Subsection (g) of section 139 of title 10, United States Code, is amended by inserting after the fourth sentence the following: "The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns."

(b) REORGANIZATION OF PROVISION.—Subsection (g) of such section, as amended by subsection (a), is further amended—

(1) by inserting "(1)" after "(g)";

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4);

(5) by designating the sixth sentence as paragraph (5); and

(6) by realigning paragraphs (2), (3), (4), and (5), as so designated, two ems from the left margin.

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3944) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3945

Mr. WARNER. Mr. President, on behalf of Senators GRASSLEY, HARKIN, and others I offer an amendment which extends the authority of the Secretary of the Army to integrate commercial activity and manufacturing arsenals until the year 2004. My understanding is the amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRASSLEY, for himself, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. DURBIN, Mr. FITZGERALD, and Mrs. LINCOLN, proposes an amendment numbered 3945.

The amendment is as follows:

(Purpose: To extend the Arsenal support program initiative)

At the end of subtitle D of title III, add the following:

SEC. 346. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-65) is amended by striking "and 2002" and inserting "through 2004".

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "2002" and inserting "2004"; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: "Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary's views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b)."

Mr. GRASSLEY. Mr. President, I am offering an amendment to reauthorize the Arsenal Support Program Initiative, ASPI, for 2 more years. This program has been successful but the need continues.

Both the Rock Island Arsenal and the Watervliet Arsenal are now suffering from underutilization. Both are currently at under 30 percent of their capacity. This underutilization has greatly affected overhead rates at both arsenals, making it increasingly difficult to compete with private industry. At the same time, the base of skilled arsenal workers has steadily eroded.

I strongly believe that an organic industrial base must be maintained if we are to be prepared to meet future, unanticipated national security needs. Arsenals provide a valuable rapid manufacturing capability for specialized

and unique defense manufacturing needs. The decline in skilled arsenal workers is therefore particularly troubling in light of the new threats our forces will face in the war on terrorism.

The ASPI addresses the problem of underutilization of arsenals by encouraging private industry to utilize the arsenals. This provides a way to help keep the arsenal industrial base warm, while helping to save taxpayer dollars by supplementing arsenal overhead costs. The ASPI has already helped initiate many beneficial relationships with private industry. For instance, the Rock Island Arsenal currently has a contract with the Quad City Labor Management Partnership, which provides training to Rock Island Arsenal personnel in return for the use of administrative space. Another company, TDF Corp., is currently a tenant at the Rock Island Arsenal and the Arsenal is in discussions with a cellular telephone company and others. The Watervliet Arsenal is currently in the process of executing contracts with three different private manufacturers and is exploring other possibilities. Pine Bluff Arsenal has also taken advantage of contracts with the private sector to provide additional revenue.

The Arsenal Support Program Initiative opens up new opportunities for savings at our arsenals as well as making them more self-sufficient. This program is a win-win situation for the Army, the arsenals and industry, and I urge my colleagues to allow this program to continue.

Mr. HARKIN. Mr. President, I am pleased to be offering with Senator GRASSLEY and with our colleagues from Illinois, New York, and Arkansas, a bipartisan amendment of importance to Rock Island Arsenal. This amendment is needed for the continuation of the Arsenal Support Program Initiative, or ASPI.

In 1992 we passed the ARMS initiative to help the ammunition plants, including the Iowa Army Ammunition Plant, bring in commercial tenants that would pay part of the cost of these large plants. The initiative has been very successful and has saved taxpayers money. ASPI brings a similar program to the Rock Island, Watervliet, and Pine Bluff arsenals. Rock Island and the other arsenals have extraordinary workforce, space, and equipment that are underutilized in peacetime operations but are needed for wartime surge capabilities as well as smaller critical emergencies. The costs of the underutilized space and equipment must be paid for directly by taxpayers, or charged as overhead to work at the arsenals, causing high prices to military customers and, in an unfortunate spiral, decreasing utilization of the arsenals. ASPI is intended to help bring in commercial firms to use the available workforce, buildings, and equipment and help pay for their costs.

ASPI was first passed in the fiscal year 01 Defense Authorization bill as a

two-year pilot program. It was funded for the first time last year with \$7.5 million in the fiscal year 02 Defense Appropriations bill. This has not given enough time to get the program fully underway. Thus this amendment would extend the program for two additional years, through 2004. It also would update reporting requirements to help Congress evaluate the program.

The arsenals have never been more important to our military capabilities and have never faced more difficult times. Rock Island Arsenal has a highly skilled and dedicated workforce, impressive manufacturing capabilities, and a great history of service, but is not being used enough. I am pleased that this bill has funding for the unutilized capacity, but even better, this amendment should reduce the need for such funds in the future. I have every hope that ASPI will be as successful as the ARMS initiative, and will help Rock Island Arsenal thrive in its mission to protect the national security. I am pleased that Chairman LEVIN has agreed to accept this amendment, and as it is identical to a provision in the House bill, I hope it will soon be enacted into law.

Mr. WARNER. Mr. President, I believe this has been cleared on the other side, and I urge its adoption.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3945) was agreed to.

Mr. WARNER. 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. 3946

Mr. LEVIN. Mr. President, on behalf of Senators CLELAND and HUTCHINSON, I send an amendment to the desk which extends the term of the multiyear procurement of C-130J variants to 6 program years. I believe the amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND and Mr. HUTCHINSON, proposes an amendment numbered 3946.

The amendment is as follows:

(Purpose: To authorize a 6-year period for a multiyear contract for the procurement of C-130J aircraft and variants)

On page 17, line 23, insert before the period the following: “, and except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years”.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3946) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3947

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator CLELAND, a technical amendment to clarify the rate paid to dependents using transferred benefits while the military sponsor is on active duty. I believe the amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, proposes an amendment numbered 3947.

The amendment is as follows:

(Purpose: To clarify the rate of educational assistance under the Montgomery GI Bill for dependents transferred entitlement by members of the Armed Forces with critical skills)

At the end of subtitle E of title VI, add the following:

SEC. 655. RATE OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL OF DEPENDENTS TRANSFERRED ENTITLEMENT BY MEMBERS OF THE ARMED FORCES WITH CRITICAL SKILLS.

(a) CLARIFICATION.—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “paragraphs (4) and (5)” and inserting “paragraphs (5) and (6)”; and

(B) by striking “and at the same rate”;

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

“(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate.

Mr. WARNER. Mr. President, it has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3947) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3948

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator CLELAND, which would repeal a 10-percent limitation on authority to grant officers in grades below brigadier general and rear admiral (lower half) a

waiver of the required sequence of joint professional military education and joint duty assignment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, proposes an amendment numbered 3948.

The amendment is as follows:

(Purpose: To repeal a limitation on authority to grant officers in grades of colonel (or captain, in the case of the Navy) and below a waiver of the required sequence of joint professional military education and joint duty assignment)

On page 100, between lines 3 and 4, insert the following:

SEC. 503. REPEAL OF LIMITATION ON AUTHORITY TO GRANT CERTAIN OFFICERS A WAIVER OF REQUIRED SEQUENCE FOR JOINT PROFESSIONAL MILITARY EDUCATION AND JOINT DUTY ASSIGNMENT.

Section 661(c)(3)(D) of title 10, United States Code, is amended by striking "In the case of officers in grades below brigadier general" and all that follows through "selected for the joint specialty during that fiscal year."

Mr. WARNER. Mr. President, this amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3948) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3949

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator CLELAND, which would extend for 1 year the authority of the Secretary of Defense to contract with physicians to provide new-recruit physicals at military entrance processing stations.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, proposes an amendment numbered 3949.

The amendment is as follows:

(Purpose: To extend temporary authority for entering into personal services contracts for the performance of health care responsibilities for the Armed Forces at locations other than military medical treatment facilities)

On page 154, after line 20, add the following:

SEC. 708. EXTENSION OF TEMPORARY AUTHORITY FOR ENTERING INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES FOR THE ARMED FORCES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3949) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3950

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator CLELAND, which would extend the temporary authority for recall of retired aviators to active duty to September 30, 2008.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, proposes an amendment numbered 3950.

The amendment is as follows:

(Purpose: To extend the temporary authority for recall of retired aviators)

On page 100 between lines 3 and 4, insert the following:

SEC. 503. EXTENSION OF TEMPORARY AUTHORITY FOR RECALL OF RETIRED AVIATORS.

Section 501(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) is amended by striking "September 30, 2002" and inserting "September 30, 2008".

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3950) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3951

Mr. LEVIN. Mr. President, on behalf of Senator SESSIONS and myself, I send an amendment to the desk which would authorize the Secretary of Defense to accept foreign gifts and donations for the Western Hemisphere Institute for Security Cooperation and would require the Secretary's annual report on the Institute to include the annual report of the board of visitors. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. SESSIONS, proposes an amendment numbered 3951.

The amendment is as follows:

(Purpose: To authorize the Secretary of Defense to accept foreign gifts and donations for the Western Hemisphere Institute for Security Cooperation, and to require the Secretary's annual report on the Institute to include the annual report of the Board of Visitor's for the Institute)

On page 200, between lines 14 and 15, insert the following:

SEC. 905. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

"(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

"(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

"(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country."

(b) CONTENT OF ANNUAL REPORT TO CONGRESS.—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: "The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report."

Mr. LEVIN. Mr. President, the amendment that I am offering, along with Senator SESSIONS, deals with two issues relating to the Western Hemisphere Institute for Security Cooperation. Both of these issues came to light during the first ever meeting of the Board of Visitors of the Institute. Both Senator SESSIONS and I are members of the Board.

During the first Board meeting, which incidentally was an organizational meeting, the Board was informed that there was a question as to the authority of the Secretary of Defense to accept foreign gifts or donations, including lecture services and faculty services, on behalf of the Institute. The Board was further informed that the loss of the foreign faculty instructors would severely hamper the ability of the Institute to perform its mission.

Additionally, the Board of Visitors learned that its annual report to the Secretary of Defense would not necessarily be submitted to Congress. The Board considered that its annual report, which would include its views and recommendations pertaining to the Institute, including the curriculum, instruction, physical equipment, fiscal affairs, and academic matters, should be submitted to Congress by the Secretary of Defense along with the Secretary's comments.

Accordingly, the amendment we are offering would authorize the Secretary of Defense to accept foreign gifts and donations for the Institute, and would require the Secretary of Defense's annual report to Congress on the Institute to include the annual report of the Board of Visitors along with the Secretary's comments on the Board's report. I ask my colleagues for their support for this amendment.

Mr. WARNER. Mr. President, it has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3951) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. 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.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators allowed to speak for up to 5 minutes each.

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

WEST VIRGINIA DAY, 2002

Mr. BYRD. Mr. President and fellow Senators, have you noticed how everyone seems a little happier today? Their smiles are brighter, their greetings are a little more gracious and their thank yous are more sincere. Have you noticed how the sun seems to be shining brighter today and food tastes better today? The air seems sweeter today.

The Senator from Pennsylvania does not know what a great day this is.

That is, no doubt, because today is June 20, and that means it is West Virginia Day. All over the country, it is June 20th. All over the world, it is June 20th. That means all over the country, and all over the world, it is West Virginia Day.

It was 139 years ago today that West Virginia, by an act of Congress and the signature of President Abraham Lincoln, became the thirty-fifth state of our Union.

The birth of the State of West Virginia was not an easy delivery. It involved great labor pains, and blood, sweat, and tears. West Virginia was born in the middle of our country's bitter, divisive, and bloody Civil War, and there were serious constitutional questions involved in her delivery.

But goodness and righteousness prevailed and West Virginia, predicated upon its allegiance to the Constitution and the republic, became a State, and here I am. Had that not happened, I would not have been here. This Union may not have survived.

It all began on that great and glorious day of June 20th, 1863—and what a great and glorious day it was. It was a day a local newspaper, the *Wheeling Intelligencer*, called a "great gala day." The newspaper reported that "thousands of people from abroad" joined with the new state officials and the "entire population" of Wheeling, the city where the official ceremony took place, to celebrate the occasion.

Business was suspended. Workers were given the day off.

Flags were everywhere—everywhere, on all the street corners, along all the streets. Flags of all sizes were flown from every housetop and every business in the city. It was reported that flags were as "thick as the locusts that were then occupying the suburbs and surrounding countryside."

The ceremonies included brigade bands playing patriotic songs, and units of the West Virginia militia parading through the town. There were countless toasts and even more cheers for the United States and for its new state, the State of West Virginia.

And, of course, there were political speeches.

The man considered the "father of West Virginia," Francis H. Pierpont, declared:

May we [meaning West Virginia]—may we from this small beginning today, grow to be the proudest state in all the glorious galaxy of States that form the Nation.

Waitman T. Willey, one of the State's first two U.S. Senators, proclaimed:

What we have longed for and labored for and prayed for is [now] a fixed fact. West Virginia is a fixed fact.

West Virginia is a fixed fact.

The first Governor of the State, Arthur Boreman, a 39-year-old man with a full-flowing black beard, promised to do everything in his power "to advance the agricultural, mining, and manufacturing, and commercial interests of the State."

After the speeches, 35 little girls representing the 35 states of the Union, sang more patriotic songs and the band played the "Star Spangled Banner."

The day closed with a "brilliant display of fireworks" over the Ohio River.

The next day, the *New York Post* reported:

[B]orn amid the turmoil of the Civil War and cradled by the storm . . . the 35th State is now added to the American union.

The *New York Times* echoed the words of Senator Willey with the headline that read "West Virginia is now a fixed fact."

The State of West Virginia was a "fixed fact," but its future was not. The State's childhood and adolescence were to be as difficult and tumultuous as its birth.

The State of West Virginia soon became an economic colony of northeastern, absentee landlords, the infamous Robber Barons of the late nineteenth century, who ruthlessly exploited the State for its rich natural resources.

Other problems came piling on. From the Monongah mine disaster of 1907, when I believe 361 miners lost their lives, the worst coal-mine disaster in American history, to the Marshall University plane crash of 1970, the worst sports tragedy in American history, the people of West Virginia came to know and suffer many and various forms of tragedy, including the Silver Bridge collapse at Point Pleasant, the Buffalo Creek Slag Dam collapse in Logan County, as well as a multitude of deadly mine explosions and disastrous floods.

And for too long, the State suffered from economic backwardness.

Through it all, the courageous, patriotic, and dedicated people of West Virginia have remained loyal to their country and their government.

They have continued to supply the nation with the energy it needs to heat our homes, to light these Chambers, fuel our battleships, and power our massive industries.

And the people of West Virginia have served our country in times of war as well as peace. West Virginians have fought and died in our nation's wars, including World War II, Korea and Vietnam, far beyond proportion to West Virginia's population size.

Meanwhile, the people of West Virginia have struggled to overcome exploitation and oppression by joining unions and electing political leaders who would better represent them. It took decades and it took tremendous effort, but, as I have said, the spirit of West Virginia is to "endure and to prevail." The people of West Virginia endured and they have prevailed.

One of my favorite Roman philosophers, Seneca, said, "Fire is the test of gold; adversity, of strong men."

Today, many strong men and women have brought West Virginia to the brink of vast social and economic change. The State is cultivating new economic growth and prosperity as a result of a bumper crop of better roads, new technology, and forward-looking leadership. Traditional industries are being augmented by fresh business activity, flexible manufacturing, leading-edge and information-age high technology.

People across America are discovering West Virginia. They are coming to West Virginia to camp, hike, fish, raft our white waters, and ski our slopes.

They are discovering the natural wonders of my State—that West Virginia is truly one of the most beautiful states in the union. With its rushing, trout-filled mountain streams, its majestic rolling green hills, picturesque villages and towns, magnificent forests, scenic State parks, no wonder the

State has been depicted in song and verse as being "almost heaven."

People are discovering what West Virginians already knew, that the State is a great place to just relax and enjoy life. In the early morning hours, you can sit back in your favorite chair looking east, and enjoy the most beautiful sight in the world: the sun rising over the beautiful, rolling green hills of West Virginia. A few hours later, you can turn your chair around and look to the west, and enjoy the second most beautiful sight in the world, the sun setting over those beautiful, rolling green hills of West Virginia.

Mr. President, in the inaugural ceremony on June 20, 1863, the Reverend J.T. McLure offered the inaugural prayer, in which he stated:

We pray Thee, almighty God, that this State, born amidst tears and blood and fire and desolation, may long be preserved and from its little beginning may grow to be a might and a power that shall make those who come after us look upon it with joy and gladness and pride of heart.

Mr. President, this child of "tears and blood and fire and desolation" did grow.

Today, on this anniversary of the birth of West Virginia, as the Reverend Mr. McClure predicted, one may look upon my state of West Virginia "with joy and gladness and pride of heart." I am reminded of the words of the English poet, William Blake, who wrote: "Great things are done when men and mountains meet."

Congratulations, West Virginia! Happy birthday, West Virginia! You have not merely endured, you have prevailed!

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, 139 years ago today, on June 20, 1863, West Virginia became the 35th State admitted to the Union. The only State born of Civil War, West Virginia was signed into existence by the hand of Abraham Lincoln.

I am both proud and grateful to be a West Virginian and to represent my State in the U.S. Senate. I am also glad to have this opportunity to reflect on some of the features that make my home State so very special. Aside from my State's distinct heritage of industry and agriculture, one of its most defining characteristics is its extravagant natural beauty. Blessed with icy native trout streams, majestic deep-forest hardwood stands, and lush groves of rhododendron, West Virginia is almost heaven to many people.

West Virginia is home to three of the Nation's most famous rivers: The Shenandoah and Potomac to the east, and the Ohio River along the State's entire western border. These and many other rivers, streams, and mountain lakes provide great places to fish or canoe on a relaxing weekend or sunny afternoon.

The New River, which is thought to be the world's oldest river, tumbles through ancient limestone canyons and provides some of the world's premier whitewater rafting. The more serene

waters at Harpers Ferry were praised by our Nation's third President when he wrote: "The passage of the Patowmac through the Blue Ridge is perhaps one of the most stupendous scenes in Nature. This scene is worth a voyage across the Atlantic." President Jefferson was right, and the millions of people who visit the Mountain State regularly to ski our mountains, raft our rivers, marvel at the brilliant autumn foliage, and enjoy our hospitality agree.

Thousands of miles of trails and scenic roads wind through the State's National Forest, State Parks, and countless mountain passes, luring hikers and bikers of all ages and from around the world. Seneca Rocks, the most dramatic rock formation in the east, is a visual feast and rock climbers' paradise. The State is also home to a wide variety of wild vegetation and animal life found nowhere else in America, and protests 20 threatened and endangered plant and animal species. West Virginia truly earns its label of "wild and wonderful."

The people of West Virginia remain its greatest asset. West Virginians are industrious, hard-working, unpretentious, straightforward, open and fun-loving. They value common sense and fairness, and have a deeply rooted connection to the land and attachment to home.

On this West Virginia Day, I am joining all West Virginians in celebrating the abundance of our natural beauty. We are truly blessed in West Virginia to have such a bounty of natural resources. As we strive to promote our economic growth, I hope we will also be mindful of our responsibilities to the land. West Virginia's environment is a special resource, a national treasure that must be preserved and protected for future generations.

I am proud to represent my home State of West Virginia, and deeply honored to stand here today to recognize the 139th anniversary of the Mountain State.

FBI REFORM ACT

Mr. LEAHY. Mr. President, yesterday's Washington Post provides yet another example of why it is so urgent that we act to pass S. 1974, the Leahy-Grassley FBI Reform Act.

This bill was unanimously reported out of the Judiciary Committee on April 25, 2 months ago. Apparently an anonymous Republican Senator has operated to block Senate passage of this bill which, as I said, passed unanimously from the Judiciary Committee.

Normally, I would be willing to wait for the time when some of these holds finally get dropped off, but I thought it was important for my colleagues on both sides of the aisle to know about this. It is troubling to me that an anonymous Republican Senator would block passage of what is a bipartisan bill, a bipartisan bill to improve the FBI, the Nation's leading

counterterrorism agency, at the same time the President has sought bipartisan efforts to pass his proposed homeland security reorganization.

I hope the White House will ask their fellow party members why they would hold up this legislation.

I urge the Republican Member or Members with the hold on this legislation to remove the hold and allow us to discuss whatever issue on the merits they may have.

The press reported yesterday that two new FBI whistleblowers have come forward and provided information which might be crucial to the FBI's antiterrorism efforts. At least one of those whistleblowers has also provided information to the staff of the Judiciary Committee that suggests that, in its rush to beef up its translation capabilities after September 11, the FBI may have relaxed both quality control and its own security standards.

The Post also reports that some of the allegations made by this whistleblower have been verified, but still, even though verified, the woman who raised these concerns, who raised these legitimate security issues post-September 11, was fired by the FBI for "disruptiveness," their words.

Because the Department of Justice inspector general is looking into this matter, Senator GRASSLEY and I sent a letter to his office based upon what we learned about the incident. This whistleblower makes allegations that amount to far more than just a "he-said, she-said" internal office dispute. Rather, her allegations raise significant security issues that should be addressed as part of the inspector general's review.

The letter Senator GRASSLEY and I sent posed specific questions we hope the inspector general will examine as part of his investigation, including whether the reaction to this woman's report is likely to chill further reporting of security breaches by FBI employees.

What we are concerned about is, if you have an FBI agent who is aware of a security breach, will they be willing to come forward and tell about that, or will they fear they may be fired? It is not a good management practice for the FBI to fire the person who reports a security breach while nothing happens to the person who allegedly committed the breach. That could mean if you commit a breach, you might get away with it, but if you report it, you are out of here. That is a concern we have. That is not the way it should be.

That is precisely the kind of culture Judge Webster found helped FBI Supervisory Agent Robert Hanssen to get away with spying for the Russians. He got away with that spying for 20 years.

Since the attacks of September 11 and the anthrax attacks last fall, we have relied on the FBI to detect and prevent acts of catastrophic terrorism that endanger the lives of the American people and the institutions of our

country. FBI reform was already important, but the terrorist attacks suffered by this country last year have imposed even greater urgency on improving the FBI. The Bureau is our front line of domestic defense against terrorists. It needs to be as great as possible.

Even before those attacks, the Judiciary Committee's oversight hearings revealed some very serious problems at the FBI that needed strong congressional action to fix. We continue this oversight of the Department of Justice and the FBI. We heard about a double standard in evaluations and discipline. We heard about record and information management problems and communications breakdowns between field offices and headquarters that led to the belated production of documents in the Oklahoma City bombing case. Despite the fact that we have poured money—billions of dollars—into the FBI over the last 5 years, we heard the FBI's computer systems were in dire need of modernization.

In fact, most children in grade school in my State have access, many times, to better computer systems.

We heard about how an FBI supervisor, Robert Hanssen, was able to sell critical secrets to the Russians, undetected for years, and he never even had a polygraph. We heard that there were no fewer than 15 different areas of security the Justice Department needed to fix at the FBI.

The FBI Reform Act tackles these problems with improved accountability, improved security both inside and outside the FBI, and required planning to ensure that the FBI is prepared to deal with a multitude of challenges we are facing.

As I said, it was unanimously reported by both Republicans and Democrats on the Judiciary Committee. It reflects our determination to make sure the FBI is as good and strong as it can be—probably more important, as good and as strong as America needs it to be. That reform bill is a long stride toward the goal.

The case reported in yesterday's Washington Post and the matters raised by Minneapolis Field Office Agent Coleen M. Rowley in her May 21, 2002 letter and subsequent testimony critiquing the handling of the Moussaoui case by FBI Headquarters personnel provide case studies for many of the precise issues that S. 1774, the FBI Reform Act, addresses and why its passage is so critical in the FBI's effort to fight terrorism. The Leahy-Grassley bill expands whistleblower protections to ensure that FBI whistleblowers get the same protections as other government employees.

The FBI is currently exempted from the Whistleblower Protection Act, and its employees are only protected by internal Department of Justice regulations. For example, while Special Agent Rowley's letter to the FBI Director and the Inspector General is protected under these regulations, three of

the five people to whom she sent her letter were Members of Congress and are not covered under the current regulations. Moreover, her testimony at the June 6 Judiciary Committee oversight hearing, and before any other committee or subcommittee of the Congress, is not protected under the current regulations. Even a report or complaint to her immediate FBI supervisors would not be protected under the current regulations. That is why the FBI Director's personal guaranty, and the Attorney General's assurances, that she would be protected against retaliations is so important. The Leahy-Grassley FBI Reform Act would extend whistleblower protection for FBI employees to all these disclosures.

The FBI Reform Act would also put an end to statutory restrictions that contribute to the "double standard," where senior management officials are not disciplined as harshly for misconduct as line agents are. Agent Rowley complained about this double standard, as have other FBI agents who have helped the Judiciary Committee craft solutions to the FBI's problems.

The bill would provide expanded statutory authority for the DOJ Inspector General to investigate internal problems at the FBI and help design comprehensive, systematic solutions. It would create the Career Security Officer Program that Judge Webster and FBI officials have endorsed to prevent security breaches.

These are not partisan provisions. The FBI Reform Act is the result of bipartisan oversight hearings which the Judiciary Committee has conducted over the last year. It was reported out of Committee unanimously. Now, when it reaches the Senate floor, it is being blocked anonymously. The future of the FBI is too important for politics. Too many Americans depend on it for their safety.

On June 7, 2002, I delivered a statement that highlighted Republican holds on four important bipartisan pieces of legislation, including important anti-terrorism legislation aimed at curbing terrorist bombings.

Less than a week later, the United States Embassy in Karachi, Pakistan was bombed. The next morning, the Senate passed my bill, S. 1770, to deal with that issue.

I now appeal to the Republican Senator or Senators blocking the FBI Reform Act to remove your hold so that we may pass this bill. The American people deserve action, not politics as usual.

Senator GRASSLEY and I would never be seen as ideological soulmates, but we are joined together in wanting to improve this aspect of the FBI, and we have had key Republicans and key Democrats join us.

Let the bill go forward. The American people deserve this action, not politics as usual.

I ask unanimous consent that yesterday's Washington Post article and the letter I sent with Senator GRASSLEY to

the Justice Department inspector general be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 19, 2002.

Hon. GLEN A. FINE,
Inspector General, Department of Justice,
Washington, DC.

DEAR MR. FINE: The Senate Judiciary Committee has received unclassified information from the FBI regarding allegations made by Ms. Sibel D. Edmonds, a former FBI contract linguist, that your office is currently investigating. We request that, as this investigation progresses, you consider the following questions on this matter:

(1) Ms. Edmonds has alleged, and the FBI has confirmed, that the FBI assigned a contract language "monitor" to Guantanamo Bay, Cuba, contrary to clear FBI policy that only more qualified "linguists" be assigned to Guantanamo Bay. What circumstances led to the contract language monitor being considered qualified for this assignment, and what were the consequences, if any, for the effectiveness of the interrogation of those being detained at Guantanamo?

(2) Ms. Edmonds has alleged, and the FBI has confirmed, that another contract linguist in the FBI unit to which Ms. Edmonds was assigned failed to translate at least two communications reflecting a foreign official's handling of intelligence matters. The FBI has confirmed that the contract linguist had "unreported contracts" with that foreign official. To what extent did that contract linguist have any additional unreported or reported contacts with that foreign official? What counterintelligence inquiries or assessments, if any, were made with respect to those contacts? Do you plan to interview field office and headquarters counterintelligence personnel regarding this matter?

(3) The FBI has said that, to review the other contract linguist's work that Ms. Edmonds questioned, it used three linguists in its language division, a supervisory special agent, and special agents who worked on the case that generated the communications under review. Was this a "blind" review by the linguists, or did they know the person whose work was under review? Were the linguists sufficiently independent to make objective judgments about the translations in question? Would it have been appropriate to use linguists from outside the FBI?

(4) The FBI has said a determination was made by the supervisory special agent that the contract linguist whose work was reviewed made a mistake and that the matter was a training issue. Did this agent's position affect his ability to render an objective judgment? What input did the other special agents provide? Did their involvement in the case that generated the communications affect their ability to make an objective judgment about a person with whom they had worked on the case? Would it have been better to ask other counterintelligence agents to assess the importance of the untranslated information and the reason it was not translated?

(5) To what extent is the credibility of witnesses regarding Ms. Edmonds' allegations affected by their continuing employment in the same translation unit and under the same supervisor where the contract linguist discussed in question (2) is employed.

(6) The FBI has said that Ms. Edmonds prepared two classified documents with respect to her allegations on her home computer without authorization and that one witness reported Ms. Edmonds discussed classified

information regarding her allegations in the presence of three uncleared members of her family without authorization. Would these actions disqualify her from a security clearance, given the circumstances of her concern about a foreign attempt to penetrate or influence FBI operations at her workplace?

(7) What guidance is provided to FBI contract linguists as to the steps they should take if they are concerned about a possible foreign attempt to penetrate or influence FBI operations? How well is this guidance understood by contract linguists in the FBI translation centers and other FBI personnel who would handle such matters?

(8) What improvements, if any, are needed to encourage FBI contract linguists and other FBI contract personnel to come forward with such counterintelligence concerns and to ensure that they are not adversely affected as a result of seeking to assist FBI counterintelligence efforts? Was Ms. Edmonds' case handled in a manner that would encourage such reporting in the future?

Please let us know the timetable for your investigation and advise us of the results.

Sincerely,

PATRICK LEAHY,
Chairman.

CHARLES E. GRASSLEY,
United States Senator.

[From the Washington Post, June 19, 2002]

2 FBI WHISTLE BLOWERS ALLEGE LAX SECURITY, POSSIBLE ESPIONAGE

(By James V. Grimaldi)

In separate case, two new FBI whistle-blowers are alleging mismanagement and lax security—and in one case possible espionage—among those who translate and oversee some of the FBI's most sensitive, top-secret wiretaps in counterintelligence and counterterrorist investigations.

The allegations of one of the whistle-blowers have prompted two key senators—Judiciary Chairman Patrick J. Leahy (D-VT) and Charles E. Grassley (R-Iowa)—to pose critical questions about the FBI division working on the front line of gathering and analyzing wiretaps.

That whistle-blower, Sibel Edmonds, 32, a former wiretap translator in the Washington field office, raised suspicions about a co-worker's connections to a group under surveillance.

Under pressure, FBI officials have investigated and verified the veracity of parts of Edmonds' story, according to documents and people familiar with an FBI briefing of congressional staff. Leahy and Grassley summoned the FBI to Capitol Hill on Monday for a private explanation, people familiar with the briefing said.

The FBI confirmed that Edmonds' co-worker had been part of an organization that was a target of top-secret surveillance and that the same co-worker had "unreported contacts" with a foreign government official subject to the surveillance, according to a letter from the two senators to the Justice Department's Office of the Inspector General. In addition, the linguist failed to translate two communications from the targeted foreign government official, the letter said.

"This whistleblower raised serious questions about potential security problems and the integrity of important translations made by the FBI," Grassley said in a statement. "She made these allegations in good faith and even though the deck was stacked against her. The FBI even admits to a number of her allegations, and on other allegations, the bureau's explanation leaves me skeptical."

The allegations add a new dimension to the growing criticism of the FBI, which has cen-

tered in recent weeks on the bureau's failure to heed internal warnings about al-Qaida leading up to the Sept. 11 terrorist attacks. Last month, FBI agent Coleen Rowley also complained about systemic problems before the attacks. Rowley works in Minneapolis, where agents in August unsuccessfully tried to get a search warrant to look into the laptop computer of a man now described as the "20th hijacker."

Finding capable and trustworthy translators has been a special challenge in the terrorism war. FBI officials told government auditors in January that translator shortages have resulted in "the accumulation of thousands of hours of audio tapes and pages" of untranslated material. After the attacks, FBI Director Robert S. Mueller III issued a plea for translators, and hundreds of people applied.

Margaret Gulotta, chief of language services at the FBI, said the bureau has hired 400 translators in two years, significantly reducing the backlog on high-priority cases while upholding strict background checks. "We have not compromised our standards in terms of language proficiency and security," Gulotta said.

In the second whistle-blower case, John M. Cole, 41, program manager for FBI foreign intelligence investigations covering India, Pakistan and Afghanistan, said counterintelligence and counterterrorism training has declined drastically in recent years as part of a continuing pattern of poor management.

Cole also said he had observed what he believed was a security lapse regarding the screening and hiring of translators. "I thought we had all these new security procedures in place, in light of [FBI spy Robert P.] Hanssen," Cole said. "No one is going by the rules and regulations and whatever policy may be implemented."

Edmonds and Cole have written about their concerns to high-level FBI officials. Edmonds wrote to Dale Watson, the bureau's counterterrorism chief, and Cole wrote to Mueller. Both cases have been referred to Justice's Office of the Inspector General, which is investigating, government officials confirmed.

The FBI said it was unable to corroborate an allegation by Edmonds that she was approached to join the targeted group. Edmonds said she told Dennis Saccher, a special agent in the Washington field office who was conducting the surveillance, about the co-worker's actions and Saccher replied. It looks like espionage to me," Saccher declined to comment when contacted by a reporter.

Edmonds was fired in March after she reported her concerns. Government officials said the FBI fired her because her "disruptiveness" hurt her on-the-job "performance." Edmonds said she believes she was fired in retaliation for reporting on her co-worker.

Edmonds began working at the FBI in late September. In an interview, she said she became particularly alarmed when she discovered that a recently hired FBI translator was saying that she belonged to Middle Eastern organization whose taped conversations she had been translating for FBI counterintelligence agents. Officials asked that the name of the target group not be revealed for national security reasons.

A Washington Post reporter discovered Edmonds' name in her whistle-blowing letters to federal and congressional officials and approached her for an interview.

Edmonds said that on several occasions, the translator tried to recruit her to join the targeted foreign group. "This person told us she worked for our target organization," Edmonds said in an interview. "These are the people we are targeting, monitoring."

Edmonds would not identify the other translator, but The Post has learned from other sources that she is a 33-year-old U.S. citizen whose native country is home to the target group. Both Edmonds and the other translator are U.S. citizens who trace their ethnicity to the same Middle Eastern country. Reached by telephone last week, the woman, who works under contract for the FBI's Washington field office, declined to comment.

In December, Edmonds said the woman and her husband, a U.S. military officer, suggested during a hastily arranged visit to Edmonds' Northern Virginia home on a Sunday morning that Edmonds join the group.

"He said, 'Are you a member of the particular organization?'" Edmonds recalled the woman's husband saying. "[He said,] 'It's a very good place to be a member. There are a lot of advantages of being with this organization and doing things together'—this is our targeted organization—and one of the greatest things about it is you can have an early, an unexpected, early retirement. And you will be totally set if you go to that specific country."

Edmonds also said the woman's husband told her she would be admitted to the group, especially if she said she worked for the FBI.

Later, Edmonds said, the woman approached her with a list dividing up individuals whose phone lines were being secretly tapped. Under the plan, the woman would translate conversations of her former co-workers in the target organization, and Edmonds would handle other phone calls. Edmonds said she refused and that the woman told her that her lack of cooperation could put her family in danger.

Edmonds said she also brought her concerns to her supervisor and other FBI officials in the Washington field office. When no action was taken, she said, she reported her concerns to the FBI's Office of Professional Responsibility, then to Justice's inspector general.

"Investigations are being compromised," Edmonds wrote to the inspector general's office in March. "Incorrect or misleading translations are being sent to agents in the field. Translations are being blocked and circumvented."

Government officials familiar with the matter who asked not to be identified said that both Edmonds and the woman were given polygraph examinations by the FBI and that both passed.

Edmonds had been found to have breached security, FBI officials told Senate investigators. Edmonds said that two of those alleged breaches were related to specific instruction by a supervisor to prepare a report on the other translator on her home computer.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 29, 2000 in Mahwah, NJ. Two gay men were beaten in an apartment complex parking lot. The assailant, William Courain, 26, was at an apartment complex party when he began making obscene remarks to several of the guests about their sexual

orientation. He left the party and confronted two men in the parking lot, making derogatory comments about their sexual orientation before attacking them. Witnesses say he began punching and kicking the two victims, one of whom suffered bleeding from the mouth and eyes and was treated at a local hospital. Mr. Courain was arrested and charged with aggravated assault, bias harassment and bias assault in connection with the incident.

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 of 2001 is now 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.

WORLD REFUGEE DAY

Mr. KENNEDY. Mr. President, I am honored to join in celebrating World Refugee Day and the many contributions of refugees around the world. The United Nations High Commission on Refugees works tirelessly to provide hope and opportunity to many of the world's most vulnerable people, and I commend High Commissioner Lubbers for his leadership in this area.

The focus of this year's celebration is on the critical situation of refugee women and children, who make up 70 percent of the refugee population. More must be done to address the special needs of these individuals, and World Refugee Day celebrations are an important step in the right direction.

To celebrate this day, United Nations Goodwill Ambassador, Angelina Jolie has commissioned a national poster competition and I am proud to say a fifth-grade student from Newton, MA, Lev Matskevich, is one of the winners. I would like to congratulate all of the winners, Lev, Sarah Rahmani from Edmonds, WA, and Roxann Acuna from San Antonio, TX for their hard work not only on the posters, but in bringing needed attention to the plight of refugees.

The theme of this year's poster contest, as it says proudly on Lev's poster, is tolerance. As a nation of immigrants we must remember that our tolerance toward immigrants has been a principal source of our progress and achievement.

With this year's celebration of World Refugee Day and these wonderful posters, we continue the important tradition of recognizing the contributions of refugees and encouraging the United States' continued commitment to providing a safe-haven to those in need around the world.

SUPREME COURT RULING THE EXECUTION OF THE MENTALLY RETARDED UNCONSTITUTIONAL

Mr. FEINGOLD. Mr. President, earlier today, the United States Supreme Court issued one of the most signifi-

cant decisions curtailing the death penalty since the Court first found capital punishment unconstitutional in 1972, and then reinstated it four years later. In a six to three decision in *Atkins v. Virginia*, the Court ruled that the execution of the mentally retarded is unconstitutional. The Court concluded that such executions are cruel and unusual punishment in violation of the Eighth Amendment.

This decision is a notable turning point for our Nation.

Indeed, a national consensus opposing such executions has been growing for some time. In 1989, when the Supreme Court upheld the execution of mentally retarded persons, only two of the 38 States that authorize the use of the death penalty had banned executions of the mentally retarded. Since then, 16 more States have enacted laws prohibiting the practice. Now, 18 of the 38 States that use the death penalty have banned the practice. And of the 20 States in the country that continue the practice, nearly half have pending legislation to halt executions of the mentally retarded. In addition, the Federal Government, which re-enacted the death penalty in 1988, has banned executions of the mentally retarded.

A recent poll by the National Journal found that only 13 percent of Americans favor the death penalty for the mentally retarded. As this poll indicates, Americans recognize that it is cruel and unusual to apply the death penalty to adults who have the minds of children. In many cases, mentally retarded adults accused of crimes cannot fully understand what they have been accused of, and often do not comprehend the severity of the punishment that awaits them. Accused adults with low mental capacity are often characteristically eager-to-please, and more likely to falsely confess to a crime.

Indeed, as Justice Stevens, writing for the majority, stated, concerning mentally retarded defendants, "Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability." He wrote: "Mentally retarded defendants may be less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse for their crimes." Justice Stevens continued: "Mentally retarded defendants in the aggregate face a special risk of wrongful execution."

The Court also reasoned that the usual justifications for capital punishment, retribution and deterrence, do not apply to mentally retarded defendants. With respect to retribution, Justice Stevens wrote that "the severity of the appropriate punishment necessarily depends on the culpability of the offender." But "[i]f the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of retri-

tribution," Justice Stevens wrote. He concluded: "Thus, pursuant to our narrowing jurisprudence, which seeks to ensure that only the most deserving of execution are put to death, an exclusion for the mentally retarded is appropriate."

With respect to the other justification for capital punishment, deterrence, Justice Stevens wrote that "executing the mentally retarded will not measurably further the goal of deterrence." The Court reasoned:

The theory of deterrence in capital sentencing is predicated upon the notion that the increased severity of the punishment will inhibit criminal actors from carrying out murderous conduct. Yet it is the same cognitive and behavioral impairments that make these defendants less morally culpable . . . that also make it less likely that they can process the information of the possibility of execution as a penalty and, as a result, control their conduct based on that information.

Today the Supreme Court reflected the sentiments of our nation on this important issue. As the majority stated: "The practice [of executing the mentally retarded] . . . has become unusual, and it is fair to say that a national consensus has developed against it." The majority concluded: "Construing and applying the Eighth Amendment in the light of our 'evolving standards of decency,' we therefore conclude that such punishment is excessive and that the Constitution 'places a substantive restriction on the State's power to take the life' of a mentally retarded offender."

The Court's decision confirms that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing. Even before today's decision, we have known that the current death penalty system is broken and plagued by errors, including the risk of executing the innocent and racial and geographic disparities.

As evidence mounts that the administration of capital punishment is plagued by inexcusable flaws, the American people are taking notice, and taking action. Illinois Governor George Ryan took the courageous and extraordinary step of placing a moratorium on executions two years ago. He also created an independent, blue ribbon commission to review the Illinois death penalty system. The commission released its report earlier this year and made 85 recommendations for improving the administration of the death penalty.

More and more Americans are realizing that they can no longer simply look the other way when confronted with glaring injustices. And today, a majority of the justices on our nation's highest court have joined this growing chorus of Americans.

I am proud of our Court today. I am proud of a justice system that recognizes that the execution of the mentally retarded is unconstitutional, inhumane, and simply wrong. Today we can declare an important and historic victory for justice.

But, while the Supreme Court must continue to scrutinize the capital cases before it, Congress and the American people also have a responsibility to act. Today's ruling presents us with further evidence of the urgent need for a moratorium on executions and a full and thorough nationwide review of the administration of the death penalty. It is time for Congress to support passage of my bill, the National Death Penalty Moratorium Act. We simply cannot continue to look the other way.

ACCESS FOR AFGHAN WOMEN ACT

Mr. DURBIN. Mr. President, I have been pleased to join with Senator OLYMPIA SNOWE in introducing the Access for Afghan Women Act, S. 2647.

After the horror that women endured under the Taliban, it is critical that U.S. assistance to that country promotes women's participation and leadership in the political and economic life of Afghanistan, while protecting women's rights.

In fact, throughout the world, it is clear that the role of women is key for successful economic development and a reliable indicator of whether development programs will succeed. I am not talking about some radical agenda, rather I refer to the basic ability of women to participate in education, society, government, and the economy.

Afghanistan under the Taliban was an extreme example of the failure to include women in the economy, in fact relegating half the population to virtual house arrest. No country will succeed if it refuses to educate half its population. No economy will grow that restricts half its population from the work force, from credit, and from private property. And the government that does such things is no government at all but a travesty.

Economic development programs benefit everyone, but certain programs have a particularly strong impact on the lives of women. Microcredit programs, for example, tend to benefit women who may need only a small loan to buy a goat to sell milk, a sewing machine to make clothes, or vegetables to sell in the village market. These tiny businesses often provide the financial independence that women need to pay school fees, take in an orphan, or simply survive.

U.S. programs are providing books to newly reopened schools in Afghanistan will have a major impact on the education of girls, who were not allowed to go to school under the Taliban.

This bill sets out broad requirements for U.S. assistance to Afghanistan for governance, economic development, and refugee assistance.

Among other provisions, bill calls for U.S. programs to include U.S. and Afghan-based women's groups in planning for development assistance, encourages U.S. groups to partner or create Afghan-based groups, and supports for the Ministry of Women's Affairs. It calls for programs that increase wom-

en's access to credit and ownership of property, as well as long-term financial assistance for education and health. It requires U.S.-sponsored police and military training to include the protection of women's rights and that steps be taken to protect against sexual exploitation of women and children in refugee camps.

I believe that these requirements will fit well with the development assistance programs that the United States plans to pursue, but I believe that it is still particularly useful to lay them out in detail, especially with regard to Afghanistan, to be certain that U.S. programs help remedy the abuses suffered by the women of Afghanistan. It is only with the concerted effort of both men and women in Afghanistan that that devastated country will recover, grow, and develop.

ADDITIONAL STATEMENTS

NATIONAL SERVICE DAY

• Mr. CARPER. Mr. President, I would like to speak for a few minutes about the Democratic Leadership Council's "National Service Day." Today I join the Democratic Leadership Council, DLC, former President Clinton, DLC Chair Senator EVAN BAYH, and New Democrats across the country in calling for the expansion of national service opportunities in a "National Service Day."

Creating a strong system of voluntary national service has been a signature New Democrat idea from the founding of the Democratic Leadership Council to President Clinton's AmeriCorps initiative. In the wake of the surge of patriotism following the events of September 11, national service is squarely at the center of national debate.

To build on this momentum, the DLC's Clinton Center is hosting "National Service Day," during which former DLC Chair President Clinton will participate in three service projects in New York City, and DLC Chair EVAN BAYH, Representatives HAROLD FORD, Jr. and Rep. TIM ROEMER will host a roundtable discussion with Members of Congress and AmeriCorps members from across the country. Other elected officials, including Virginia Governor Mark Warner, San Jose Mayor Ron Gonzalez, and Wisconsin State Representative Antonio Riley will join the DLC in promoting the New Democrat tradition of opportunity, responsibility and community through national service.

In recognition of National Service Day, I am hosting Britt Eichner from Bear, DE, today. A rising senior at Archmere Academy with a 4.0 GPA, Britt embodies a commitment to service. As Hugh O'Brian Youth Foundation Ambassador, she volunteered more than 100 hours of service to the community. Last spring, she mobilized faculty and student mentors to adopt

neighborhood families in need. As proof that living with diabetes doesn't have to slow anyone down, Britt just completed her fifth Bike-a-Thon for the American Diabetes Foundation Tour de Cure. And she recently spent a weekend in western Philadelphia revitalizing neighborhoods in a community cleanup. Students like Britt represent the real promise of community service.

While every American should be asked to consider setting aside time for service, be it mentoring a student or volunteering at a community center, it is also time to make sure we give those who are willing to serve, as Citizen-Soldiers in the Armed Forces or as AmeriCorps or Peace Corps volunteers, the opportunity to serve their country full-time.

I am proud to say that in Delaware, people of all ages and backgrounds are helping to solve problems and strengthen communities through 23 national service projects across the state. This year, AmeriCorps, the domestic Peace Corps, will provide more than 170 individuals the opportunity to spend a full year serving in Delaware communities. More than 230 students in Delaware colleges and universities will help pay their way through school while aiding their community through service opportunities that are part of the Federal Work Study Program. And more than 3,300 seniors in Delaware will contribute their time and talents to one of three programs that make up the Senior Corps: Foster Grandparents, who serve one-on-one with more than 1,200 young people with special needs; Senior Companions, who help more than 100 other seniors live independently in their homes; and Retired and Senior Volunteer Program, RSVP, volunteers, who work with more than 330 local groups to meet a wide range of community needs.

These numbers, though inspiring as they are, represent just a small fraction of our population and are much smaller than the number of people who want to serve. If we are to make national service a culture-changing rite of passage in America, we must do more. National service should not be a special chance for a few, but a way of life for many.

At a time when Americans from all walks of life are asking what they can do to help make our Nation safer and stronger, national service offers an answer that points us towards a higher politics of national purpose.●

BETHEL REGIONAL HIGH SCHOOL DRILL TEAMS

• Mr. MURKOWSKI. Mr. President, I rise today to honor a group of Alaska High School students from Bethel, Alaska who recently won the National Championship in Drill Team/Color Guard competition held in Daytona, Florida, May 3rd.

It is not unusual for a U.S. Senator to rise on the Senate floor and honor a national championship team from their

home state. What is unusual in this case is that a Drill Team, Color Guard, JROTC unit from such a remote community won the national championship.

You see, Bethel is a moderate-sized town by Alaska standards, but small by anyone else's definition. Located along the Kuskokwim River in Southwest Alaska—roughly 400 miles west of Alaska's largest town, Anchorage—the community has a current population of 5,471. The Bethel Regional High School contains 250 students, smaller than some classes in many high schools. The school draws mainly Yupik Eskimo students from dozens of smaller villages such as Akiachak, Akiak, Tuluksak, Napakiak, Kasigluk and Tantutuliak to name just a few. The majority of the team, 11 of 13 members, are Alaska Natives.

It is truly heart warming to see students from a small Alaska town do so well in the national competition. At Daytona, the Bethel team competed against more than 70 schools from across the nation, as well as against Department of Defense schools from Japan to Puerto Rico.

Practicing drill formations in Alaska's "Bush" is a bit more difficult than in Southern California or Florida. Teams need to practice indoors, a lot, since the average January temperature is 6 degrees Fahrenheit. It also is a tad dark in winter, Bethel getting only about five and one-half hours of daylight a day in winter.

But more challenging practice conditions didn't stop the students from Bethel Regional from competing and winning in the national competition. Let me mention the members of the Unarmed Regulation Inspection Drill Team that finished first in their competition: Curtis Neck, Michael Carroll, Wallen Olrun, James Miles, Christina Smith, Paul Anvil, Justin Lefner, Mark Charlie, Kimberly Cooper, Jocelyn Tikiun, Jason Noatak, Michael Glore and Lisa Typpo. The team was led by Commander Dexter Kairaiuak.

I'd like to also name the members of the Color Guard that finished in fourth place in its individual competition: Nation Colors, Commander Curtis Neck, State Colors Dexter Kairaiuak, Nation Guard Michael Carroll and State Guard Wallen Olrun.

The Unarmed Regulation Drill Team, containing the same members as the championship inspection team, also competed and took 12th place in its competition. The 10-member Unarmed Exhibition Drill Team took third place in the national competition. It included: Commander Curtis Neck, Michael Carroll, Wallen Olrun, Dexter Kairaiuak, Christina Smith, Lisa Typpo, Justin Lefner, Mark Charlies, Kimberly Cooper and Jocelyn Tikiun.

I also want to publicly thank Army Instructor MSG (Retired) Barbara W. Wright, who was the Army Instructor and Coach of the team this year. She did a wonderful job training her students and helping them to their cham-

pionship and deserves the thanks not just of the students and their parents, but of all Alaskans for her dedication and commitment. I also want to thank the chaperones who accompanied the students to the competition: Major (RET) Carl D. Bailey, assistance coach; Mr. Scott Hoffman and Mrs. Donna K. Dennis.

To be national champions at any endeavor requires long hours of practice and sacrifice. It requires dedication and true commitment. I know all members of the U.S. Senate will join me in honoring these students and their faculty advisors for a job very well done. All Alaskans—all Americans—honor you today for your hard work and your accomplishments.●

RETIREMENT OF DR. JAMES LARE, OCCIDENTAL COLLEGE

● Mrs. BOXER. Mr. President, On the occasion of his retirement, I would like to take a moment to reflect on the outstanding accomplishments of Dr. James Lare during his tenure as a professor at Occidental College.

Dr. Lare's commitment to Occidental College goes back more than 50 years, when he was an undergraduate student at the college. In 1962, he became a faculty member and has now served the college for 40 years. Many of Dr. Lare's colleagues can attest to his extraordinary years of service and contributions to the college and its students.

An expert in American government, European comparative politics, public administration, urban politics and public policy, Dr. Lare has served as a mentor and inspiration to his students, many of whom have flourished on Capitol Hill and in local government. His work on many different projects and on many different committees has strengthened the school and has touched the lives of his colleagues and students.

In addition to his professional career, Dr. Lare is a model community leader. He is a member of many diverse organizations, including CORO Associates, the Public Affairs Internship Support Group; the Sierra Club; the Los Angeles World Affairs Council and he serves as Treasurer of the California Center for Education in Public Affairs, Inc. Dr. Lare also served our Nation in the United States Army Reserve.

Mr. President, it is clear that Dr. Lare has been an outstanding teacher and is an exceptional citizen who has enhanced the lives of those privileged to cross his path. I extend my very best wishes to him as he begins his much deserved retirement.●

HONORING ANNA MICHELLE MILES

● Mr. BUNNING. Mr. President, I rise today to honor a truly exceptional member of the Kentucky nursing community. Mrs. Anna Michelle Miles (Missy) of Covington, Kentucky was recently nominated for the Florence Nightingale Award by two of her supe-

riors for her selfless devotion to her co-workers, community, and patients.

The Florence Nightingale Award, presented by the University of Cincinnati Medical Center, honors excellence in the delivery of direct patient care. During her lifetime, Florence Nightingale reformed and basically created the modern profession of nursing, establishing an educational system where women could properly learn about medicine and patient care. During the Crimean War, she bravely and selflessly volunteered her services for the front line. Her request was granted and along with 38 nurses, she was able to greatly reduce the mortality rate among the sick and wounded. Her combination of medicinal knowledge and compassion is what this award is founded upon.

Nurse Miles and the seven other nominees for this year's award represent the best of what nursing has to offer. They place patient care as their top priority and always know how to cheer a patient up by making them smile or just simply listening to them. They may not always have a physical cure for a patient's particular condition, but they will continually work to ensure that each and every patient is cared for in a loving and compassionate manner.

In terms of what Nurse Miles has done for her patients and fellow co-workers, I do not believe any award or statement could properly honor her. While a nurse at St. Elizabeth Medical North in Covington, KY, Nurse Miles has been an invaluable and irreplaceable resource. She helped start the Sunshine Fund in the ER in an effort to bring about a positive and warm atmosphere for doctors, nurses, families, and patients. She regularly volunteers to cover other floors when they are low on staffing and picks up extra shifts whenever she has the opportunity. As a social worker once wrote about Nurse Miles, "My personal feeling is that Missy treats all her patients with dignity and respect. She is a true nurse in all the roles she fulfills." She has also been very active in aiding those less fortunate individuals residing in the Covington community; collecting food for the shelters and food kitchens as well buying hats and gloves with her own money to distribute to children for those long, cold nights. Her patients adore and co-workers cannot imagine life without her.

I kindly ask that my fellow colleagues join me in thanking Anna Michelle Miles for her endless love and enduring commitment to her patients. She is a tribute to the memory of Florence Nightingale.●

THE DIABETES EPIDEMIC

● Mrs. CLINTON. Mr. President, I want to tell you about a remarkable young man I met two years ago. His name is Cullinan Williams, he is 10 years old and he lives in the beautiful little town of Cazenovia in upstate New York.

When Cullinan was 6, he was diagnosed with diabetes. He gives himself injections of insulin and pricks his finger to test his blood glucose level several times a day. Unless we find a cure for diabetes, he will need to do this for the rest of his life. Diabetes is a very serious disease but Cullinan is not sad or defeated. Quite the opposite: Cullinan is a strong advocate for increased diabetes research funding. I first met Cullinan when he asked my husband and me to sponsor him in America's Walk for Diabetes. This year he served as the American Diabetes Association's National Youth Advocate. He traveled all across the country talking to patients, providers and legislators. Every year he lobbies Congress and he tells other young people that they too can have a voice on Capitol Hill and in the halls of their state legislatures.

Cullinan has important things to say. There are 17 million Americans with diabetes; 6 million don't even know they have it. The prevalence of diabetes in the U.S. has grown by 50 percent since 1990; the Center for Disease Control has called it an epidemic. At the current rate, by the year 2010, 10 percent of all Americans will have diabetes.

Diabetes is a very serious disease. Life expectancy for people with diabetes is reduced by 15 years. People with diabetes have health problems. Many go on dialysis or need a transplant because their kidneys fail. Some lose their limbs and others lose their sight. Many have a heart attack or a stroke. More than 200,000 people die of diabetes every year. It is the fifth leading cause of death by disease and it is the third leading cause of death for some minority groups.

Diabetes costs a lot. In addition to human pain and early death, the financial cost exceeds \$100 billion every year. Fourteen percent of all of our health care dollars goes to caring for people with diabetes; 25 percent of medicare expenditures goes to diabetes care. If the epidemic of diabetes continues, the expenditures for diabetes care will become astronomical and bankrupt our healthcare system.

Diabetes can be stopped but we need research to do it. While deaths attributed to diabetes have increased by 40 percent since 1987, the proportion of the NIH budget that goes to diabetes research has decreased by 20 percent.

We also have to promote a healthy lifestyle across all ages. Obesity is reaching epidemic proportions in our country and is one of the reasons why Type 2 diabetes, the most common form of diabetes, is increasing. Type 2 diabetes used to be diagnosed in older adults. Now we see it in overweight children. This form of diabetes can be prevented by eating a healthy diet, getting regular exercise, and maintaining a normal weight. As a society, we must face the fact that our sedentary lifestyle, fast food, and "super size" portions are killing us. Stopping Type 2 diabetes means we must make a com-

mitment as a nation to encouraging and supporting a healthy lifestyle in our families, our communities and our work environment.

Cullinan does not have Type 2 diabetes. He has Type 1 diabetes. However, both Cullinan and I know that Type 1 diabetes can be prevented or cured through research. Science has produced many recent breakthroughs in our understanding of this disease. We know how to identify the genes that put children like Cullinan at-risk for diabetes. Scientists are now searching for the environmental triggers that cause diabetes in genetically at-risk children. Once they identify those triggers, prevention of Type 1 diabetes will be possible. Scientists also understand that Type 1 diabetes is an autoimmune disease; the body destroys its own insulin producing islet cells. Scientists are now studying ways to transplant islet cells or to regenerate islet cells. This will cure diabetes in people with the disease. We need to provide these scientists with the research funding they need to make a difference in Cullinan's life and to stop Type 1 diabetes in future generations.●

50TH ANNIVERSARY OF THE CITY OF FONTANA

● Mrs. BOXER. Mr. President, I take this opportunity to reflect on the 50-year history of the City of Fontana, which is celebrating its official 50th anniversary on Tuesday, June 25.

Incorporated in 1952, the City of Fontana has every reason to be proud of its rich history. One can just look at its intricately detailed city seal for a glimpse of Fontana's heritage. On the right side of the seal appears a vineyard, representing the time when Fontana had one of the largest vineyards in the world. Also illustrated are chicken ranches and citrus groves, reminding us of the agricultural community Fontana once was.

Although land in the Fontana area was secured as early as 1813, it was not actively developed until the early 1900's, when the Fontana Development Company acquired it and began a community called "Rosena." The name was changed to "Fontana" in 1913.

In 1913, A.B. Miller founded the townsite of Fontana, and made it into a diversified agricultural community. Nearly 30 years later, as America geared up for World War II, Fontana was selected as the site for a West Coast steel mill and soon became Southern California's leading producer of steel and other related products. The mill operated until 1984. Today, Fontana is a growing community and is the home of the California Speedway, a world class track for auto racing.

Mr. President, it is clear that the City of Fontana has truly thrived since its early beginnings. Its population has grown from 13,695 to 139,100, and the city provides a full range of valuable services to its residents.

I am proud to serve the people of Fontana, and wish them all a wonder-

ful anniversary celebration and many more years of prosperity.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-256. A joint resolution adopted by the Legislature of the State of Wyoming relative to wolf reintroduction in the State of Wyoming; to the Committee on Environment and Public Works.

JOINT RESOLUTION NO. 3

Whereas, the federal government is responsible for the reintroduction of wolves in the state of Wyoming;

Whereas, elk, moose and deer are important to the recreational and economic interests of the people of the state of Wyoming;

Whereas, the use of elk feed grounds provides positive benefits for the people of the state of Wyoming by maintaining elk population objectives at different locations in the state;

Whereas, the introduction of wolves creates a negative impact on habitats for moose and deer, and wolves kill and displace moose and deer, thereby posing a threat to the maintenance of moose and deer population objectives in the state;

Whereas, wolves kill and displace elk, moose and deer, thereby posing a threat to the maintenance of elk, moose and deer population objectives in the state and the habitats of moose and deer and the use of elk feed grounds;

Whereas, wolves kill approximately three hundred thirty (330) elk annually in Wyoming, costing the owner of those elk, the state of Wyoming, an estimated one million three hundred twenty thousand dollars (\$1,320,000.00);

Whereas, the state of Wyoming does not have jurisdiction to regulate wolves while they remain on the federal list of threatened species. Now, therefore, be it

Resolved By The Members of the Legislature of the State of Wyoming:

Section 1. That the Wyoming state legislature recognizes the importance of elk, moose and deer to the people of the state and the use of elk feed grounds and the importance of habitats for moose and deer to maintain elk, moose and deer population objectives at various locations in the state of Wyoming.

Section 2. That the federal authorities responsible for the management of wolves in the state of Wyoming must manage wolves in a manner consistent with maintaining elk, moose and deer population objectives, preserving the habitats of moose and deer and the use of elk feed grounds, as determined by state wildlife officials.

Section 3. That the federal government should annually reimburse the state of Wyoming for the loss to the state caused by the killing of elk, moose and deer by wolves.

Section 4. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the United States Secretary of Interior and to the Wyoming Congressional Delegation.

POM-257. A resolution adopted by the House of the Legislature of the State of Michigan relative to the Transboundary Hazardous Waste Agreement with Canada; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 389

Whereas, Michigan has long been frustrated in efforts to regulate solid waste imported into our state. Our state is especially concerned about waste that is brought here from Ontario. Our citizens feel strongly that our environment should not be placed at additional risk from municipal solid waste and other materials that are generated elsewhere and transported here for disposal; and

Whereas, The volume of waste that comes into Michigan each year represents a significant portion of all trash handled here. As much as 20 percent of all solid waste in Michigan is from out of state, and the amount has increased significantly in recent years; and

Whereas, Congress has authority for regulating the transportation and disposal of solid waste between states and nations by virtue of the United States Constitution's interstate commerce clause. To protect the public health, safety, and welfare of our environment and citizens, Congress must take action to provide states with the express means to regulate or prohibit the importation of trash. Congress has before it now a bill that would provide the appropriate authority to the states. Under H.R. 1927, states could prohibit or impose certain limitations on the receipt of foreign municipal solid waste; and

Whereas, Hazardous waste and solid waste transported between Canada and the United States are provided for in the Agreement Between the Government of Canada and the Government of the United States Concerning the Transboundary Movement of Hazardous Waste. It has been reported, however, that the notification requirements and procedures set forth in the agreement have not been followed. It is most disturbing to think that the protections provided in the agreement between our nations are not working. The people of this state have every right to know that all prudent measures are being enforced to protect our citizens and environment; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to authorize states to prohibit or restrict foreign municipal solid waste and to urge the Environmental Protection Agency to ensure full compliance with the Agreement Between the Government of Canada and the Government of the United States Concerning the Transboundary movement of hazardous Waste; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Environmental Protection Agency.

POM-258. A resolution adopted by the House of the Legislature of the State of

Michigan relative to Federal transportation funding for highway and transit programs; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 419

Whereas, Michigan faces a difficult task in maintaining a transportation network that meets the many needs of the individuals and businesses of this state. This challenge is made more difficult because of the fact that Michigan receives in return from the federal government far less in highway funding than we send to Washington; and

Whereas, Under the provisions of the Transportation Equity Act for the 21st century, Michigan currently receives approximately 90.5 cents in return for every highway dollar we send to the federal government. While this is a notable improvement from the amounts received in prior years, it remains inadequate for our state's considerable overall transportation needs. In the area of transit, the deficiency of funding received from Washington is much more severe, with Michigan receiving only about 50 cents for each dollar we send through taxes; and

Whereas, For Fiscal Year 2003, proposed federal transportation funding for Michigan is expected to be \$222 million less than Fiscal Year 2002. This shortfall will present significant problems to certain aspects of our transportation infrastructure. As discussions take place on future funding mechanisms and the next federal transportation funding bill, it is imperative that a fairer approach be developed; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to establish a minimum rate of return of 95 percent of Michigan's federal transportation funding for highway and transit programs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-259. A House concurrent resolution adopted by the Legislature of the State of Hawaii relative to the TANF Reauthorization Act of 2001; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 12

Whereas, on October 12, 2001, Representative Patsy Mink introduced the TANF Reauthorization Act of 2001 with thirty Democratic cosponsors, three of whom are on the committee of referral, the Ways and Means Committee; and

Whereas, the bill would also make it clear that its principal focus is the long-term reduction of poverty, rather than a short-term, impermanent, immediate reduction in the welfare rolls; and

Whereas, the bill would reform the Temporary Aid to Needy Families program to make it clear that postsecondary education is a work activity under TANF, for example, by providing access to postsecondary education for women TANF recipients as an allowable work activity; and

Whereas, in the United States, education has always been a route to economic self-sufficiency and social mobility; and

Whereas, in the twenty-first century, at least one year of postsecondary education will become increasingly more essential for all workers; and

Whereas, yet, TANF does not currently extend our nation's commitment to educational opportunity to women who are living in poverty with their children but who are ready, willing, and able to benefit from postsecondary education; and

Whereas, data from several studies have demonstrated that the additional earning capacity that a postsecondary education provides can make the difference between economic self-sufficiency and continued poverty for many women TANF recipients; and

Whereas, among families headed by African American, Latino, and white women, the poverty rate declines from fifty-one, forty-one, and twenty-two per cent to twenty-one, eighteen and a-half, and thirteen per cent, respectively, with at least one year of postsecondary education; and

Whereas, further data have found that postsecondary education not only increases women's incomes, it also improves their self-esteem, increases their children's education ambitions including aspiring to enter college themselves, and has a dramatic impact on their quality of life; and

Whereas, now, more than ever, TANF recipients need postsecondary education to obtain the knowledge and skills they will require to compete for jobs and enable them to lift themselves and their children out of poverty in the long-term; and

Whereas, without some postsecondary education, most women who leave welfare for work will earn wages that place them far below the federal poverty line, even after five years of working; and

Whereas, allowing TANF recipients to attend college, even for a short time, will improve their earning potential significantly, in fact, the average person who attends a community college, even without graduating, earns about ten per cent more than those who do not attend college at all; and

Whereas, women who receive TANF assistance clearly appreciate the importance and role of postsecondary education in moving them out of poverty to long-term economic self-sufficiency; and

Whereas, as of November 1999, at least nineteen states had considered or enacted strategies to support women's efforts to achieve long-term economic self-sufficiency through pursuit of a postsecondary education; now, therefore, be it

Resolved by the House of Representatives of the Twenty-first Legislature of the State of Hawaii, Regular Session of 2002, the Senate concurring, That the Legislature supports the TANF Reauthorization Act of 2001 (HR 3113); and be it further

Resolved, That the Legislature urges Hawaii's congressional delegation to support the passage of the TANF Reauthorization Act of 2001 (HR 3113); and be it further

Resolved, That certified copies of this concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, members of Hawaii's congressional delegation, the Governor of Hawaii, the President of the Senate, and the Speaker of the House of Representatives.

POM-260. A House concurrent resolution adopted by the General Assembly of the State of Ohio relative to federal funding for character education and program development; to the Committee on Health, Education, Labor, and Pensions.

CONCURRENT RESOLUTION NO. 28

Be it resolved by the House of Representatives of the State of Ohio (the Senate concurring):

Whereas, The members of the 124th General Assembly of Ohio, recognizing the importance of fostering citizens with honorable character qualities that are based upon the moral standards exemplified by our nation's founders and with which they established our nation and legal system, find it wise to intentionally designate Ohio as a character-building state; and

Whereas, It is imperative that we continue to build upon our heritage to make Ohio a community where families are strong, homes and streets are safe, education is effective, business is productive, neighbors demonstrate care for one another, and citizens are free to make wise choices for their lives and families; and

Whereas, Because citizens are responsible for their actions, and their daily decisions need to be based upon universally recognized ethical standards and upon universally recognized positive character qualities including integrity, responsibility, respect, compassion, honesty, justice, generosity, kindness, and courage; and

Whereas, Individual irresponsibility and lack of commitment to moral principles results in an increasing number of family problems that have personal, social, and financial consequences not only for individual family members, but also for this state and society as a whole; and

Whereas, If people increasingly fail to demonstrate positive character qualities and if they make wrong moral choices, the health, safety, and welfare of the citizens of this state are endangered, resulting in a financial burden upon the taxpayers of this state for increased costs of law enforcement; and

Whereas, Many current societal problems will be alleviated when more of the citizens of this state exemplify in their lives positive character qualities that distinguish between right and wrong; and

Whereas, There is a need for ever-increasing numbers of positive role models among our youth to prevent juvenile rebellion and delinquency, and among our leaders to encourage an example-setting culture; and

Whereas, Teaching positive character qualities to juvenile delinquents in particular has been shown to produce a positive change in behavior and to reduce recidivism rates; and

Whereas, Schools need to be environments where positive character qualities are exemplified, taught, and strengthened and where learning character-focused behaviors is encouraged; and

Whereas, Encouraging employees to recognize positive character qualities has resulted in an increase in workplace ethics, employee safety, and organizational performance; and

Whereas, An emphasis upon positive character qualities in every sector of society can only occur as institutions and individuals mutually commit themselves to exemplify positive character qualities in their public and personal lives and to collaborate with one another to establish character as a foundational community asset; now therefore be it

Resolved, That we, the members of the 124th General Assembly of Ohio, in adopting this Resolution, pledge our commitment to positive character qualities by recognizing Ohio to be a character-building state, by increasingly viewing our decisions in light of their character impact, by encouraging the advancement of positive character qualities in state government, in city, township, and county governments, in the media, and in schools, businesses, community groups, worship centers, and homes; and by urging the citizens and civic and community leaders of this state to mutually pursue character as a vital leadership and citizenship priority; and be it further

Resolved, That the members of the 124th General Assembly of Ohio commend the United States Congress for its support of character education and development through the passage of House Resolution 1, the "No Child Left Behind Act of 2001"; and be it further

Resolved, That the members of the 124th General Assembly of Ohio request that the

Ohio Department of Education take all steps necessary to secure available funding for character education and development programs provided for by Congress in Sec. 5431 of House Resolution 1, the "No Child Left Behind Act of 2001"; and be it further

Resolved, That the Clerk of the House of Representatives transmit duly authenticated copies of this Resolution to the President of the United States, to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, to the members of the Ohio Congressional delegation, and the news media of Ohio.

POM-261. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to the establishment of a center for health, welfare and education of children, youth and families for Asia and the Pacific; to the Committee on Foreign Relations.

SENATE RESOLUTION No. 71

Whereas, the Millennium Young People's Congress held in Hawaii in October 1999, demonstrated the value of a collective global vision by and for the children of the world and the need for a forum for international discussion of issues facing all children and youth; and

Whereas, children and youth are the key to world peace, sustainability, and productivity in the next millennium; and

Whereas, the health, welfare, and education of children and families are part of the basic foundation and values shared globally that should be provided for all children and youth; and

Whereas, the populations of countries in Asia and the Pacific Rim are the largest and fastest growing segment of the world's population with young people representing the largest percentage of that population; and

Whereas, Hawaii's location in the middle of the Pacific Rim between Asia and the Americas, along with a diverse culture and many shared languages, provides an excellent and strategic location for meetings and exchanges as demonstrated by the Millennium Young people's Congress, to discuss the health, welfare, and rights of children as a basic foundation for all children and youth, and to research pertinent issues and alternatives concerning children and youth, and to propose viable models for societal application; now, therefore, be it

Resolved by the Senate of the Twenty-first Legislature of the State of Hawaii, Regular Session of 2002, That the United Nations is respectfully requested to consider the establishment in Hawaii of a Center for the Health, Welfare, and Education of Children, Youth and Families for Asia and the Pacific; and be it further

Resolved, That the President of the United States and the United States Congress are urged to support the establishment of the Center; and be it further

Resolved, That the House and Senate Committees on Health convene an exploratory task force to develop such a proposal for consideration by the United Nations; and be it further

Resolved, That certified copies of this Resolution be transmitted to the Secretary General of the United Nations, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the University of Hawaii, the President of the East West Center, the President of the United Nations Association in Hawaii, and members of Hawaii's congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2621: A bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems. (Rept. No. 107-166).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 754: A bill to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs. (Rept. No. 107-167).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 1866: A bill to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents.

H.R. 1886: A bill to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1291: A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1335: A bill to support business incubation in academic settings.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1754: A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David S. Cerone, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Morrison C. England, Jr., of California, to be United States District Judge for the Eastern District of California.

Kenneth A. Marra, of Florida, to be United States District Judge for the Southern District of Florida.

Lawrence A. Greenfield, of Maryland, to be Director of the Bureau of Justice Statistics.

Anthony Dichio, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years.

Michael Lee Kline, of Washington, to be United States Marshal for the Eastern District of Washington for the term of four years.

James Thomas Roberts, Jr., of Georgia, to be United States Marshal for the Southern District of Georgia for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.

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 Ms. LANDRIEU:

S. 2650. A bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VOINOVICH (for himself, Mr. THOMPSON, and Mr. COCHRAN):

S. 2651. A bill to provide for reform relating to Federal employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM:

S. 2652. A bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself and Mr. MILLER):

S. 2653. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. THOMAS, Mr. CLELAND, Ms. SNOWE, Mr. JOHNSON, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. HAGEL, Mr. CONRAD, Mr. ROBERTS, Mr. DURBIN, Mr. TORRICELLI, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 2654. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2655. A bill to amend titles XVIII and XIX of the Social Security Act to improve access to long-term care services under the medicare and medicaid programs; to the Committee on Finance.

By Ms. SNOWE:

S. 2656. A bill to require the Secretary of Transportation to develop and implement a plan to provide security for cargo entering the United States or being transported in intrastate or interstate commerce; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. EDWARDS, Ms. LANDRIEU, and Mr. DODD):

S. 2657. A bill to amend the Child Abuse Prevention and Treatment Act to provide for opportunity passports and other assistance for youth in foster care and youth aging out of foster care; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Mr. EDWARDS, Ms. LANDRIEU, Mr. LIEBERMAN, and Mr. DODD):

S. 2658. A bill to amend subtitle C of title I of the National and Community Service Act of 1990 to give more youth aging out of foster care the opportunity to participate in national service programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 2659. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non-United States persons from probable cause to reasonable suspicion; to the Select Committee on Intelligence.

By Mr. LUGAR (for himself and Mr. HARKIN):

S. 2660. A bill to amend the Richard B. Russell National School Lunch Act to increase the number of children participating in the summer food service program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEWINE:

S. 2661. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. WARNER, Ms. LANDRIEU, and Mr. ALLEN):

S. 2662. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Finance.

By Mr. BREAU (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 2663. A bill to permit the designation of Israeli-Turkish qualifying industrial zones; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire):

S. 2664. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HUTCHINSON (for himself, Mr. HARKIN, and Mr. GREGG):

S. 2665. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 839

At the request of Mrs. HUTCHISON, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 1042

At the request of Mr. INOUE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1066

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to es-

tablish procedures for determining payment amounts for new clinical diagnostic laboratory tests for which payment is made under the medicare program.

S. 1291

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1760

At the request of Mr. THOMAS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1760, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program and for other purposes.

S. 1818

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2084

At the request of Mr. BOND, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to clarify the exemption from tax for small property and casualty insurance companies.

S. 2215

At the request of Mr. SANTORUM, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction,

cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2394

At the request of Mrs. CLINTON, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2394, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2509

At the request of Mrs. HUTCHISON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2509, a bill to amend the Defense Base Closure and Realignment Act of 1990 to specify additional selection criteria for the 2005 round of defense base closures and realignments, and for other purposes.

S. 2521

At the request of Mr. KERRY, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2521, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds \$2,000 and to provide for a graduated implementation of such provision on amounts above such \$2,000 amount.

S. 2560

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from North Caro-

lina (Mr. EDWARDS) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

AMENDMENT NO. 3912

At the request of Mr. REID, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 3912 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes.

AMENDMENT NO. 3915

At the request of Mr. FEINGOLD, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of amendment No. 3915 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes.

AMENDMENT NO. 3916

At the request of Mr. BAYH, his name was added as a cosponsor of amendment No. 3916 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU:

S. 2650. A bill to amend the Higher Education Act of 1965 to provide student loan borrowers with a choice of lender for loan consolidation; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, I rise today to introduce to my colleagues, the Consolidation Student Loan Flexibility Act of 2002, a bill of great importance to the hundreds and thousands of students working to make the dream of a college education a reality. According to a recent report published by the National Center for Higher Education, the cost of attending two- and four-year public and private colleges has grown more rapidly than inflation, and faster than family income. Poor families spent as much as 25 percent of their annual income to send their children to a public, four-year colleges in 2000, compared with 13 percent in 1980. What's worse, the Federal Pell Grant

program, designed to help alleviate the financial burden on low income families, covered only 57 percent of the cost of tuition at public four-year colleges in 1999, compared with 98 percent in 1986.

The most widespread response to the increasing costs, according to the report, involves debt, more students are borrowing more money than ever before. Since 1980, Federal financial assistance has been transformed from a system characterized mainly by need based grants to one dominated by loans. In 2000, loans represented 58 percent of Federal student financial aid, and grants represented 41 percent. Studies show that a major factor influencing a student's choice of college and degree program is the amount of debt connected with the type of institution or profession. Make no mistake, these choices not only affect the lives of the students themselves but also impact society as a whole. Efforts to attract college graduates into needed, but not necessarily high paying careers, such as teaching, may be undermined by substantial debt burdens.

School loans are an important and legitimate aspect of attending college for many students, but it also raises several policy concerns. One area of growing concern surrounds what is called the single lender rule. The single lender rule is a provision in the Higher Education Act that affects the ability of college graduates to consolidate multiple student loans into a single new loan for the purpose of getting a lower rate. Specifically, it provides that borrowers having all of their loans held by a single lender have to consolidate with that lender, so long as it offers consolidation loans. Therefore those borrowers with all of their loans in one place can't go to other lenders offering better rates or benefits, they have to stay where they are.

I would like to submit for the RECORD some numbers which demonstrate how damaging the single lender rule is for students. Last year, 143,504 students were denied the benefits of loan consolidation because of the single lender rule. In my home State of Louisiana, 3,329 students were prevented from obtaining a lower-rate or more generous benefits because of this rule. Many of these students are studying to be doctors, nurses, teachers, and lawyers. These are conservative numbers, collected from student loan providers, the reality is even more staggering.

This restriction makes no sense and while it may benefit those offering student loans, it sure isn't designed to provide students with the power that choice and competition can bring. A few months ago we acted to pass a package designed to stimulate the economy and secure long term economic stability in America. I would be hard pressed to think of a better way to ease the burden on our States and to secure a brighter future for the U.S. economy than to make a college degree

an affordable option for all who seek to obtain one.

The Census Bureau has released new figures on the earnings gap between people with a high school education and those with bachelor's degrees. It's wide and growing. The bureau said that college graduates made an average of \$40,500 last year, while the average high school graduate earned \$22,900. People with bachelor's degrees now earn an average of 76 percent more than high school graduates. In 1975, the gap was 57 percent. One does not have to have a Ph.D. in math to understand the impact that closing this gap would mean for the economy, more people with college degrees means higher consumer spending and lower unemployment.

Some of my colleagues may be asking, why now? Why not wait until next year when we will be re-addressing the Higher Education Act? Here are some of the reasons why I believe this is not a good idea for us to wait until next year or the year after. To delay repealing the rule until the H.E.A. Reauthorization would unnecessarily victimize hundreds of thousands of student loan borrowers, depriving them of the ability to manage their debt in an optimal way. Today's graduates are entering a workplace where jobs are hard to get and salaries for starting positions are lower than they have ever been before. In this environment, we need to be building up opportunities for them to reduce their debt not increase it.

This bill is an important first step to making college more affordable for all American families. I hope my colleagues will join me in making the dream of a college education a reality for all.

By Mr. GRAHAM:

S. 2652. A bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, when the Spanish explorers surveyed Florida in the early 16th century, this is what they saw: Massive pines, measuring two to three feet in diameter that climbed into the skies over 100 feet.

This was the landscape of the Apalachicola National Forest.

You could walk through the forest, especially early in the day as the morning fog was rising, look up and see these silent giants create a dense canopy overhead.

Some likened the forest's natural beauty to a cathedral of trees.

The sheer enormity of these tall stately trees was magnified by the close cut landscape of wiregrass on the forest floor.

This pattern of tall stately trees and lawn like underbrush, as the first Spanish explorers described this impressive habitat, was common throughout the southeast of North America—over 90 million acres of pines and wiregrass.

Today, all but a fraction of these acres of the longleaf pine ecosystem have been destroyed or altered.

The forest character has been transformed by thick palmetto and other growth from that which was encountered by Florida's earliest settlers.

Why? Because of fires, or more precisely—the absence or containment of fires to protect businesses and their property.

Natural fires created by thunderstorms are part of nature's cycle. The longleaf pines and wiregrass have natural qualities which allowed them to survive the fires while other plant life perished.

The result is dramatically depicted in this painting by Jacksonville, FL artist Jim Draper who captures the landscape as it once looked and how it looks in limited areas today.

I bring to the attention of my colleagues the landscape painting by Mr. Draper of the area to be affected by the adoption of the legislation by allowing us to bring into public ownership outholdings which represent a potential threat through the possibility that they might cause resistance to the necessary controlled fires which are necessary in order to maintain this small piece of what had been 90 million acres of the southeastern United States.

It is an important part of our Nation's natural history, which we have the opportunity to take a step to protect for future generations during this session of Congress.

The painting is of one of those areas in the Apalachicola National Forest in the eastern section of the Florida Panhandle. It is known as Post Office Bay and retains the heritage of the American southeast of the pre-Columbian era.

Like its predecessors, this special part of the Apalachicola is preserved due to fires, now both natural and prescribed.

But those fires are now threatened by man. Private inholdings adjacent to Post Office Bay are being considered for sale as small acreage second homes and vacation sites. Should this occur, managed fires would likely encounter serious resistance from the new owners and the fires required to sustain this vestige of America's natural history would be ended.

The 564,000 acre Apalachicola National Forest has a unique opportunity to acquire the remainder of a 2,560 acre inholding within the forest.

As of last month, 1,180 acres of this property has been acquired through a land swap.

Now we need to finish the job, to permanently protect Post Office Bay.

The Florida National Forest Lands Management Act of 2002 will do just that.

The United States Forest Service has been left with several noncontiguous parcels of land in Okaloosa County, further west in Florida's Panhandle—that it must manage because former portions of the Choctowahatchee Na-

tional Forest were returned to the Forest Service by the Department of Defense.

These parcels are high in value, some have potential buyers, and several are encumbered with urban structures, such as baseball fields and the county fairgrounds.

Our legislation will allow the Forest Service to sell these parcels and purchase the remainder of the Apalachicola inholdings and other sensitive lands with the proceeds.

The land sale would have several benefits.

This legislation will make it easier for nature and man to continue its cleansing process by fire without endangering private land or its occupants.

By connecting the lands of the longleaf pine ecosystem, the regular course of natural fires can resume safely, optimizing Mother Nature's method of keeping this area beautiful.

Also, by allowing the regular cycle of fire to resume freely, the regeneration process will continue.

Ultimately, the forest would be more easily and effectively managed.

The Florida National Forest Lands Management Act of 2002 is a sensible way for the Apalachicola National Forest to acquire these vast and important inholdings and preserve a natural treasure.

It will aid in expanding the 3 million acres of longleaf pine that now cover the Southeastern United States.

This measure has the support of the Forest Service, and I urge my colleagues to support it as well.

By Mr. SANTORUM (for himself and Mr. MILLER):

S. 2653. A bill to reduce the amount of paperwork for special education teachers, to make mediation mandatory for all legal disputes related to individualized education programs, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. SANTORUM. Mr. President, today, I am pleased to announce the introduction, along with my colleague Senator MILLER, of the bipartisan Teacher Paperwork Reduction Act of 2002. During the 107th Congress, we have been successful in legislating sweeping reforms in education with the passage last year of the No Child Left Behind Act. We also hope to complete reauthorization of another important Federal education initiative, the reauthorization of the Individuals with Disabilities Education Act, IDEA, this year. As we consider this legislation, our greatest responsibility is to improve the quality of the education that students with special needs receive.

One of the problems fostered by the current system, which stands in direct contrast to our purpose, is the excessive paperwork burden imposed on our special education teachers. This burden takes valuable time away from classroom instruction and is a source of ongoing frustration for the special education teachers working on the

frontlines. As a result, this undermines the goal of providing the best quality education possible to all children. The Teacher Paperwork Reduction Act addresses this problem and seeks to offer solutions that will benefit special education teachers and most importantly the children they instruct.

This bipartisan legislation includes four main provisions to correct the problem of burdensome paperwork. First, the Department of Education, in cooperation with state and local educational agencies, would be required to reduce the amount of paperwork by 50 percent within 18 months of enactment of the legislation and would be encouraged to make additional reductions. Second, the General Accounting Office GAO, would conduct a study to determine how much of the paperwork burden is caused by Federal regulations compared to State and local regulations; the number of mediations that have been conducted since mediations were required to be made available under the 1997 IDEA amendments; the use of technology in reducing the paperwork burden; and GAO would make recommendations on steps that Congress, the U.S. Department of Education, and the states and local districts can take to reduce this burden within six months of the passage of this legislation.

Third, mediation would be mandatory for all legal disputes related to Individual Education Programs IEPs to better empower parents and schools to focus resources on a quality education for children rather than unnecessary litigation within one year of enactment of this legislation. Fourth, the Department of Education is directed to conduct research to determine best practices for successful mediation, including training practices, that can help contribute to the effort to reduce paperwork, improve student outcomes, and free up teacher resources for teaching. The Department would also provide mediation training support services to support state and local efforts. The resources to fund these requirements would come from money appropriated through Part D of IDEA.

The Council for Exceptional Children, CEC, states, "No barrier is so irksome to special educators as the paperwork that keeps them from teaching." According to a CEC report, concerns about paperwork ranked third among special education teachers, out of a list of 10 issues. The CEC also reports that special education teachers are leaving the profession at almost twice the rate of general educators. Statistics concerning the amount of time special education teachers spend completing paperwork are telling. 53 percent of special education teachers report that routine duties and paperwork interfere with their job to a great extent. They spend an average of five hours per week on paperwork, compared to general education teachers who spend an average of two hours per week. More than 60 percent of special education teachers

spend a half to one and a half days a week completing paperwork. One of the biggest sources of paperwork, the individualized education program, IEP, averages between 8 and 16 pages long, and 83 percent of special education teachers report spending from a half to one and a half days each week in IEP-related meetings.

There are three primary factors associated with burdensome paperwork. The first factor is federal regulations. The 1997 IDEA regulations set forth the necessary components of the IEP and require teachers to complete an array of paperwork in addition to the IEP. According to the National School Boards Association, NSBA, "These requirements result in consuming substantial hours per child and cumulatively are having a negative impact on special educators and their function." Second, there are misconceptions at the state and local levels regarding federal regulations that result in additional requirements imposed by the states and local school districts. The U.S. Department of Education compiled a sample IEP with all the necessary components, and it is five pages long. However, most IEPs are much longer. The third factor is litigation and the threat of litigation. In order to be prepared for due process hearings and court proceedings, school district officials often require extensive documentation so that they are able to prove that a free appropriate public education (FAPE) was provided to the special education student.

A key provision of the bill makes mediation mandatory for all legal disputes related to IEPs. There are several benefits to using mediation as an alternative to due process hearings and court proceedings. According to the Consortium for Appropriate Dispute Resolution in Special Education, CADRE, mediation is a constructive option for children, parents, and teachers and allows families to maintain a positive relationship with teachers and service providers. Parents have the benefit of working together with educators and service providers as partners instead of as adversaries. If an agreement cannot be reached as a result of mediation, parties to the dispute would retain existing due process and legal options.

Mediation is also a much less costly, less time consuming alternative for all parties concerned. Parents do not have to pay for mediation sessions, because under the 1997 IDEA amendments, states are required to bear the cost for mediation. States and local districts save a lot of money as well. According to the Michigan Special Education Mediation Program, MSEMP, the average hearing cost to the state is \$40,000; it pays approximately \$700 per mediation session. The NSBA reports that attorney fees for school districts average between \$10,000 to \$25,000. In contrast, the Pennsylvania Bureau of Education says that it pays mediators \$250 per session. The cost effectiveness of mediation is

apparent. Not only does mediation save money, it saves time as well. According to the Washington State Department of Education, a mediation session may generally be scheduled within 14 days of a parental request, whereas it may take up to a year to secure a court date.

Most importantly, mediation is a successful alternative to due process hearings. At least some form of agreement is reached in 80 percent of sessions nationwide. In Pennsylvania, 85 percent of voluntary special education mediations end in agreement in which both parties are satisfied. According to the New York State Dispute Resolution Association, mediation ending in resolution of the conflict occurs for 75 percent of referrals, and in Wisconsin, approximately 84 percent of those who chose mediation would use it again.

The Teacher Paperwork Reduction Act is meant to alleviate a serious problem that causes frustration and discouragement among dedicated special education teachers who expend energy and countless hours in order to give students with disabilities an equal opportunity to learn. It is only fair and right to find ways to reduce paperwork in order to give teachers more time to spend educating our students and changing their lives, and less time wading through inanimate stacks of paper. I would invite my colleagues to join us in cosponsoring this legislation to help teachers, schools, and parents provide a better education for all students so that no child is left behind.

By Ms. CANTWELL (for herself, Mr. THOMAS, Mr. CLELAND, Ms. SNOWE, Mr. JOHNSON, Mr. SMITH of Oregon, Ms. LANDRIEU, Mr. HAGEL, Mr. CONRAD, Mr. ROBERTS, Mr. DURBIN, Mr. TORRICELLI, Mr. ROCKEFELLER, and Mr. WYDEN):

S. 2654. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today with Senator CRAIG THOMAS to introduce legislation that would exclude loan repayments made through the National Health Service Corps from taxable income. I am pleased that Senators CLELAND, SNOWE, JOHNSON, GORDON SMITH, LANDRIEU, HAGEL, CONRAD, ROBERTS, DURBIN, TORRICELLI, ROCKEFELLER, and WYDEN are also cosponsoring this important legislation.

There have been many developments in the area of health care in the last few years from managed care reform, to increases in biomedical research, the mapping of the human genome, and the use of exciting new technologies in both rural and urban areas such as telemedicine. In fact, it seems that almost every day we hear of astounding new scientific breakthroughs. But unfortunately, while we are making great

strides in the quality of health care, we are losing ground on the access to health care for so many.

The sad truth is that there are currently 38.7 million Americans without health insurance coverage, 9.2 million of whom are children. In Washington, 13.3 percent of the population, and 155,000 children, lacks health insurance. Many of the 42.6 million uninsured Americans are lower-income workers who do not have employer-sponsored coverage for themselves, but earn too much to be eligible for public programs like Medicaid and the State Children's Health Insurance Program.

Access to health insurance for the uninsured is of the utmost importance, we know that at the very least, health insurance means the difference between timely and delayed treatment and at worst between life and death. In fact, the uninsured are four times as likely as the insured to delay or forego needed care, and uninsured children are six times as likely as insured children to go without needed medical care.

But even insurance isn't enough if there are no available providers. Hospitals and other health care providers across the country are facing an increasingly uncertain future. The sad truth is that it is increasingly more difficult to recruit health care providers to work with underserved communities, especially in rural areas. In addition to economic pressures, rural areas must overcome the environmental issues involved with recruiting a doctor who may have been raised, educated, and trained in an urban setting.

The National Health Service Corps was created in 1970 by Senator Warren Magnuson, one of the most distinguished Senators to come from Washington State. He saw the need to put primary care clinicians in rural communities and inner-city neighborhoods, and developed this program to fill that need.

Since then, the Corps has placed over 22,000 health professionals in rural or urban health professions shortage areas. There is no doubt that National Health Service Corps has been extremely successful. In fact, the most recent available data show that more than 70 percent of providers continued to provide services to underserved communities after their Corps obligation was fulfilled, 80 percent of these health care providers stayed in the community in which they had originally been placed.

Under current law, the National Health Service Corps provides scholarships, loan-repayments, and stipends for clinicians who agree to serve in urban and rural communities with severe shortages of health care providers. In 1986 the IRS ruled that all payments made under the program are considered taxable income. Understanding the immediate detriment to scholarship recipients, who were forced to pay the tax out of their own pockets, Congress eliminated the scholarship tax in 2001.

And while the scholarship program is now not considered taxable income to the IRS, the loan-repayments and stipends are.

By statute, the current loan program awards also include a tax assistance payment equal to 39 percent of the loan repayment amount, which is to be used by the recipient offset his or her tax liability resulting from the loan repayment "income." This means that nearly 40 percent of the federal loan repayment budget goes to pay taxes on the loan repayment "income" alone. If these federal payments were not taxed, and the funding was freed up, more health professions students could take advantage of the loan repayment program, and could be placed in shortage areas, thereby increasing access to health care in both urban and rural areas.

This is not a new problem. The tax burden that accompanies the National Health Service Corps loan payments is a significant deterrent to increasing the number of clinicians enrolling in the Corps. I do not want to see a situation where, as happened several years ago, over 300 applicants actually left underserved areas because the Corps could not fully fund the loan repayment program.

The legislation we are introducing today, the National Health Service Corps Loan Repayment Act, would address this disincentive, making the Corps available to more medical and health professionals, and thereby bringing more providers into underserved areas. If loan repayments are excluded from taxation, the National Health Service Corps will have greater resources to provide aid to health professionals seeking loan repayment, and will be able to increase the number of providers in underserved areas.

There is no doubt that strengthening the National Health Service Corps is a "win-win" situation. Corps scholarships help finance education for future primary care providers interested in serving the underserved. In return, graduates serve those communities where the need for primary health care is greatest.

This bill is supported by over 20 national organizations including the National Rural Health Association, the National Association of Community Health Centers, the Association of American Medical Colleges, and the American Medical Student Association. I am especially pleased that the Washington State Medical Association is supporting this bill. I ask unanimous consent that the complete list be included in the RECORD after my statement.

I urge my colleagues to look at this bill and to join me in expanding this vitally important and imminently successful program.

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

NATIONAL HEALTH SERVICE CORPS LOAN
REPAYMENT ACT ENDORSEMENTS
American Academy of Nurse Practitioners.

American Academy of Pediatric Dentistry.
American Academy of Physician Assistants.

American Association of Colleges of Osteopathic Medicine.

American Association of Colleges of Pharmacy.

American Association for Dental Research.
American College of Nurse-Midwives.

American College of Nurse Practitioners.
American College of Osteopathic Family Physicians.

American Counseling Association.
American Dental Association.

American Dental Education Association.
American Medical Student Association.

American Optometric Association.
American Organization of Nurse Executives.

American Osteopathic Association.
American Psychological Association.

American Student Dental Association.
Association of Academic Health Centers.

Association of American Medical Colleges.
Association of Clinicians for the Underserved.

Association of Schools and Colleges of Optometry.

National Association of Community Health Centers.

National Association of Graduate-Professional Students.

National Rural Health Association.
Washington State Medical Association.

Mr. THOMAS. I am pleased to rise today to introduce the National Health Service Corps Loan Repayment Act of 2002 with my colleague from Washington, Ms. CANTWELL. Specifically, this legislation will exclude loan repayments made through the National Health Service Corps (NHSC) program from taxable income. Enactment of the National Health Service Corps Loan Repayment Act of 2002 would increase the amount of federal dollars available so more students could participate in the NHSC program.

Under current law, the NHSC provides scholarships, loan-repayments, and stipends for clinicians who agree to serve in national designated underserved urban and rural communities. The tax law changes in 1986 resulted in the IRS ruling that all NHSC payments were taxable. Congress eliminated the tax on the scholarship in 2001, but the loan-repayments and stipends continue to be taxed.

To assist loan repayment recipients with their tax burden, the NHSC loan program includes an additional payment equal to 39 percent of the loan repayment amount so the loan repayment recipient can pay his or her taxes. Close to 40 percent of the NHSC Federal loan repayment budget goes to pay taxes on the loan repayment "income." The current situation should not be allowed to continue. Given the fiscal restraints we are facing, we must ensure that federal dollars are spent efficiently and effectively. It is obvious that today's NHSC loan repayment structure does not meet that goal. Our legislation resolves this issue.

For over 30 years, the National Health Service Corps (NHSC) program has literally been a lifeline for many underserved communities across the country that otherwise would not have a health care provider. I know this program is critically important to my

state of Wyoming and to many other rural states that has difficulties recruiting and retaining primary health care clinicians.

There are 2,800 Health Professional Shortage Areas, 740 Mental Health Shortage Areas and 1,200 Dental Health Shortage Areas now designated across the country. However, the NHSC program is meeting less than 13 percent of the current need for primary care providers and less than six percent of need for mental health and dental services. The National Health Service Corps Loan Repayment Act of 2002 would increase the number of students in the program and allow more providers to be placed in these shortage areas.

The National Health Service Corps Loan Repayment Act of 2002 is crucial to the future well being of many of our rural communities. I strongly urge all my colleagues to support this important legislation.

By Mr. ROCKEFELLER:

S. 2655. A bill to amend titles XVIII and XIX of the Social Security Act to improve access to long-term care services under the Medicare and Medicaid Programs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce "A First Step to Long-Term Care Act of 2002." This is a targeted long-term care package—a first step in the direction of long-term care reform. This legislation is about protecting assets, expanding home care, and modestly expanding Medicare to address the need for adult day health care.

Government coverage for nursing home care operates primarily, and most substantially, through the Medicaid program the safety net for the poor. Despite what many Americans believe or hope, Medicare is not designed or financed to cover long-term care needs. Medicare is, in fact, the universal health care program for the elderly, which covers all health care needs, save prescription drugs and long-term care.

Just this morning, I testified before the Senate Special Committee on Aging about the need to find real solutions to attack the issue of long-term care coverage. This legislation is a step in that direction.

Today, the home care benefit under Medicare offers skilled care and possibly home health aides on a part-time or intermittent basis. Beneficiaries also must be confined to the home, despite the fact that many could leave the home with assistance. "A First Step to Long-Term Care Reform" retains the requirement that leaving the home requires a considerable and taxing effort, but it obviates the difficult choice that patients face: either be imprisoned in their home or risk losing Medicare coverage.

We also need to begin to provide options to nursing home care under the Medicare benefit, such as the payment for adult day health care. This is some-

thing Senator SANTORUM has been working on as well. Doing so would provide a measure of respite and will reduce the bias towards institutionalizing those who can, with the right circumstances—stay at home.

Giving states relief from the mandate that they must pursue and sell-off the estates of Medicaid beneficiaries is another first step. In the short-term, we can provide states with the option of whether or not to do so. West Virginia is one State, in particular, which is seeking relief from this harsh and unnecessary mandate. I recognize Congressman NICK RAHALL, my good friend and colleague from West Virginia, for his leadership on this issue.

Mr. President, there are few issues that are as challenging as providing a solution for the long-term care problem, but we simply must have the courage to find solutions. 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. 2655

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 "A First Step to Long-Term Care Act of 2002".

SEC. 2. MAKING MEDICAID ESTATE RECOVERY OPTIONAL.

(a) IN GENERAL.—Section 1917(b)(1) of the Social Security Act (42 U.S.C. 1396p(b)(1)) is amended by striking "shall seek" each place it appears and inserting "may seek".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act. A State (as defined for purposes of title XIX of the Social Security Act) may apply such amendments to estates and sales occurring at such earlier date as the State may specify.

SEC. 3. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERVICES UNDER THE MEDICAID PROGRAM.

(a) SUBSTITUTE ADULT DAY CARE SERVICES BENEFIT.—

(1) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended—

(A) in the matter preceding paragraph (1), by inserting "or (8)" after "paragraph (7)";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by adding "and" at the end; and

(D) by inserting after paragraph (7), the following new paragraph:

"(8) substitute adult day care services (as defined in subsection (ww));".

(2) SUBSTITUTE ADULT DAY CARE SERVICES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Substitute Adult Day Care Services; Adult Day Care Facility

"(ww)(1)(A) The term 'substitute adult day care services' means the items and services described in subparagraph (B) that are furnished to an individual by an adult day care facility as a part of a plan under subsection (m) that substitutes such services for a portion of the items and services described in subparagraph (B)(i) furnished by a home health agency under the plan, as determined by the physician establishing the plan.

"(B) The items and services described in this subparagraph are the following items and services:

"(i) Items and services described in paragraphs (1) through (7) of subsection (m).

"(ii) Meals.

"(iii) A program of supervised activities designed to promote physical and mental health and furnished to the individual by the adult day care facility in a group setting for a period of not fewer than 4 and not greater than 12 hours per day.

"(iv) A medication management program (as defined in subparagraph (C)).

"(C) For purposes of subparagraph (B)(iv), the term 'medication management program' means a program of services, including medicine screening and patient and health care provider education programs, that provides services to minimize—

"(i) unnecessary or inappropriate use of prescription drugs; and

"(ii) adverse events due to unintended prescription drug-to-drug interactions.

"(2)(A) Except as provided in subparagraphs (B) and (C), the term 'adult day care facility' means a public agency or private organization, or a subdivision of such an agency or organization, that—

"(i) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

"(ii) meets such standards established by the Secretary to ensure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility;

"(iii) provides the items and services described in paragraph (1)(B); and

"(iv) meets the requirements of paragraphs (2) through (8) of subsection (o).

"(B) Notwithstanding subparagraph (A), the term 'adult day care facility' shall include a home health agency in which the items and services described in clauses (ii) through (iv) of paragraph (1)(B) are provided—

"(i) by an adult day-care program that is licensed or certified by a State, or accredited, to furnish such items and services in the State; and

"(ii) under arrangements with that program made by such agency.

"(C) The Secretary may waive the requirement of a surety bond under paragraph (7) of subsection (o) in the case of an agency or organization that provides a comparable surety bond under State law.

"(D) For purposes of payment for home health services consisting of substitute adult day care services furnished under this title, any reference to a home health agency is deemed to be a reference to an adult day care facility."

(b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE SERVICES.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

"(f) PAYMENT RATE FOR SUBSTITUTE ADULT DAY CARE SERVICES.—In the case of home health services consisting of substitute adult day care services (as defined in section 1861(ww)), the following rules apply:

"(1) The Secretary shall estimate the amount that would otherwise be payable under this section for all home health services under that plan of care other than substitute adult day care services for a period specified by the Secretary.

"(2) The total amount payable for home health services consisting of substitute adult day care services under such plan may not exceed 95 percent of the amount estimated to be payable under paragraph (1) furnished under the plan by a home health agency."

(c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF SUBSTITUTE ADULT DAY CARE SERVICES.—

(1) MONITORING EXPENDITURES.—Beginning with fiscal year 2004, the Secretary of Health and Human Services shall monitor the expenditures made under the Medicare Program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for home health services (as defined in section 1861(m) of such Act (42 U.S.C. 1395x(m))) for the fiscal year, including substitute adult day care services under paragraph (8) of such section (as added by subsection (a)), and shall compare such expenditures to expenditures that the Secretary estimates would have been made for home health services for that fiscal year if subsection (a) had not been enacted.

(2) REQUIRED REDUCTION IN PAYMENT RATE.—If the Secretary determines, after making the comparison under paragraph (1) and making such adjustments for changes in demographics and age of the Medicare beneficiary population as the Secretary determines appropriate, that expenditures for home health services under the Medicare Program, including such substitute adult day care services, exceed expenditures that would have been made under such program for home health services for a year if subsection (a) had not been enacted, then the Secretary shall adjust the rate of payment to adult day care facilities so that total expenditures for home health services under such program in a fiscal year does not exceed the Secretary's estimate of such expenditures if subsection (a) had not been enacted.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2003.

SEC. 4. CLARIFICATION OF THE DEFINITION OF HOMEBOUND FOR PURPOSES OF DETERMINING ELIGIBILITY FOR HOME HEALTH SERVICES UNDER THE MEDICARE PROGRAM.

(a) CLARIFICATION.—Sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a); 1395n(a)) are each amended by adding at the end the following: "Notwithstanding the preceding sentences, in the case of an individual that requires technological assistance or the assistance of another individual to leave the home, the Secretary may not disqualify such individual from being considered to be 'confined to his home' based on the frequency or duration of the absences from the home."

(b) TECHNICAL AMENDMENTS.—(1) Sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a); 1395n(a)) are each amended in the sixth sentence by striking "leave home," and inserting "leave home and".

(2) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)), as amended by subsection (a), is amended by moving the seventh sentence, as added by section 322(a)(1) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (appendix F, 114 Stat. 2763A-501), as enacted into law by section 1(a)(6) of Public Law 106-554, to the end of that section.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

By Ms. SNOWE:

S. 2656. A bill to require the Secretary of Transportation to develop and implement plan to provide security for cargo entering the United States or being transported in intrastate or interstate commerce; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation aimed at closing the dangerous cargo security loophole in our Nation's aviation security network.

Last year, with the passage of the Aviation and Security Act of 2001, we reinvented aviation security. We overturned the status quo, and I am proud of the work we did. We put the Federal Government in charge of security and we have made significant strides toward restoring the confidence of the American people that it is safe to fly.

We no longer have a system in which the financial "bottom line" interferes with protecting the flying public. We also addressed the gamut of critical issues, including baggage screening, additional air marshals, cockpit security, and numerous other issues.

But there is more work to be done. We must not lose focus. If we are to fully confront the aviation security challenges we face in the aftermath of September 11, we must remain aggressive. We need a "must-do" attitude, not excuses about what "can't be done", because we are only as safe as the weakest link in our aviation security system.

I believe one of the most troubling shortcomings, which persists to this day, is the lax cargo security infrastructure. The Department of Transportation Inspector General will warn in a soon-to-be-released report that the existing system is "easily circumvented." This must not be allowed to stand.

Moreover, according to a June 10 Washington Post report, internal Transportation Security Administration documents warn of an increased risk of an attack designed to exploit this vulnerability because TSA has been focused primarily on meeting its new mandates to screen passengers and luggage.

This is clear evidence that cargo security needs to be bolstered. And time is not on our side. We must act now. The legislation I am introducing today is designed to tackle this issue by directing the Transportation Security Administration to submit a detailed cargo security plan to Congress that will address the shortcomings in the current system.

And while the TSA is designing and implementing this plan, my bill would require interim security measures to be put in place immediately. The interim security plan would include random screening of at least 5 percent of all cargo, an authentication policy designed to ensure that terrorists are not able to impersonate legitimate shippers, audits of each phase of the shipping process in order to police compliance, training and background checks for cargo handlers, and funding for screening and detection equipment.

On September 11, terrorists exposed the vulnerability of our commercial aviation network in the most horrific fashion. The Aviation and Transportation Security Act of 2001 was a major step in the right direction, but we must always stay one step ahead of those who would commit vicious acts of violence on our soil aimed at innocent men, women, and children.

This bill is designed to build on the foundation we set last year. I urge my colleagues to join me in addressing this critical matter.

By Mr. DEWINE:

S. 2659. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non-United States persons from probable cause to reasonable suspicion; to the Select Committee on Intelligence.

Mr. DEWINE. 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. 2659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF BURDEN OF PROOF FOR ISSUANCE OF ORDERS ON NON-UNITED STATES PERSONS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ORDERS OF ELECTRONIC SURVEILLANCE.—Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) on the basis of facts submitted by the applicant—

"(A) in the case of a target of electronic surveillance that is a United States person, there is probable cause to believe that—

"(i) the target is a foreign power or an agent of a foreign power, provided that no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

"(ii) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power; or

"(B) in the case of a target of electronic surveillance that is a non-United States person, there is reasonable suspicion to believe that—

"(i) the target is a foreign power or an agent of a foreign power; and

"(ii) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;"

(2) in subsection (b), by inserting "or reasonable suspicion" after "probable cause"; and

(3) in subsection (e)(2), by inserting "or reasonable suspicion in the case of a non-United States person," after "probable cause".

(b) PHYSICAL SEARCHES.—Section 304 of that Act (50 U.S.C. 1824) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) on the basis of facts submitted by the applicant—

"(A) in the case of a target of a physical search that is a United States person, there is probable cause to believe that—

"(i) the target is a foreign power or an agent of a foreign power, except that no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

"(ii) the premises or property to be searched is owned, used, possessed by, or is

in transit to or from an agent of a foreign power or foreign power; or

“(B) in the case of a target of a physical search that is a non-United States person, there is reasonable suspicion to believe that—

“(i) the target is a foreign power or an agent of a foreign power; and

“(ii) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or foreign power;”;

(2) in subsection (b), by inserting “or reasonable suspicion” after “probable cause”; and

(3) in subsection (d)(2), by inserting “, or reasonable suspicion in the case of a non-United States person,” after “probable cause”.

By Mr. LUGAR (for himself and Mr. HARKIN):

S. 2660. A bill to amend the Richard B. Russell National School Lunch Act to increase the number of children participating in the summer food service program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Mr. President, I rise today to introduce legislation to amend the Richard B. Russell National School Lunch Act that will streamline, nationwide, management of the Summer Food Service Program. The proposed administrative changes are expected to increase the number of local organizations stepping forward to sponsor a summer feeding program in their communities and, thus, serve many more children in poor neighborhoods.

Children in low-income communities are eligible to receive free or reduced price meals during the school year through the National School Lunch and Breakfast Programs. During the 2000–2001 school year, 15.3 million children received such assistance. But, unless children attend school during the summer, access to meals through these programs ends.

The Summer Food Service Program, which is administered at the federal level by USDA, helps to fill the resulting hunger gap and helps children get the nutrition they need to learn, play and grow throughout the summer months. This is an entitlement program which funds the meal and snack service provided by the sponsors of diverse, summer activity programs.

Although the Summer Food Service Program is the largest Federal resource used to feed children during the summer months, we know that there is substantial unmet need. Among the more than 15 million children getting free and reduced-price meals during the school year, only about 20 percent of these three million children received free meals during the summer months.

State administering agencies report that a major obstacle to serving more low-income children is the relatively small and static number of local organizations serving as program sponsors or meal providers. During the last several years, the total number of Summer Food Service Program sponsors across the country ranged between 28,000 and a little over 31,000.

Two important factors contribute to this situation. Many schools and summer recreation programs remain unaware that federal funding is available to provide free meals and snacks to needy children. Others find the requirements for budget and cost reporting, which are different from those used in the School Lunch and Breakfast Programs, to be unusually complex and burdensome.

The administrative obstacles are both familiar to the Congress and one we have taken an initial step to address. In early fiscal year 2001, I authored a provision of the Consolidated Appropriations Act that authorizes a pilot to try out simpler accounting and reimbursement procedures. The pilot replaces a sponsor's usual obligation to provide detailed and separate documentation of actual administrative and operating costs up to specified limits. In practice, this documentation has little effect, since a large majority of sponsors qualify for the maximum reimbursement. In the pilot states, sponsors report the number of meals and are reimbursed at a flat rate of \$2.50 per meal. This allows sponsors in the 13 pilot States to combine both cost categories and follow procedure used in the school meals programs for reimbursement.

Although the pilot test is not over, the initial results are positive. The Food Research Action Center released findings today in their annual summer nutrition status report, *Hunger Does Not Take a Vacation*. The number of sponsors increased by eight percent in the pilot areas compared to one percent across all other states. Most important, children's participation in the Summer Food Service Program increase by 8.9 percent across the pilot States. This contrasts with a 3.3 percent decline for the rest of the nation.

USDA's Secretary Veneman and Under Secretary Bost used their authority to facilitate sponsorship and announced, last March, that all states may seek waivers to adopt more streamlined administrative procedures.

I think it is now time for Congress to step up and take action to further improve the capacity of the Summer Food Service Program. I am introducing a new bill, along with Senator HARKIN, the Chairman of the Agriculture Committee. Our proposed legislation makes the procedural simplifications in the pilot a part of the Program's regular operating rules. This eliminates the need for waiver requests and waiver approval.

If we are truly committed to the principle that no child will be left behind, this is a small step that can make a large difference in encouraging local organizations to sponsor a summer feeding program and in meeting the nutrition needs of low-income children.

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. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) FOOD SERVICE.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—

“(i) PRIVATE NONPROFIT ORGANIZATIONS.—Subject to subparagraphs (B) and (C), payments to a private nonprofit organization described in subsection (a)(7) shall be equal to the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

“(ii) SERVICE INSTITUTIONS.—Payments to a service institution shall be equal to the maximum amounts for food service under subparagraphs (B) and (C).”.

(b) ADMINISTRATIVE COSTS.—Section 13(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)) is amended by striking paragraph (3) and inserting the following:

“(3) ADMINISTRATIVE COSTS.—

“(A) PRIVATE NONPROFIT INSTITUTIONS.—

“(i) BUDGET.—A private nonprofit organization described in subsection (a)(7), when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State.

“(ii) AMOUNT.—Payment to a private nonprofit organization described in subsection (a)(7) for administrative costs shall be equal to the full amount of State-approved administrative costs incurred, except that the payment to the service institution may not exceed the maximum allowable levels determined by the Secretary under the study required under paragraph (4).

“(B) SERVICE INSTITUTIONS.—Payment to a service institution for administrative costs shall be equal to the maximum allowable levels determined by the Secretary under the study required under paragraph (4).”.

(c) CONFORMING AMENDMENTS.—

(1) Section 13(a)(7)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)(7)(A)) is amended—

(A) by striking “Private” and inserting “Subject to paragraphs (1) and (3) of subsection (b), private”; and

(B) by striking “other service institutions” and inserting “service institutions”.

(2) Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (f).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 2003.

(2) SUMMER FOOD PILOT PROJECTS.—The amendment made by subsection (c)(2) takes effect on May 1, 2004.

By Mr. DEWINE:

S. 2661. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States; to the Committee on the Judiciary.

Mr. DEWINE. 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. 2661

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 "Video Voyeurism Act of 2002".

SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—PRIVACY

"Sec.

"1801. Video voyeurism.

"§ 1801. Video voyeurism

"(a) Whoever, except as provided in subsection (b), in the special maritime and territorial jurisdiction of the United States, videotapes, photographs, films, or records by any electronic means, any nonconsenting person, in circumstances in which that person has a reasonable expectation of privacy—

"(1) if that person is totally nude, clad in undergarments, or in a state of undress that exposes the genitals, pubic area, buttocks, or female breast; or

"(2) under that person's clothing so as to expose the genitals, pubic area, buttocks, or female breast;

shall be fined under this title or imprisoned not more than one year, or both.

"(b) Subsection (a) does not apply to conduct—

"(1) of law enforcement officers pursuant to a criminal investigation which is otherwise lawful; or

"(2) of correctional officials for security purposes or for investigations of alleged misconduct involving a person committed to their custody."

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:

"88. Privacy 1801".

By Ms. COLLINS (for herself, Mr. WARNER, Ms. LANDRIEU, and Mr. ALLEN):

S. 2662. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Finance.

TEACHER TAX RELIEF ACT OF 2002

Ms. COLLINS. Mr. President, I am pleased today to rise to introduce the Teacher Tax Relief Act 2002.

I am joined with my colleagues, Senator WARNER, Senator LANDRIEU, and Senator ALLEN in introducing this legislation to help our teachers who selflessly reach deep into their own pockets to purchase supplies for their classrooms or to engage in professional development.

Senators WARNER, LANDRIEU, and I have long led the effort to recognize the invaluable services that teachers provide each and every day to our children and to our communities. We were very pleased when earlier this year the economic recovery package included our provision to create an above-the-line deduction for teachers who purchase classroom supplies.

This tax relief is significant in that it recognizes for the first time the extra mile that our dedicated teachers go in order to improve the classroom experience for their students.

Today, we introduce legislation that builds upon the relief enacted earlier this year. Our bill would double the amount that a teacher can deduct—from \$250 to \$500—and includes professional development expenses in the deduction. Our bill would also make this modest tax relief permanent whereas the provision in the economic stimulus package is scheduled to sunset in 2 years.

While our bill provides financial assistance to educators, its ultimate beneficiaries will be our students. Other than involved parents, a well-qualified teacher is the single most important prerequisite for student success. Educational researchers have demonstrated, time and again, the strong correlation between qualified teachers and successful students. Moreover, educators themselves understand just how important professional development is to maintaining and expanding their level of confidence.

When I meet with teachers from Maine, they repeatedly tell me of their desire and need for more professional development. But they also tell me that, unfortunately, school budgets are so tight that frequently the school districts cannot provide that assistance that a teacher needs in order to take that additional course or pursue that advanced degree. As President Bush aptly put it: "Teachers sometimes lead with their hearts and pay with their wallets."

A recent survey by the National Center for Education Statistics highlights the benefits of professional development. The survey found that most teachers who had participated in more than 8 hours of professional development during the previous year felt "very well prepared" in the area in which the instruction occurred. Obviously, teachers who are taking additional course work, and pursuing advanced degrees, become even more valuable in the classroom.

Increasing the deduction for teachers who buy classroom supplies is also a critical component of my legislation. So often teachers in Maine, and throughout the country, spend their own money to improve the classroom experiences of their students. While most of us are familiar with the National Education Association's estimate that teachers spend, on average, \$400 a year on classroom supplies, a new survey demonstrates that they are spending even more than that. According to a recent report from Quality Education Data, the average teacher spends over \$520 a year out of pocket on school supplies.

I have spoken to dozens of teachers in Maine who have told me of the books, rewards, supplies, and other materials they routinely purchase for their students.

Idella Harter, president of the Maine Education Association, is one such teacher. She told me of spending over \$1,000 in 1 year, reaching deep into her pocket to buy materials, supplies, and other treats for her students. At the end of the year, she started to add up all of the receipts that she had saved, and she was startled to discover they exceeded \$1,000. Idella told me, at that point she decided she better stop adding them up.

Debra Walker is another dedicated teacher in Maine who teaches kindergarten and first grade in Milo. She has taught for over 25 years. Year after year, she spends hundreds of dollars on books, bulletin boards, computer software, crayons, construction paper, tissue paper, stamps and ink pads. She even donated her own family computer for use by her class. She described it well by saying: "These are the extras that are needed to make learning fun for children and to create a stimulating learning environment."

Another example is Tyler Nutter, a middle school math and reading teacher from North Berwick. He is a new recruit to the teaching profession. After teaching for just 2 years, Tyler has incurred substantial "startup" fees as he builds his own collection of needed teaching supplies. In his first years on the job, he has spent well over \$500 out of pocket each year, purchasing books and other materials that are essential to his teaching program.

Tyler tells me that he is still paying off the loans that he incurred at the University of Maine-Farmington. He has car payments and a wedding to pay for. He is saving for a house. And he someday hopes to get an advanced degree. Nevertheless, despite the relatively low pay he is receiving as a new teacher, he says: "You feel committed to getting your students what they need, even if it is coming out of your own pocket."

That is the kind of dedication that I see time and again in the teachers in Maine. I have visited almost 100 schools in Maine, and everywhere I go, I find teachers who are spending their own money to improve their professional qualifications and to improve the educational experiences of their students by supplementing classroom supplies.

The relief we passed overwhelmingly earlier this year was a step in the right direction. As Tyler told me, "It's a nice recognition of the contributions that many teachers have made." We are committed to building on this good work.

Again, I thank the senior Senator from Virginia, Mr. WARNER, for being a leader with me on this bill. We invite all of our colleagues to join us in recognizing our teachers for a job well done.

Mr. WARNER. Mr. President, I join my distinguished colleague from Maine. We have fought together for this measure for several years now. One of the great rewards has been an inducement for this Senator. The Senator just spoke of visiting 100 schools.

I cannot claim 100, but it is growing in number. And what a joy it is.

For those of us who are privileged to serve in the Senate, and are successful in a piece of legislation, what a pleasure it is to go back and tell others, and thank them for their support which has enabled us to succeed.

The teachers associations have been instrumental in backing this. They even ran a little advertisement in the papers of Virginia thanking me, for which I really humbly am very deeply touched and grateful.

But Senators COLLINS, LANDRIEU, ALLEN, and I have worked closely for sometime now in support of legislation to provide our teachers with tax relief in recognition of the many out-of-pocket expenses they incur as a part of their duties.

It is not required by law. It is not required by regulation. It is not required by the principals or the school districts. They just do it out of the generosity of their own hearts and the love and affection they have for their students. What a lesson this has been to this Senator.

Earlier this year we were successful in providing much needed tax relief for our Nation's teachers with the passage of H.R. 3090, the Job Creation and Worker Assistance Act of 2002.

This legislation, which was signed into law by President Bush early this year, included the Collins-Warner Teacher Tax Relief Act of 2001, providing a \$250—which the Senator mentioned—above-the-line deduction for educators who incur out-of-pocket expenses for supplies they bring into the classroom to better the education of their students.

These important provisions will provide almost half a billion dollars' worth of tax relief to teachers all across America over the next 2 years.

While these provisions will provide substantial relief to America's teachers, our work is not yet complete.

It is now estimated that the average teacher spends \$521 out of their own pocket each year on classroom materials—materials such as pens, pencils, and books. First year teachers spend even more, averaging \$701 a year on classroom expenses.

Why do they do this? Simply because school budgets are not adequate to meet the costs of education. Our teachers dip into their own pocket to better the education of America's youth.

Moreover, in addition to spending substantial money on classroom supplies, many teachers spend even more money out of their own pocket on professional development. Such expenses include tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

The fact is that these out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Without a doubt the Teacher Tax Relief Act of 2001 took a step forward in helping to alleviate the nation's teacher shortage by providing a \$250 above the line deduction for classroom expenses.

However, it is clear that our teachers are spending much more than \$250 a year out of their own pocket to better the education of our children.

Accordingly, Senator COLLINS, Senator LANDRIEU, Senator ALLEN, and I have joined together to take another step forward by introducing the Teacher Tax Relief Act of 2002.

This legislation will build upon current law in three ways. The legislation will: increase the above-the-line deduction for educators from \$250 allowed under current law to \$500; allow educators to include professional development costs within that \$500 deduction. Under current law, up to \$250 is deductible but only for classroom expenses; and make the Teacher Tax relief provisions in the law permanent. Current law sunsets the Collins-Warner provisions after 2 years.

Our teachers have made a personal commitment to educate the next generation and to strengthen America. And, in my view, the Federal Government should recognize the many sacrifices our teachers make in their career.

The Teacher Tax Relief Act of 2002 is another step forward in providing our educators with the recognition they deserve.

I thank my colleague from Maine for her work on this issue.

By Mr. BREAUX (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 2663. A bill to permit the designation of Israeli-Turkish qualifying industrial zones; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today, Senators BREAUX, MCCAIN, and I introduce the Turkish-Israeli Economic Enhancement Act of 2002.

This legislation will allow qualified products from Turkey to be eligible for duty-free entry into the United States under the Qualified Industrial Zone program. Congress first established the Qualified Industrial Zone program in 1996 to facilitate economic cooperation between Israel, Egypt and Jordan. The impetus behind this program was to help create the economic basis for sustained peace in the region. While peace still eludes us today, there is little doubt that the program has helped to foster greater economic cooperation in the region. Allowing Turkey to participate in the program will foster even greater economic growth and stability in the region.

The Israeli-Turkish Economic Enhancement Act would amend Section 9(e)(1) of the United States Israel Free Trade Area Implementation Act of 1985, as amended, the "FTA Act, by expanding the definition of "qualifying industrial zones" to include portions of the territory of Israel and Turkey.

Under the FTA Act, the President may proclaim duty-free benefits for certain products produced within the qualifying industrial zones. The bill would allow the President to proclaim duty-free benefits for certain products, excluding certain import sensitive products, of qualifying industrial zones established jointly by Israel and Turkey. The bill would foster cooperation between Israel and Turkey and help promote economic growth, opportunity and development in Turkey, a vital security partner in NATO and a key ally in the war against terrorism.

I am committed to working with my colleagues and the President to enact the legislation as soon as practicable. Enabling Turkey to participate in the Qualified Industrial Zone program can help attract foreign investment to Turkey and build greater regional stability.

I understand that there is strong interest in supporting high-technology investment in Turkey. The investment potential for high technology products and services in Turkey has not gone unnoticed by major U.S. investors. Microsoft has installed a subsidiary in Istanbul responsible for sales and support to all of the Middle East, Central Asia and Northern Africa. By creating a qualified industrial zone, Turkey may be able to attract even more foreign investment in this important sector.

Turkey has been a staunch, long-time ally of the United States. American and Turkish troops fought together in Korea. Today we are fighting a different war on a different front in Afghanistan. But our friendship and joint commitment to freedom and democracy remains the same.

By enacting this legislation, the U.S. Congress can send a strong message to the people of Turkey that we appreciate and value their friendship and support and that we will continue to work with them to promote freedom and prosperity for all of our people.

Mr. MCCAIN. Mr. President, I am pleased to introduce legislation with Senators BREAUX and GRASSLEY that would expand the U.S.-Israel Free Trade Agreement to recognize Turkey's critical role as a key American partner in the Middle East conflict, the war on terrorism, and the NATO alliance.

Turkey has a deepening strategic relationship with Israel, with which it has enjoyed military cooperation since 1994. It is a force for stability in the Eastern Mediterranean region. Today, it assumed command of the International Security Assistance Force, ISAF, in Afghanistan. It is one of our best NATO allies. Turkish troops have fought alongside U.S. forces from Korea to Kabul. Turkey's support was instrumental during the 1991 gulf war; it hosts operation Northern Watch, in which American and British aircraft patrol the no-fly zone over northern Iraq; and it will be central to any American military campaign against

Iraq. As a Muslim nation and a secular democracy that has embraced modernity, Turkey puts to rest the myth that America's war on terror is a war on Islam.

Turkey's economy shrank by over 8 percent last year. Its ability to contribute to the war effort in Afghanistan and elsewhere faces serious economic constraints. Turkey has shown a strong commitment to economic reform and to working with the International Monetary Fund. A Qualified Industrial Zone for Turkey, under the U.S.-Israel Free Trade Agreement, would help Turkey attract foreign investment, diversify its exports, and boost trade. It would also help Israel and Turkey develop the economic dimension of their strong security relationship, which is unique in the region.

I know this issue is important to the administration and to the Governments of Turkey and Israel. I am sorry we were unable to pass legislation authorizing a QIZ for Turkey as part of the TPA package last month. I am confident that the measure we have introduced today will enjoy wide bipartisan support and will make a tangible, substantive contribution to Israeli-Turkish cooperation and to American interests in the region.

By Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire):

S. 2664. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes; to the Committee on Environmental and Public Works.

Mr. JEFFORDS. 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. 2664

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 "First Responder Terrorism Preparedness Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 3. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

"(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code."

SEC. 4. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

"SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

"(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

"(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) DUTIES.—The Office shall—

"(1) lead a coordinated and integrated overall effort to build viable terrorism preparedness and response capability at all levels of government;

"(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

"(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

"(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

"(5) establish standards for a national, interoperable emergency communications and warning system;

"(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(7) carry out such other related activities as are approved by the Director.

"(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

"(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

"(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

"(2) consult with and use—

"(A) existing Federal interagency boards and committees;

"(B) existing government agencies; and

"(C) nongovernmental organizations."

SEC. 5. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

"SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency, acting through the Office of National Preparedness established by section 616.

"(2) FIRST RESPONDER.—The term 'first responder' means—

"(A) fire, emergency medical service, and law enforcement personnel; and

"(B) such other personnel as are identified by the Director.

"(3) LOCAL ENTITY.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

"(4) PROGRAM.—The term 'program' means the program established under subsection (b).

"(b) PROGRAM TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

"(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

"(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

"(A) grants; and

"(B) such other forms of assistance as the Director determines to be appropriate.

"(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

"(1) shall be used—

"(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

"(B) to train first responders, consistent with guidelines and standards developed by the Director;

"(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

"(D) to develop, construct, or upgrade emergency operating centers;

"(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

"(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

"(G) to conduct exercises; and

"(H) to carry out such other related activities as are approved by the Director; and

"(2) shall not be used to provide compensation to first responders (including payment for overtime).

"(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

"(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, \$3,000,000; and

"(2) to each State (other than a State specified in paragraph (1))—

"(A) a base amount of \$15,000,000; and

“(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

“(i) population;

“(ii) location of vital infrastructure, including—

“(I) military installations;

“(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

“(III) nuclear power plants;

“(IV) chemical plants; and

“(V) national landmarks; and

“(iii) proximity to international borders.

“(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

“(f) ADMINISTRATIVE EXPENSES.—

“(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

“(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

“(B)(i) for fiscal year 2003, \$75,000,000; and

“(ii) for each of fiscal years 2004 through 2006, \$50,000,000.

“(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

“(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

“(h) REPORTS.—

“(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

“(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

“(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(B) submit a report on the results of the exercise to—

“(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

“(i) COORDINATION.—

“(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

“(A) the Administrator of the United States Fire Administration in connection

with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360)); and

“(B) other appropriate Federal agencies.

“(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

“(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

“(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.”

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting “(other than section 630)” after “carry out this title”; and

(2) by inserting “(other than section 630)” after “under this title”.

SEC. 6. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5) is amended by adding at the end the following:

“SEC. 631. URBAN SEARCH AND RESCUE TASK FORCES.

“(a) DEFINITIONS.—In this section:

“(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term ‘urban search and rescue equipment’ means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

“(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term ‘urban search and rescue task force’ means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

“(b) ASSISTANCE.—

“(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than \$1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

“(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

“(A) operations in excess of the funds provided under paragraph (1);

“(B) urban search and rescue equipment;

“(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

“(D) training, including training for operating in an environment described in subparagraph (C);

“(E) transportation;

“(F) expansion of the urban search and rescue task force; and

“(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

“(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity

to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

“(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

“(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

“(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.”

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 631).

“(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

“(A) \$3,340,000,000 for fiscal year 2003; and

“(B) \$3,458,000,000 for each of fiscal years 2004 through 2006.

“(3) URBAN SEARCH AND RESCUE TASK FORCES.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out section 631—

“(i) \$160,000,000 for fiscal year 2003; and

“(ii) \$42,000,000 for each of fiscal years 2004 through 2006.

“(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.”

By Mr. HUTCHINSON (for himself, Mr. HARKIN, and Mr. GREGG):

S. 2665. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Health, Education, Labor, and Pensions.

MR. HUTCHINSON. Mr. President, I am pleased today to introduce the Animal Drug User Fee Act of 2002, along with my distinguished colleagues Senator HARKIN, who is chairman of the Senate Agriculture Committee, and Senator GREGG, who is ranking member of the Senate Health, Education, Labor, and Pensions Committee. Modeled after the Prescription Drug User Fee Act, which has successfully reduced approval and review times by over half, the Animal Drug User Fee Act of 2002 would authorize the Food and Drug Administration to collect user fees from animal pharmaceutical manufacturers to increase the amount of resources devoted to reviewing new animal drug applications and investigational applications.

Right now, nearly 90 percent of new animal drug applications are overdue,

many by over a year. These unprecedented delays in the review and approval process are both frustrating and problematic to the industry, veterinarians, as well as countless farmers who depend on cutting edge tools to combat and prevent animal disease and enhance the safety of our food supply.

Under the Animal Drug User Fee Act of 2002, user fees would be contingent upon the Food and Drug Administration's Center for Veterinary Medicine reducing its review times to a maximum of 180 days over a period of five years. The user fees generated by the Act would amount to \$5 million in fiscal year 2003, \$8 million in fiscal year 2004, and \$10 million for each of the last three years, for a total of \$43 million over 5 years. The Secretary may determine the user fee amount and grant waivers in cases where such fees would inhibit innovation or discourage the development of animal drug products for minor uses or minor species. Such user fees would be considered an addition to, not a replacement for, the annual appropriations amount designated for CVM through the annual appropriations process.

The Animal Drug User Fee Act of 2002 is supported by a broad range of pharmaceutical, livestock, and poultry producers, including the American Sheep Industry Foundation, the American Veterinary Medical Association, the Animal Health Institute, the National Cattlemen's Beef Association, the National Milk Producers Federation, the American Association of Equine Practitioners, the American Farm Bureau Federation, the National Pork Producers Association, and the National Turkey Federation.

This legislation will help address the inefficient review process at the Center for Veterinary Medicine and ensure that the veterinary and agriculture communities have access to new and innovative drug products to keep animals alive and healthy.

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. 2665

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 "Animal Drug User Fee Act of 2002."

SECTION 2. FINDINGS.

The Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health;

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications; and

(3) The fees authorized by this title will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions

as set forth in the goals identified, for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

SECTION 3. FEES RELATING TO ANIMAL DRUGS.

Subchapter C of chapter VII of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

"Part 3—Fees Relating To Animal Drugs

"SEC. 738. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term "animal drug application" means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

"(2) The term "supplemental animal drug application" means—

"(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

"(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

"(3) The term "animal drug product" means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

"(4) The term "animal drug establishment" means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

"(5) The term "investigational animal drug submission" means—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

"(6) The term "animal drug sponsor" means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under Section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

"(7) The term "final dosage form" means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

"(8) The term "process for the review of animal drug applications" means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

"(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, and investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

"(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

"(9) The term "costs of resources allocated for the process for the review of animal drug applications" means the expenses incurred in connection with the process for the review of animal drug applications for—

"(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 739 and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(10) The term "adjustment factor" applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2002.

"(11) The term "affiliate" refers to the definition set forth in section 735(9).

"SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.

"(a) TYPES OF FEES.—Beginning in fiscal year 2003, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 2002, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

“(i) A fee established in subsection (b) for an animal drug application; and

“(ii) A fee established in subsection (b) for a supplemental animal drug application for which safety or effectiveness data are required.

“(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

“(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

“(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

“(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph B if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

“(2) ANIMAL DRUG PRODUCT FEE.—Each person—

“(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under Section 510, and

“(B) who, after September 1, 2002, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection (b). Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under Section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

“(3) ANIMAL DRUG ESTABLISHMENT FEE.—Each person—

“(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

“(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under Section 510, and

“(C) who, after September 1, 2002, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual fee established in subsection (b) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment

fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

“(4) ANIMAL DRUG SPONSOR FEE.—Each person—

“(A) who meets the definition of an animal drug sponsor within a fiscal year; and

“(B) who, after September 1, 2002, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection (b). The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

“(b) FEE AMOUNTS.—Except as provided in subsection (a)(1) and subsections (c), (d), (f), and (g) below, the fees required under subsection (a) shall be determined and assessed as follows:

“(1) APPLICATION AND SUPPLEMENT FEES.—

“(A) The animal drug application fee under subsection (a)(1)(A)(i) shall be \$35,750 in fiscal year 2003, \$57,150 in fiscal year 2004, and \$71,500 in fiscal years 2005, 2006, and 2007.

“(B) The supplemental animal drug application fee under subsection (a)(1)(A)(ii) shall be \$17,850 in fiscal year 2003, \$28,575 in fiscal year 2004, and \$35,700 in fiscal years 2005, 2006, and 2007.

“(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(2) shall be \$1,250,000 in fiscal year 2003, \$2,000,000 in fiscal year 2004, and \$2,500,000 in fiscal years 2005, 2006, and 2007.

“(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(3) shall be \$1,250,000 in fiscal year 2003, \$2,000,000 in fiscal year 2004, and \$2,500,000 in fiscal years 2005, 2006, and 2007.

“(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in sponsor fees under subsection (a)(4) shall be \$1,250,000 in fiscal year 2003, \$2,000,000 in fiscal year 2004, and \$2,500,000 in fiscal years 2005, 2006, and 2007.

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year according to the formula set forth in section 736(c)(1).

“(2) WORKLOAD ADJUSTMENT.—After the fee revenues are adjusted for inflation in accordance with subparagraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2003 to reflect changes in review workload. With respect to such adjustment:

“(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug

study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

“(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (b), as adjusted for inflation under subparagraph (c)(1).

“(3) FINAL YEAR ADJUSTMENT.—For FY 2007, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first three months of FY 2008. If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of three months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for FY 2007.

“(4) ANNUAL FEE ADJUSTMENT.—Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, within 60 days after the end of each fiscal year beginning after September 30, 2002, adjust the fees established by the schedule in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (1), (2), (3), and (4) of subsection (b) shall be set to be equal to 25 percent of the total fees appropriated under subsection (g).

“(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

“(d) FEE WAIVER OR REDUCTION.—

“(1) IN GENERAL.—The Secretary shall grant a waiver from fees assessed under subsection (a) where the Secretary finds that—

“(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

“(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

“(C) the animal drug application is intended solely to provide for a minor use or minor species indication, or

“(D) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

“(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

“(3) RULES FOR SMALL BUSINESSES.—

“(A) DEFINITION.—In paragraph (1)(D), the term “small business” means an entity that has fewer than 500 employees, including employees of affiliates.

“(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(D) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

“(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver

under paragraph (1)(D) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

“(e) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 738(5)(B) that is submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

“(f) ASSESSMENT OF FEES.—

“(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2002 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2002 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

“(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(g) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees col-

lected under this section, for fiscal year 2002 multiplied by the adjustment factor.

“(B) COMPLIANCE WITH REQUIREMENT.—The Food and Drug Administration will be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if—

“(i) the costs funded by appropriations and allocated for the process for the review of animal drug applications are not more than 3 percent below the level specified in (B)(i); or

“(ii) the costs funded by appropriations and allocated for the process for the review of animal drug applications are more than 3 percent below the level specified in (A)(ii), and fees assessed for a subsequent fiscal year are decreased by the amount in excess of 3 percent by which the costs funded by appropriations and allocated for the process for the review of animal drug applications fell below the level specified in (A)(ii), provided that the costs funded by appropriations and allocated for the process for the review of animal drug applications are not more than 5 percent below the level specified in (B)(i).

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

“(A) \$5,000,000 for fiscal year 2003,

“(B) \$8,000,000 for fiscal year 2004,

“(C) \$10,000,000 for fiscal year 2005,

“(D) \$10,000,000 for fiscal year 2006, and

“(E) \$10,000,000 for fiscal year 2007, as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

“(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

“(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

“(j) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

SECTION 4. ANNUAL REPORTS.

(a) PERFORMANCE REPORT.—Beginning with fiscal year 2003, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and

Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) FISCAL REPORT.—Beginning with fiscal year 2003, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SECTION 5. SUNSET.

The amendments made by section 3 shall not be in effect after October 1, 2007 and section 4 shall not be in effect after 120 days after such date.

Mr. HARKIN. Mr. President, today I am pleased to join my distinguished colleagues, Senators HUTCHINSON, with whom I am pleased to work with on the Agriculture Committee and the Health, Education, Labor, and Pensions (HELP) Committee, and Senator GREGG, who is also a member of the HELP Committee, in introducing the Animal Drug User Fee Act of 2002. The Animal Drug User Fee Act would authorize the Food and Drug Administration, FDA, to collect user fees from animal drug manufacturers to support new animal drug applications and investigational applications. This important legislation is modeled after the successful Prescription Drug User Fees Act, which after a few years of implementation has reduced approval and review times by half.

The need for expedited review of animal drug applications is substantial. Nine out of ten new animal drug applications are overdue. Prompt approval of safe and effective animal drugs is critical to the improvement of not only animal health but public health as well. Our animal health professionals need the newest and most effective drugs to combat dangerous animal diseases.

Under the Animal Drug User Fee Act, the collection of user fees from animal drug manufacturers would be contingent on FDA's Center for Veterinary Medicine, CVM, reducing its review times to a maximum of 180 days over five years. The user fees generated by the Act would amount to \$5 million in Fiscal Year 2003, \$8 million in Fiscal Year 2004, and \$10 million for each of the last three years, totaling \$43 million over 5 years. The Secretary may determine the user fee amount and grant waivers in cases where such fees would inhibit innovation or discourage the development of animal drug products for minor uses or minor species. Such user fees would be considered an

addition to, not a replacement for, the annual appropriations amount designated for CVM through the annual appropriations process.

This legislation enjoys broad support from pharmaceutical, livestock and poultry producers and from the American Veterinary Medical Association, the Animal Health Institute, the National Pork Producers Association, the National Turkey Federation, the National Cattlemen's Beef Association, the National Milk Producers Federation, and the American Farm Bureau Federation.

I urge my colleagues to support this important legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3917. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table.

SA 3918. Mr. KENNEDY (for himself, Mr. REED, Mr. AKAKA, Mr. FEINGOLD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3919. Mr. THOMAS (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3920. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3921. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3922. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3923. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3924. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3926. Mr. WYDEN (for himself and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3927. Mrs. MURRAY (for herself and Ms. SNOWE) proposed an amendment to the bill S. 2514, supra.

SA 3928. Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. LOTT, Mr. STEVENS, Mr. INOUE, Mr. BUNNING, Mrs. FEINSTEIN, Mr. CRAIG, Ms. COLLINS, Mr. SHELBY, Mr. SMITH, of New Hampshire, Mr. BOND, Mr. DOMENICI, Mr. BAYH, Mr. NELSON, of Nebraska, Mr. BURNS, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3929. Mr. KERRY submitted an amendment intended to be proposed by him to the

bill S. 2514, supra; which was ordered to lie on the table.

SA 3930. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3931. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3932. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3933. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3934. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3935. Mr. NELSON, of Florida (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3936. Mr. NELSON, of Florida (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3937. Mr. NELSON, of Florida (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3938. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3939. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3940. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3941. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2514, supra.

SA 3942. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3943. Mr. WARNER (for Ms. COLLINS) proposed an amendment to the bill S. 2514, supra.

SA 3944. Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill S. 2514, supra.

SA 3945. Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. DURBIN, Mr. FITZGERALD, and Mrs. LINCOLN)) proposed an amendment to the bill S. 2514, supra.

SA 3946. Mr. LEVIN (for Mr. CLELAND (for himself and Mr. HUTCHINSON)) proposed an amendment to the bill S. 2514, supra.

SA 3947. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3948. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3949. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3950. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3951. Mr. LEVIN (for himself and Mr. SESSIONS) proposed an amendment to the bill S. 2514, supra.

TEXT OF AMENDMENTS

SA 3917. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize

appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

SEC. 2829. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the "Board"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans.

(b) REVERSIONARY INTEREST.—(1) If at the end of the five-year period beginning on the date of the conveyance authorized by subsection (a), the Secretary determines that the property conveyed under that subsection is not being used for the purpose specified in that subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 3918. Mr. KENNEDY (for himself, Mr. REED, Mr. AKAKA, Mr. FEINGOLD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following: TITLE XIII—EQUAL COMPETITION IN CONTRACTING

SEC. 1301. RELATION TO DEPARTMENT EFFORTS TO ACHIEVE MOST EFFICIENT ORGANIZATION FOR PERFORMANCE OF COMMERCIAL OR INDUSTRIAL FUNCTIONS.

Nothing in this title is intended to limit the ability of Secretary of Defense or the Secretary of a military department to promote efficiencies in the civilian workforce of the Department of Defense through reductions in force, internal reorganization, or streamlining efforts.

SEC. 1302. REQUIRED COST SAVINGS LEVEL FOR CHANGE OF FUNCTION TO CONTRACTOR PERFORMANCE.

Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(5)(A) A commercial or industrial type function of the Department of Defense may not be changed to performance by the private sector unless, as a result of the cost comparison examination required under paragraph (3)(A) that meets the requirements of subparagraph (B), at least a 10-percent cost savings would be achieved by performance of the function by the private sector over the period of the contract.

“(B) The cost comparison examination required under paragraph (3)(A) shall employ the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, as described in Office of Management and Budget Circular A-76 or any successor regulation.

“(C) The cost savings requirement specified in subparagraph (A) does not apply to any contract for the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(D) The Secretary of Defense may waive the cost savings requirement if—

“(i) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a cost comparison examination.

“(E) A copy of the waiver under subparagraph (D) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

“(6) The reference to Office of Management and Budget Circular A-76 in paragraph (5)(B) does not require the use of the process described in that circular to perform the cost comparison required by this subsection.”.

SEC. 1303. APPLICABILITY OF STUDY AND REPORTING REQUIREMENTS TO NEW COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS.

(a) NEW FUNCTIONS.—Section 2461(a) of title 10, United States Code, is amended—

(1) by striking “CHANGE IN PERFORMANCE.” and inserting “CHANGE IN OR INITIATION OF PERFORMANCE.—(1)”; and

(2) by adding at the end the following new paragraphs:

“(2) In the case of a commercial or industrial type function of the Department of Defense not previously performed by Department of Defense civilian employees or a contractor, the performance of the function by a private sector source may not be initiated until—

“(A) the Secretary of Defense conducts a cost comparison examination that employs the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs

such as contract administration costs, as described in Office of Management and Budget Circular A-76 and its supplemental handbook, or any successor regulation and policy; and

“(B) a determination is made that performance of the function by the private sector source would be less costly over the period of the contract than performance by Department of Defense civilian employees during that same period.

“(3) This subsection does not apply to the following contracts:

“(A) A contract between the Department of Defense and a private sector source for work with a contract value of less than \$1,000,000, for so long as the work was not divided, modified, or in any way changed for the purpose of avoiding the requirements of this section.

“(B) A contract for any of the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(4) The Secretary of Defense may waive the applicability of this subsection if—

“(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(B) the written waiver is accompanied by a detailed determination that—

“(i) there is no reasonable expectation that civilian employees would be selected to perform the function in a competition between public sector sources and private sector sources; or

“(ii) the immediate performance of the function by Department of Defense civilian employees or a contractor is so urgent that it overrides the compelling interest of subjecting new commercial or industrial type functions to public-private sector competition before converting the performance of those functions to private sector performance.

“(5) A copy of the waiver under paragraph (4) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

“(6) The reference to Office of Management and Budget Circular A-76 in paragraph (2)(A) does not require the use of the process described in that circular to perform the cost comparison required by this subsection.”.

(b) MINIMAL LEVELS OF PUBLIC-PRIVATE COMPETITION FOR NEW WORK.—(1) Not less than the percentage specified in paragraph (2) of the total dollars expended during a specified fiscal year for the performance by contractors of commercial or industrial type functions of the Department of Defense not previously performed by Department of Defense civilian employees or the private sector (that are not otherwise exempt from comparison under section 2461 of title 10, United States Code) shall be expended for service contracts that are awarded after the completion of cost comparison examinations.

(2) The requirements of paragraph (1) apply as follows:

(A) Not less than 10 percent, for fiscal year 2004.

(B) Not less than 15 percent, for fiscal year 2005.

(C) Not less than 20 percent, for fiscal year 2006.

(3) The Secretary of Defense may waive the requirements of this subsection if—

(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

(B) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirements.

(4) A copy of the waiver under paragraph (2) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

(c) CLERICAL AMENDMENTS.—(1) The heading of such section 2461 is amended to read as follows:

“§ 2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance.”.

(2) The item relating to such section in the table of sections at the beginning of chapter 146 of title 10, United States Code, is amended to read as follows:

“2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance.”.

SEC. 1304. REPEAL OF WAIVER FOR SMALL FUNCTIONS.

Section 2461 of title 10, United States Code, is amended by striking subsection (d).

SEC. 1305. REQUIREMENT FOR EQUITY IN PUBLIC-PRIVATE COMPETITIONS.

Section 2461 of title 10, United States Code, is amended by inserting after subsection (c) the following new subsection:

“(d) EQUITY IN PUBLIC-PRIVATE COMPETITION.—(1)(A) For any fiscal year in which commercial or industrial type functions of the Department of Defense performed by Department of Defense civilian employees are studied for possible change to private sector performance, the Secretary of Defense shall ensure that approximately the same number of positions held by non-Federal employees under contracts with the Department of Defense, subject to completion of the terms of those contracts, are subjected to—

“(i) the same cost comparison examination described in subsection (b)(3) that employed the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, as described in Office of Management and Budget Circular A-76 or any successor regulation, and

“(ii) the requirement that no work may be changed to performance by the public sector unless at least a 10-percent cost savings would be achieved by performance of the function by the public sector over the term of the contract.

“(B) The cost savings requirement specified in subparagraph (A)(ii) does not apply to any contract for the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(2) To the extent possible, the Secretary of Defense should, in complying with this subsection, select those contract positions held by non-Federal employees under contracts with the Department of Defense that are associated with commercial or industrial type functions that are, or have been, performed at least in part by Department of Defense civilian employees at any time on or after October 1, 1980.

“(3) Notwithstanding any limitation on the number of Department of Defense civilian employees established by law, regulation, or policy, the Department of Defense may continue to employ, or may hire, such civilian employees as are necessary to perform functions acquired through the public-private competitions required by this subsection or any other provision of this section.

“(4) The requirement to perform cost comparison examinations under this subsection does not require the use of the process described in Office of Management and Budget Circular A-76 in the performance of the examinations.

“(5) The Secretary of Defense may waive the requirements of this subsection if—

“(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(B) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirements.

“(6) A copy of the waiver under paragraph (5) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

SEC. 1306. REPORTING REQUIREMENTS REGARDING DEPARTMENT OF DEFENSE'S SERVICE CONTRACTOR WORKFORCE.

(a) IMPOSITION OF REPORTING REQUIREMENT.—(1) Chapter 146 of title 10, United States Code, is amended by inserting after section 2461a the following new section:

“§2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements

“(a) DEFINITIONS.—In this section:

“(1) CONTRACTOR.—The term ‘contractor’ includes a subcontractor.

“(2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ includes the Secretary of Defense with respect to matters concerning a Defense Agency.

“(b) GENERAL REPORTING REQUIREMENT.—The Secretary concerned shall require each defense contractor to report to secure websites established and maintained by the Defense Agencies and military departments the same contractor direct manhour and cost information that is collected by the Department of the Army pursuant to part 668 of title 32, Code of Federal Regulations, as in effect on December 26, 2000, in terms of functions performed, appropriations funding the contract, and identification of the subordinate organizational elements within the Defense Agency or military department directly overseeing the contractor performance.

“(c) ASSIGNMENT OF REPORTING RESPONSIBILITY.—The head of the Defense Agency or Secretary of the military department containing the major organizational element re-

ceiving or reviewing the work performed by a defense contractor shall be responsible for collecting the data required by this section, even where all or part of the contracted work is funded by appropriations not controlled by the Secretary concerned. If the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor is different from the Defense Agency or military department containing the contracting activity, the Secretary concerned shall ensure that the contractor reports the required information to the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor.

“(d) TIMING OF CONTRACTOR REPORTING TO ASSURE DATA QUALITY.—The Secretary concerned shall require contractors to report the information described in subsection (c) to the secure web-site contemporaneous with submission of a request for payment (including any voucher, invoice, or request for progress payment) or not later than quarterly.

“(e) CONTRACT REQUIREMENT EFFECTIVE DATE.—The Secretary concerned shall include the reporting requirement described in this section in each solicitation of offers issued, contract awarded, and bilateral modification of an existing contract executed by the Secretary concerned after October 1, 2002.

“(f) CONTRACTOR SELF-EXEMPTION.—The Secretary concerned shall exempt a contractor from the data collection requirement imposed by this section if the contractor certifies in writing that the contractor does not have an internal system for aggregating billable hours in the direct or indirect pools, or an internal payroll accounting system, and is not otherwise required to provide such information to the Government. A contractor may not claim an exemption on the sole basis that the contractor is a foreign contractor, that services are provided pursuant to a firm, fixed price or time and materials contract or similar instrument, that the payroll system of the contractor is performed by another person, or that the contractor has too many subcontractors. The validity of this certification is the only requirement in this section that may be subject to audit and verification by the Secretary concerned.

“(g) REPORT TO CONGRESS AND COMPTROLLER GENERAL ACTIONS.—The Secretary concerned shall submit the information collected under subsection (c) to Congress not later than October 1 of each year for the prior fiscal year. Not later than April 1 of each year, the Comptroller General shall review the information submitted for the prior fiscal year to assess compliance with this section and the effectiveness of Department of Defense initiatives to integrate this information into its budgeting process.

“(h) PUBLICATION OF REPORTS.—After completion of the Comptroller General review under subsection (h), the Secretary concerned shall take steps to make the non-proprietary compilations of the data public on web sites, using the publication standard expressed by the Department of the Army in part 668 of title 32, Code of Federal Regulations.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2461a the following new item:

“2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements.”

(b) EFFECTIVE DATE.—Section 2461b of title 10, United States Code, as added by sub-

section (a), shall take effect on October 1, 2002.

SEC. 1307. COMPTROLLER GENERAL REPORTS.

The Comptroller General shall report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate biannually on the compliance by the Department of Defense with the requirements in sections 1301, 1302, 1303, 1304, 1305, and 1306 of this Act and the amendments made by such sections.

SEC. 1308. LIMITED PILOT PROGRAM TO IMPLEMENT RECOMMENDATIONS OF COMMERCIAL ACTIVITIES PANEL.

(a) USE OF ALTERNATIVE PUBLIC-PRIVATE COMPETITION PROCESSES.—Notwithstanding sections 2461 and 2462 of title 10, United States Code, the Secretary of Defense may carry out a limited pilot program to examine and evaluate the feasibility and advisability of using public-private competition processes other than the process described in Office of Management and Budget Circular A-76 for commercial or industrial type functions performed by Federal employees, performed by contractors, or proposed for performance by Federal employees or contractors.

(b) DURATION OF PILOT PROGRAM.—The Secretary of Defense may carry out the limited pilot program during fiscal years 2003 through 2005.

(c) EXTENT OF PILOT PROGRAM.—The total value of the commercial or industrial type functions reviewed under the pilot program may not exceed \$300,000,000.

(d) POSSIBLE ALTERNATIVES.—(1) The alternatives to Office of Management Budget Circular A-76 that could be tested and evaluated by the pilot program include the following:

(A) The process known as low-price/technically acceptable (under the framework of the Federal Acquisition Regulation).

(B) The process known as cost/technical trade-off (under the framework of the Federal Acquisition Regulation).

(C) The process known as bid-to-goal.

(2) In paragraph (1)(C), the term “bid-to-goal” means a process that—

(A) uses a series of competitive performance targets, included in a performance work statement, to compare for specific functions the cost of public sector performance with that of performance by private sector contractors and other public sector entities at the Federal, State, and local levels; and

(B) allows managers and affected employees to create streamlined and improved work plans that, if determined to be viable by an independent party, are incorporated into detailed service agreement awarded to the public sector entity for implementation and performance of the functions.

(e) REQUIRED ELEMENTS.—The alternatives examined and evaluated under the framework of the Federal Acquisition Regulation shall include the most efficient organization process, the framework for calculating the public sector price cost estimate, the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, and the 10 percent cost differential in favor of whichever sector is currently performing the work, as described in Office of Management and Budget Circular A-76 or any successor administrative regulation.

(f) COMPARABILITY.—To the maximum extent practicable, the Secretary of Defense shall ensure that comparable amounts of work, as measured in dollars, performed by Federal employees, performed by contractors, or new work that is not yet performed by Federal employees or contractors should be tested and evaluated under the alternatives authorized for the pilot program.

(g) EXCLUSION OF CERTAIN FUNCTIONS.—Under the pilot program, the Secretary of

Defense may not use the alternative public-private competition processes to review depot-level maintenance and repair workloads, functions for which contracts for performance by the private sector are prohibited, or inherently governmental activities.

(h) **RELATION TO A-76 PROCESS.**—In order to provide proper test and evaluation conditions for the pilot program, functions designated for study under the pilot program shall be exempt for the duration of the pilot program from review initiated under Office of Management and Budget Circular A-76 or any successor administrative regulation, and no function that has been announced for or is undergoing such a review shall be selected for the pilot program.

(i) **CONSULTATION.**—(1) The officer or employee of the Department of Defense responsible for determining under the alternatives authorized by the pilot program whether to convert a commercial or industrial type function of the Department of Defense from Federal employee performance to contractor performance or from contractor performance to Federal employee performance—

(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with Federal or contractor employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

(B) may consult with such employees or contractors on other matters relating to that determination.

(2) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirements of paragraph (1).

(3) In the case of employees other than employees referred to in paragraph (2), consultation with appropriate representatives of those employees (including appropriate labor organizations representing such employees) shall satisfy the consultation requirements of paragraph (1).

(j) **REPORTING REQUIREMENTS.**—(1) Not later than 90 days after the end of each fiscal year during which the pilot program is conducted, the Secretary of Defense and the Comptroller General shall each submit to Congress a report of the results of the pilot program and lessons learned. For each commercial or industrial type function covered by the program, the report shall address the following:

(A) The cost of conducting the alternative.

(B) The time necessary to conduct the alternative.

(C) The savings, if any, expected to be achieved from conducting the alternative.

(D) The savings, if any, actually achieved from conducting the alternative.

(E) The gains in efficiency or effectiveness, if any, expected to be achieved from conducting the alternative.

(F) The gains in efficiency or effectiveness, if any, actually achieved from conducting the alternative.

(G) The impact on Federal employees and contractors (and contractor employees) from conducting the alternative.

(2) To the maximum extent possible, the report shall compare each alternative undertaking, with respect to the factors specified in paragraph (1), with an undertaking of Office of Management and Budget Circular A-76 that has been completed within at least two years prior to the date of the enactment of this Act for work that is comparable in nature and scope.

(3) The final report shall include recommended changes with respect to imple-

mentation of policies and proposed legislation.

(k) **REGULATIONS.**—The Secretary of Defense shall prescribe such regulations as the Secretary considers necessary to carry out the pilot program.

SA 3919. Mr. THOMAS (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 828. COMPETITION FOR PERFORMANCE OF ACTIVITIES NOT INHERENTLY GOVERNMENTAL.

(a) **REQUIREMENT.**—Section 2(d) of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 112 Stat. 2383; 31 U.S.C. 501 note) is amended by striking “on the list” at the end of the first sentence and all that follows through “the performance of such an activity, the” in the second sentence and inserting “on the list and initiate an action to select the source for the performance of each such activity. The”.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to lists of activities that are submitted to the Office of Management and Budget after that date under section 2 of the Federal Activities Inventory Reform Act of 1998.

SA 3920. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XIII—FREEDOM FROM GOVERNMENT COMPETITION

SEC. 1301. SHORT TITLE.

This title may be cited as the “Freedom From Government Competition Act of 2002”.

SEC. 1302. FINDINGS.

Congress makes the following findings:

(1) Private sector business concerns, which are free to respond to the private or public demands of the marketplace, constitute the strength of the American economic system.

(2) Competitive private sector enterprises are the most productive, efficient, and effective sources of goods and services.

(3) Government competition with the private sector of the economy is detrimental to all businesses and the American economic system.

(4) Government competition with the private sector of the economy is at an unacceptably high level, both in scope and in dollar volume.

(5) When a government engages in entrepreneurial activities that are beyond its core mission and compete with the private sector—

(A) the focus and attention of the government are diverted from executing the basic mission and work of that government; and

(B) those activities constitute unfair government competition with the private sector.

(6) Current laws and policies have failed to address adequately the problem of government competition with the private sector of the economy.

(7) The level of government competition with the private sector, especially with small businesses, has been a priority issue of each White House Conference on Small Business.

(8) Reliance on the private sector is consistent with the goals of the Government Performance and Results Act of 1993 (Public Law 103-62).

(9) Reliance on the private sector is necessary and desirable for proper implementation of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226).

(10) It is in the public interest that the Federal Government establish a consistent policy to rely on the private sector of the economy to provide goods and services that are necessary for or beneficial to the operation and management of Federal Government agencies and to avoid Federal Government competition with the private sector of the economy.

(11) It is in the public interest for the private sector to utilize employees who are adversely affected by conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

SEC. 1303. RELIANCE ON THE PRIVATE SECTOR.

(a) **GENERAL POLICY.**—Notwithstanding any other provision of law, except as provided in subsection (c), each agency shall procure from sources in the private sector all goods and services that are necessary for or beneficial to the accomplishment of authorized functions of the agency.

(b) **PROHIBITIONS REGARDING TRANSACTIONS IN GOODS AND SERVICES.**—

(1) **PROVISION BY GOVERNMENT GENERALLY.**—No agency may begin or carry out any activity to provide any products or services that can be provided by the private sector.

(2) **TRANSACTIONS BETWEEN GOVERNMENTAL ENTITIES.**—No agency may obtain any goods or services from or provide any goods or services to any other governmental entity.

(c) **EXCEPTIONS.**—Subsections (a) and (b) do not apply to goods or services necessary for or beneficial to the accomplishment of authorized functions of an agency under the following conditions:

(1) Either—

(A) the goods or services are inherently governmental in nature within the meaning of section 1306(b); or

(B) the Director of the Office of Management and Budget determines that the provision of the goods or services is otherwise an inherently governmental function.

(2) The head of the agency determines that the goods or services should be produced, provided, or manufactured by the Federal Government for reasons of national security.

(3) The Federal Government is determined to be the best value source of the goods or services in accordance with regulations prescribed pursuant to section 1304(a)(2)(C).

(4) The private sector sources of the goods or services, or the practices of such sources, are not adequate to satisfy the agency's requirements.

SEC. 1304. ADMINISTRATIVE PROVISIONS.

(a) **REGULATIONS.**—

(1) **OMB RESPONSIBILITY.**—The Director of the Office of Management and Budget shall prescribe regulations to carry out this title.

(2) CONTENT.—

(A) PRIVATE SECTOR PREFERENCE.—Consistent with the policy and prohibitions set forth in section 1303, the regulations shall emphasize a preference for the provision of goods and services by private sector sources.

(B) FAIRNESS FOR FEDERAL EMPLOYEES.—In order to ensure the fair treatment of Federal Government employees, the regulations—

(i) shall not contravene any law or regulation regarding Federal Government employees; and

(ii) shall provide for the Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, to furnish information on relevant available benefits and assistance to Federal Government employees adversely affected by conversions to use of private sector entities for providing goods and services.

(C) BEST VALUE SOURCES.—

(i) STANDARDS AND PROCEDURES.—The regulations shall include standards and procedures for determining whether it is a private sector source or an agency that provides certain goods or services for the best value.

(ii) FACTORS CONSIDERED.—The standards and procedures shall include requirements for consideration of analyses of all direct and indirect costs (performed in a manner consistent with generally accepted cost-accounting principles), the qualifications of sources, the past performance of sources, and any other technical and noncost factors that are relevant.

(iii) CONSULTATION REQUIREMENT.—The Director shall consult with persons from the private sector and persons from the public sector in developing the standards and procedures.

(D) APPROPRIATE GOVERNMENTAL ACTIVITIES.—The regulations shall include a methodology for determining what types of activities performed by an agency should continue to be performed by the agency or any other agency.

(b) COMPLIANCE AND IMPLEMENTATION ASSISTANCE.—

(1) OMB CENTER FOR COMMERCIAL ACTIVITIES.—The Director of the Office of Management and Budget shall establish a Center for Commercial Activities within the Office of Management and Budget.

(2) RESPONSIBILITIES.—The Center—

(A) shall be responsible for the implementation of and compliance with the policies, standards, and procedures that are set forth in this title or are prescribed to carry out this title; and

(B) shall provide agencies and private sector entities with guidance, information, and other assistance appropriate for facilitating conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

SEC. 1305. STUDY AND REPORT ON COMMERCIAL ACTIVITIES OF THE GOVERNMENT.

(a) ANNUAL PERFORMANCE PLAN.—Section 1115(a) of title 31, United States Code, is amended—

(1) by striking “and” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “; and”; and

(3) by adding at the end the following:

“(7) include—

“(A) the identity of each program activity that is performed for the agency by a private sector entity in accordance with the Freedom From Government Competition Act of 2002; and

“(B) the identity of each program activity that is not subject to the Freedom From Government Competition Act of 2002 by reason of an exception set forth in that Act, together with a discussion specifying why the activity is determined to be covered by the exception.”.

(b) ANNUAL PERFORMANCE REPORT.—Section 1116(d)(3) of title 31, United States Code, is amended—

(1) by striking “explain and describe,” in the matter preceding subparagraph (A);

(2) in subparagraph (A), by inserting “explain and describe” after “(A)”;

(3) in subparagraph (B)—

(A) by inserting “explain and describe” after “(B)”;

(B) by striking “and” at the end;

(4) in subparagraph (C)—

(A) by inserting “explain and describe” after “infeasible,”; and

(B) by inserting “and” at the end; and

(5) by adding at the end the following:

“(D) in the case of an activity not performed by a private sector entity—

“(i) explain and describe whether the activity could be performed for the Federal Government by a private sector entity in accordance with the Freedom From Government Competition Act of 2002; and

“(ii) if the activity could be performed by a private sector entity, set forth a schedule for converting to performance of the activity by a private sector entity.”.

SEC. 1306. DEFINITIONS.

(a) AGENCY.—As used in this title, the term “agency” means the following:

(1) EXECUTIVE DEPARTMENT.—An executive department as defined by section 101 of title 5, United States Code.

(2) MILITARY DEPARTMENT.—A military department as defined by section 102 of title 5.

(3) INDEPENDENT ESTABLISHMENT.—An independent establishment as defined by section 104(1) of title 5, United States Code.

(b) INHERENTLY GOVERNMENTAL GOODS AND SERVICES.—

(1) PERFORMANCE OF INHERENTLY GOVERNMENTAL FUNCTIONS.—For the purposes of section 1303(c)(1)(A), goods or services are inherently governmental in nature if the providing of such goods or services is an inherently governmental function.

(2) INHERENTLY GOVERNMENTAL FUNCTIONS DESCRIBED.—

(A) FUNCTIONS INCLUDED.—For the purposes of paragraph (1), a function shall be considered an inherently governmental function if the function is so intimately related to the public interest as to mandate performance by Federal Government employees. Such functions include activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to—

(i) bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) determine, protect, and advance its economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) significantly affect the life, liberty, or property of private persons;

(iv) commission, appoint, direct, or control officers or employees of the United States; or

(v) exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the control or disbursement of appropriated and other Federal funds.

(B) FUNCTIONS EXCLUDED.—For the purposes of paragraph (1), inherently governmental functions do not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials;

(ii) any function that is primarily ministerial or internal in nature (such as building security, mail operations, operation of cafeterias, laundry and housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services); or

(iii) any good or service which is currently or could reasonably be produced or performed, respectively, by an entity in the private sector.

SA 3921. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE XIII—FEDERAL ACTIVITIES
INVENTORY REFORM AMENDMENTS**

SEC. 1301. SHORT TITLE; REFERENCES TO FAIR ACT OF 1998.

(a) SHORT TITLE.—This title may be cited as the “Federal Activities Inventory Reform Amendments of 2002”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 112 Stat. 2382; 31 U.S.C. 501 note).

SEC. 1302. ANNUAL LISTS OF GOVERNMENT ACTIVITIES.

(a) LISTS TO INCLUDE INHERENTLY GOVERNMENTAL ACTIVITIES.—Subsection (a) of section 2 is amended by inserting before the period at the end of the first sentence the following: “and those activities performed by Federal Government sources for the executive agency that, in that official’s judgment, are inherently governmental functions”.

(b) DESCRIPTIVE AND EXPLANATORY MATTERS TO BE INCLUDED.—Such subsection is further amended—

(1) by redesignating paragraph (3) as paragraph (5);

(2) by inserting after paragraph (2) the following new paragraphs (3) and (4):

“(3) A description of the activity, including—

“(A) a narrative description of the activity;

“(B) the product or service code, if any, that would be assigned to the activity under the Federal Procurement Data System if the activity were performed in the private sector; and

“(C) the Standard Industrial Classification code, if any, that would be assigned to the activity if the activity were performed in the private sector.

“(4) The organization within the executive agency that is performing the activity, or for which the activity is performed, and the location of that organization.”; and

(3) by adding at the end the following:

“(6) The identity of any provision of law or other authority that, except for subsection (f), would expressly or impliedly exempt the executive agency from the requirements of this section or of Office of Management and Budget Circular A-76 with respect to any activity that is not an inherently governmental activity, together with a discussion of the rationale for that exemption.”.

(c) DEADLINES FOR PUBLICATION OF LISTS AND CHANGES.—Subsection (c) of such section is amended—

(1) in paragraph (1)(B), by striking “promptly” and inserting “, not later than 30 working days after receiving the list,”; and

(2) in paragraph (2)(B), by inserting after “(B)” the following: “not later than 30 working days after the date of the final decision to make the change.”.

SEC. 1303. NOTIFICATION OF AFFECTED EMPLOYEES.

Section 2 is further amended by adding at the end the following:

“(f) NOTIFICATION OF AFFECTED EMPLOYEES.—At the same time that the Director of the Office of Management and Budget publishes a notice of the availability of a list of an executive agency under subsection (c)(1), the head of the executive agency shall notify each employee of the executive agency employed in an activity listed as not being an inherently governmental function that the activity may be converted to performance by a private sector source.”.

SEC. 1304. COMPETITION REQUIREMENTS.

(a) USE OF COMPETITIVE PROCEDURES.—

(1) REQUIREMENT.—The second sentence of section 2(d) is amended by striking “use a competitive process” and all that follows and inserting “select the source using competitive procedures applicable to the executive agency’s procurements.”

(2) COMPETITIVE PROCEDURES DEFINED.—Section 5 is amended by adding at the end the following:

“(3) COMPETITIVE PROCEDURES.—The term ‘competitive procedures’ has the meaning given that term in section 2302(2) of title 10, United States Code, and section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).”.

(b) COST COMPARISONS.—Section 2(e) is amended to read as follows:

“(e) COST COMPARISONS.—

“(1) REALISTIC AND FAIR COST COMPARISONS.—Before determining to contract with a private sector source for the performance of an executive agency activity on the basis of a comparison of the costs of procuring services from such a source with the cost of performing that activity by the executive agency, the head of the executive agency shall ensure that—

“(A) the cost comparison was conducted in accordance with—

“(i) Office of Management and Budget Circular A-76; and

“(ii) any provision of law that is applicable to the cost comparison, including (if applicable) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) relating to architectural and engineering services (including surveying and mapping services);

“(B) all costs have been considered, including the costs of quality assurance, technical monitoring of the performance of such activity, liability insurance, employee retirement and disability benefits, and all other overhead costs; and

“(C) the costs considered are realistic and fair.

“(2) EXEMPTION.—Notwithstanding any other provision of law, the performance of an activity that is not an inherently governmental function may be converted to performance by a private sector source without a cost comparison if the activity is performed by fewer than 10 full-time employees of the United States (or the equivalent in part-time employees or in a combination of full-time and part-time employees).”.

SEC. 1305. INAPPLICABILITY OF EXEMPTIONS IN OTHER LAWS.

Section 2 is amended by adding at the end the following:

“(f) EXEMPTIONS INAPPLICABLE.—The head of each executive agency shall carry out this Act notwithstanding any other provision of law that expressly or impliedly exempts that executive agency from developing an inventory of activities that are not inherently governmental functions and are performed by the executive agency or by Federal Government sources for the executive agency. The head of the executive agency shall include in the annual list prepared under subsection (a) a notation of each such exemption that, except for the preceding sentence, would otherwise apply to the executive agency or any such function.”.

SEC. 1306. PERFORMANCE FOR OTHER GOVERNMENTAL ORGANIZATIONS.

(a) LIMITATIONS.—Section 2, as amended by section 1305 of this Act, is further amended by adding at the end the following:

“(g) LIMITATIONS ON PERFORMANCE FOR OTHER GOVERNMENTAL ORGANIZATIONS.—

“(1) FEDERAL AGENCIES.—An activity that is not an inherently governmental function may not be performed for an executive agency by another Federal Government source under section 1535 of title 31, United States Code, unless, within three years before the order for that activity is placed with the other Federal Government source under that section, performance of that activity by the executive agency has been justified pursuant to a competition carried out under Office of Management and Budget Circular A-76.

“(2) STATE AND LOCAL GOVERNMENTS.—The head of an executive agency may not take any action under section 6505 of title 31, United States Code, to perform for the benefit of an agency of a State or a political subdivision of a State an activity that is not an inherently governmental function unless the head of the executive agency has first—

“(A) solicited offers for the performance of that activity in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)); and

“(B) determined on the basis of the response to the solicitation that no responsible private sector source is available to meet the needs of the executive agency for the performance of that activity for the executive agency.”.

(b) STATE DEFINED.—Section 5, as amended by section 1304(a)(2) of this Act, is further amended by adding at the end the following:

“(4) STATE.—The term ‘State’, includes the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.”.

SEC. 1307. CHALLENGES TO THE LIST.

(a) MATTERS SUBJECT TO CHALLENGE.—Section 3(a) is amended by striking “or an inclusion of a particular activity on,” and inserting “an inclusion of a particular activity on, or the classification of any activity on”.

(b) REVISION OF DEADLINES.—Section 3 is amended—

(1) in subsection (c), by striking “30 days” and inserting “90 working days”; and

(2) in subsection (d), by striking “28 days” and inserting “28 working days”; and

(3) in subsection (e)(2), by striking “10 days” and inserting “10 working days”.

(c) PUBLICATION OF RESOLUTION OF CHALLENGES.—Section 3 is amended by adding at the end the following:

“(f) PUBLICATION OF RESOLUTION OF CHALLENGES.—Not later than 30 working days after the head of an executive agency makes a decision on an appeal under subsection (e), the head of the executive agency shall publish in the Federal Register the following:

“(1) FINAL LIST.—A final version of the list that was challenged.

“(2) SCHEDULE FOR REVIEW OF LIST.—A schedule for the review to be conducted of

such list under section 2(d), together with a description of the intended review.”.

(d) WORKING DAYS DEFINED.—Section 5, as amended by section 1306(b) of this Act, is further amended by adding at the end the following:

“(5) WORKING DAY.—The term ‘working day’, in the administration of sections 2 and 3 with respect to a list of an executive agency, means a day on which the headquarters of the executive agency is open for the conduct of the executive agency’s business.”.

SEC. 1308. PROHIBITION ON CONVERSION TO PERFORMANCE BY FEDERAL PRISON INDUSTRIES.

Section 4 is amended by adding at the end the following:

“(c) PROHIBITED CONVERSION.—The performance of an activity of an executive agency that is not an inherently governmental function may not be converted to performance by a government corporation provided for under chapter 307 of title 18, United States Code.”.

SEC. 1309. INHERENTLY GOVERNMENTAL FUNCTION NOT TO INCLUDE RESEARCH AND DEVELOPMENT.

Section 5(2)(C) is amended—

(1) by striking “or” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “; or”; and

(3) by adding at the end the following:

“(iii) the conduct of research and development.”.

SEC. 1310. PRIVATE SECTOR SOURCE DEFINED.

Section 5, as amended by section 1307(d) of this Act, is further amended by adding at the end the following:

“(6) PRIVATE SECTOR SOURCE.—The term ‘private sector source’ means a person lawfully engaged in business for profit in the United States.”.

SEC. 1311. REPORT ON PORTABILITY OF FEDERAL PENSION BENEFITS.

(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress a report on the portability of Federal pension benefits. The report shall contain—

(1) an evaluation of current Federal law, policies, and procedures relating to the conversion by Federal Government employees of their Federal pension benefits to private sector pension plans upon the transition of such employees from Federal Government employment to private sector employment;

(2) a discussion of any impediments to the conversion of Federal pension benefits as described in paragraph (1);

(3) an analysis of the scoring, under the Congressional Budget Act of 1974, of the conversion of Federal pension benefits as so described; and

(4) recommendations of the Director for any legislation required to permit the ready conversion of Federal pension benefits as so described.

(b) CONSULTATION.—The Director of the Office of Management and Budget shall consult with the Director of the Office of Personnel Management and other appropriate interested parties in preparing the report required by subsection (a).

SA 3922. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III, add the following:

SEC. 305. CLARA BARTON CENTER FOR DOMESTIC PREPAREDNESS.

Of the amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for defensewide activities, \$3,000,000 shall be available for the Clara Barton Center for Domestic Preparedness, Arkansas.

SA 3923. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2841, relating to a transfer of funds in lieu of acquisition of replacement property for National Wildlife Refuge system in Nevada, and insert the following:

SEC. 2841. TRANSFER OF FUNDS FOR ACQUISITION OF REPLACEMENT PROPERTY FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN NEVADA.

(a) TRANSFER OF FUNDS AUTHORIZED.—(1) The Secretary of the Air Force may, using amounts authorized to be appropriated by section 2304(a), transfer to the United States Fish and Wildlife Service \$15,000,000 to fulfill the obligations of the Air Force under section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999 (title XXX of Public Law 106-65; 113 Stat. 889).

(2) Upon receipt by the Service of the funds transferred under paragraph (1), the obligations of the Air Force referred to in that paragraph shall be considered fulfilled.

(b) CONTRIBUTION TO FOUNDATION.—(1) The United States Fish and Wildlife Service shall grant funds received by the Service under subsection (a) in a lump sum to the National Fish and Wildlife Foundation for use in accomplishing the purposes of section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999.

(2) Funds received by the Foundation under paragraph (1) shall be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), other than section 10(a) of that Act (16 U.S.C. 3709(a)).

SA 3924. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe per-

sonnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1065. TRANSFER OF HISTORIC DF-9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the "W.A.S.P. museum"), all right, title, and interest of the United States in and to a DF-9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in "as is" condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) REVERTER UPON BREACH OF CONDITIONS.—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a)—

(1) a condition that the W.A.S.P. museum not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary; and

(2) a condition that if the Secretary determines at any time that the W.A.S.P. museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. museum.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 3926. Mr. WYDEN (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVI, add the following:

SEC. 2602. ARMY NATIONAL GUARD RESERVE CENTER, LANE COUNTY, OREGON.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) for the Army National Guard of the United States is hereby increased by \$9,000,000.

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section

2601(1)(A) for the Army National Guard of the United States, as increased by subsection (a), \$9,000,000 shall be available for a military construction project for a Reserve Center in Lane County, Oregon.

(2) The amount available under paragraph (1) for the military construction project referred to in that paragraph is in addition to any other amounts available under this Act for that project.

(c) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by \$9,000,000.

SA 3927. Mrs. MURRAY (for herself and Ms. SNOWE) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 154, after line 20, insert the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "RESTRICTION ON USE OF FUNDS.—".

SA 3928. Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. LOTT, Mr. STEVENS, Mr. INOUE, Mr. BUNNING, Mrs. FEINSTEIN, Mr. CRAIG, Ms. COLLINS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. BOND, Mr. DOMENICI, Mr. BAYH, Mr. NELSON of Nebraska, Mr. BURNS, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 2814. ADDITIONAL SELECTION CRITERIA FOR 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) ADDITIONAL SELECTION CRITERIA.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL CONSIDERATIONS.—The selection criteria for military installations shall also address the following:

"(1) Force structure and mission requirements through 2020, as specified by the document entitled 'Joint Vision 2020' issued by the Joint Chiefs of Staff, including—

"(A) mobilization requirements; and

"(B) requirements for utilization of facilities by the Department of Defense and by other departments and agencies of the United States, including—

"(i) joint use by two or more Armed Forces; and

“(ii) use by one or more reserve components.

“(2) The availability and condition of facilities, land, and associated airspace, including—

“(A) proximity to mobilization points, including points of embarkation for air or rail transportation and ports; and

“(B) current, planned, and programmed military construction.

“(3) Considerations regarding ranges and airspace, including—

“(A) uniqueness; and

“(B) existing or potential physical, electromagnetic, or other encroachment.

“(4) Force protection.

“(5) Costs and effects of relocating critical infrastructure, including—

“(A) military construction costs at receiving military installations and facilities;

“(B) environmental costs, including costs of compliance with Federal and State environmental laws;

“(C) termination costs and other liabilities associated with existing contracts or agreements involving outsourcing or privatization of services, housing, or facilities used by the Department;

“(D) effects on co-located entities of the Department;

“(E) effects on co-located Federal agencies;

“(F) costs of transfers and relocations of civilian personnel, and other workforce considerations.

“(6) Homeland security requirements.

“(7) State or local support for a continued presence by the Department, including—

“(A) current or potential public or private partnerships in support of Department activities; and

“(B) the capacity of States and localities to respond positively to economic effects and other effects.

“(8) Applicable lessons from previous rounds of defense base closure and realignment, including disparities between anticipated savings and actual savings.

“(9) Anticipated savings and other benefits, including—

“(A) enhancement of capabilities through improved use of remaining infrastructure; and

“(B) the capacity to relocate units and other assets.

“(10) Any other considerations that the Secretary of Defense determines appropriate.”

(b) **WEIGHTING OF CRITERIA FOR TRANSPARENCY PURPOSES.**—Subsection (a) of such section 2913 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) **WEIGHTING OF CRITERIA.**—At the same time the Secretary publishes the proposed criteria under paragraph (1), the Secretary shall publish in the Federal Register the formula proposed to be used by the Secretary in assigning weight to the various proposed criteria in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.”

SA 3929. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 13 and 14, insert the following:

SEC. 828. LIMITATION ON ARMY CONTRACTING AGENCY.

(a) **LIMITATION OF AUTHORITY.**—During the period specified in subsection (b), the Secretary of the Army may not remove or transfer the authority of a contracting officer of any Army installation to enter into, review, or approve contracts for the purchase of goods or services by reason of the establishment of an Army Contracting Agency or a similar entity for the regionalization or consolidation of installation support contracts or information technology contracts.

(b) **DURATION OF LIMITATION.**—Subsection (a) applies during the period beginning on the date of enactment of this Act and ending 45 days after the date on which the Secretary of the Army submits a report that meets the requirements of subsection (c) to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(c) **REPORT CONTENT.**—A report from the Secretary of the Army meets the requirements of this subsection if it sets forth, in detail—

(1) the Army's plans and justification for the establishment of an Army Contracting Agency or similar entity;

(2) a discussion of how the establishment and operations of an agency described under paragraph (1) will affect Army compliance with—

(A) Department of Defense Directive 4205.1;

(B) section 15(g) of the Small Business Act; and

(C) section 15(k) of the Small Business Act; and

(3) the likely effects of the establishment and operations of an Army Contracting Agency (or similar entity) on small business participation in Army procurement contracts, including—

(A) the impact on small businesses located near Army installations, including—

(i) the anticipated increase or decrease in the total value of Army prime contracting with small businesses; and

(ii) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(B) the likely increase in consolidated contracts and bundled contracts.

SA 3930. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 13 and 14, insert the following:

SEC. 828. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.

(a) **IN GENERAL.**—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) **CONTENT.**—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) a discussion of how the establishment and operations of an Army Contracting Agency has affected Army compliance with—

(A) Department of Defense Directive 4205.1;

(B) section 15(g) of the Small Business Act; and

(C) section 15(k) of the Small Business Act;

(3) the effect of the establishment and operations of an Army Contracting Agency on small business participation in Army procurement contracts, including—

(A) the impact on small businesses located near Army installations, including—

(i) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(ii) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(B) the increase in consolidated contracts and bundled contracts; and

(4) if there is a negative effect on small business participation in Army procurement contracts, in general or near any Army installation, a description of the Army's plan to increase small business participation where it is negatively affected.

(c) **TIME FOR SUBMISSION.**—The report under this section shall be due 15 months after the date of the establishment of the Army Contracting Agency.

SA 3931. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XXVIII, add the following:

SEC. 2842. DESIGNATION OF CERTAIN LOUISIANA HIGHWAY AS DEFENSE ACCESS ROAD.

Louisiana Highway 28 between Alexandria, Louisiana, and Leesville, Louisiana, a road providing access to the Joint Readiness Training Center, Louisiana, and to Fort Polk, Louisiana, is hereby designated as a defense access road for purposes of section 210 of title 23, United States Code.

SA 3932. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

SEC. 1065. PROGRAMMING FOR A 310-SHIP FLEET FOR THE NAVY.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The 2001 Quadrennial Defense Review establishes that the United States should maintain a Navy of at least 310 ships.

(2) The President proposes to procure only five ships for the Navy in fiscal year 2003 and proposes to procure only an average of 6.8 ships for the Navy annually thereafter through fiscal year 2007.

(3) The current level of spending on shipbuilding for the Navy will result in a Navy fleet of approximately 238 ships within 35 years.

(4) It is necessary for the Navy to procure over the long term, on average, 8.9 new ships each year (the steady-state replacement rate) in order to support the President's plans to achieve and maintain a Navy fleet of 310 ships.

(5) It may be necessary to achieve an average procurement rate of 11.2 ships each year beginning in fiscal year 2008 in order to compensate for the procurement of ships at an average annual rate below 8.9 ships in previous fiscal years.

(6) The Navy provides a United States presence worldwide, especially where forward land basing of United States forces is not possible.

(7) Seapower of the United States Navy is a cornerstone of our national defense.

(b) **FUTURE-YEARS DEFENSE PROGRAM.**—It is the policy of the United States for the budget of the United States for fiscal years after fiscal year 2003, and for the future-years defense program for such fiscal years (under section 221 of title 10, United States Code), to include sufficient funding for the Navy to maintain a fleet of at least 310 ships.

(c) **ANNUAL CERTIFICATION OF SUFFICIENCY.**—The President shall include in the budget submitted to Congress under section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2003 either—

(1) a certification that the budget provides a level of funding for the Navy that is sufficient to sustain a fleet of at least 310 ships; or

(2) an explanation of why the budget does not provide such level of funding.

SA 3933. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 522. LEAVE OF ABSENCE FOR MILITARY SERVICE.

(a) **OBLIGATION AS PART OF PROGRAM PARTICIPATION REQUIREMENTS.**—Section 487(a)(22) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amended by inserting “and with the policy on leave of absence for active duty military service established pursuant to section 484C” after “section 484B”.

(b) **LEAVE OF ABSENCE FOR MILITARY SERVICE.**—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 484B the following:

“SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.

“(a) **LEAVE OF ABSENCE REQUIRED.**—Whenever a student who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution—

“(1) while such student is serving on active duty; and

“(2) for 1 year after the conclusion of such service.

“(b) **CONSEQUENCES OF MILITARY LEAVE OF ABSENCE.**—

“(1) **PRESERVATION OF STATUS AND ACCOUNTS.**—A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being ordered to such duty without loss of—

“(A) academic credits earned;

“(B) scholarships or grants awarded; or

“(C) subject to paragraph (2), tuition and other fees paid prior to the commencement of the active duty.

“(2) **REFUNDS.**—

“(A) **OPTION OF REFUND OR CREDIT.**—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student. Notwithstanding the 180-day limitation in section 484B(a)(2), a student on a military leave of absence under this section shall not be treated as having withdrawn for purposes of section 484B unless the student fails to return at the end of the military leave of absence (as determined under subsection (a)).

“(B) **PROPORTIONATE REDUCTION OF REFUND FOR TIME COMPLETED.**—If a student requests a refund during a period of enrollment, the percentage of the tuition and fees that shall be refunded shall be equal 100 percent minus the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with section 484B(d)) as of the day the student withdrew.

“(c) **ACTIVE DUTY.**—The term ‘active duty’ has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school, but does include, in the case of members of the National Guard, active State duty.”.

SA 3934. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 554. NATIONAL GUARD CHALLENGE PROGRAM.

(A) **INCREASE IN FISCAL YEAR LIMITATION ON AMOUNT AVAILABLE FOR PROGRAM.**—(1) Section 509(b)(2)(A) of title 32, United States Code, is amended by striking “\$62,500,000” and inserting “\$66,000,000”.

(2) The amendment made by paragraph (1) shall take effect on October 1, 2002, and shall apply with respect to fiscal years beginning on or after that date.

(b) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.**—The total amount authorized to be appropriated by this Act for the Department of Defense for fiscal year 2003 for the National Guard Challenge Program of opportunities for civilian youth under section 509 of title 32, United States Code, is \$66,000,000.

SA 3935. Mr. NELSON of Florida (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, between lines 2 and 3, insert the following:

SEC. 644. REPEAL OF REQUIREMENT FOR REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) **REPEAL.**—(1) Section 1450 of title 10, United States Code, is amended by striking subsections (c) and (e).

(2) Section 1451(c) of such title 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 specified in subsection (c) by reason of the amendments made by subsection (a).

(c) **EFFECTIVE DATE.**—The amendments 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 3936. Mr. NELSON of Florida (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1035. REPORTS ON EFFORTS TO RESOLVE WHEREABOUTS AND STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.

(a) **REPORTS.**—Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall, in consultation with the Secretary of State and the Director of Central Intelligence, submit to Congress a report on the efforts of the United States Government to determine the whereabouts and status of Captain Michael Scott Speicher, United States Navy.

(b) **PERIOD COVERED BY REPORTS.**—The first report under subsection (a) shall cover efforts described in that subsection preceding the date of the report, and each subsequent report shall cover efforts described in that subsection during the 90-day period ending on the date of such report.

(c) **REPORT ELEMENTS.**—Each report under subsection (a) shall describe, for the period covered by such report—

(1) all direct and indirect contacts with the Government of Iraq, or any successor government, regarding the whereabouts and status of Michael Scott Speicher;

(2) any request made to the government of another country, including the intelligence

service of such country, for assistance in resolving the whereabouts and status of Michael Scott Speicher, including the response to such request;

(3) each current lead on the whereabouts and status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the whereabouts and status of Michael Scott Speicher; and

(4) any cooperation with nongovernmental organizations or international organizations in resolving the whereabouts and status of Michael Scott Speicher, including the results of such cooperation.

(d) **FORM OF REPORTS.**—Each report under subsection (a) shall be submitted in classified form, but may include an unclassified summary.

SA 3937. Mr. NELSON of Florida (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 135. SENSE OF CONGRESS REGARDING ASSURED ACCESS TO SPACE.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Assured access to space is a vital national security interest of the United States.

(2) The Evolved Expendable Launch Vehicle program of the Department of Defense is a critical element of the Department's plans for assuring United States access to space.

(3) Significant contractions in the commercial space launch marketplace have eroded the overall viability of the United States space launch industrial base and could hamper the ability of the Department of Defense to provide assured access to space in the future.

(4) The continuing viability of the United States space launch industrial base is a critical element of any strategy to ensure the long-term ability of the United States to assure access to space.

(5) The Under Secretary of the Air Force, as acquisition executive for space programs in the Department of Defense, has been authorized to develop a strategy to address United States space launch and assured access to space requirements.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Under Secretary of the Air Force should—

(1) evaluate all options for sustaining the United States space launch industrial base;

(2) develop an integrated, long-range, and adequately funded plan for assuring United States access to space; and

(3) submit to Congress a report on the plan at the earliest opportunity practicable.

SA 3938. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 217, between lines 13 and 14, insert the following:

SEC. 1010. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.

(a) **CLEARING OF SUSPENSE ACCOUNTS.**—(1) In the case of any transaction that was entered into by or on behalf of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(b) **RESOLUTION OF CHECK ISSUANCE DISCREPANCIES.**—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(c) **CONSULTATION.**—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) **DURATION OF AUTHORITY.**—(1) A particular undistributed disbursement may not be canceled under subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that discrepancy.

(3) No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

SA 3939. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 90, between lines 19 and 20, insert the following:

SEC. 346. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

(a) **AUTHORITY.**—The Secretary of Defense may make available, in accordance with this section and the regulations prescribed under subsection (e), logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

(b) **SUPPORT CONTRACTS.**—Any logistics support and logistics services that is to be provided under this section to a contractor in support of the performance of a contract shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor.

(c) **SCOPE OF SUPPORT AND SERVICES.**—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) **LIMITATIONS.**—(1) The number of contracts described in subsection (a) for which the Secretary makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed \$100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess of five years, including periods for which the contract is extended under options to extend the contract.

(e) **REGULATIONS.**—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of

resources used, but not paid for, by the Department of Defense.

(4) A requirement to credit to the General Fund of the Treasury amounts received by the Department of Defense from a contractor for the cost of logistics support and logistics services provided to the contractor by the Department of Defense under this section but not paid for out of funds available to the Department of Defense.

(5) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(6) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) RELATIONSHIP TO TREATY OBLIGATIONS.—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) TERMINATION OF AUTHORITY.—(1) The authority provided in this section shall expire on September 30, 2007, subject to paragraph (2).

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the expiration of the authority or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority—

(i) to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date of the expiration of the authority; or

(ii) to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

SA 3940. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 23, between lines 12 and 13, and insert the following:

SEC. 135. COMPASS CALL PROGRAM.

Of the amount authorized to be appropriated by section 103(1), \$12,700,000 shall be available for the Compass Call program within classified projects and not within the Defense Airborne Reconnaissance Program.

SA 3941. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 17, strike line 14, and insert the following:

SEC. 121. INTEGRATED BRIDGE SYSTEM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 102(a)(4), \$5,000,000 shall be available for the procurement of the integrated bridge system in items less than \$5,000,000.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 102(a)(4), the amount available for the integrated bridge system in Aegis support equipment is hereby reduced by \$5,000,000.

SA 3942. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

Strike section 344.

SA 3943. Mr. WARNER (for Ms. COLLINS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 26, after line 22, insert the following:

SEC. 214. LASER WELDING AND CUTTING DEMONSTRATION.

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, \$6,000,000 shall be available for the laser welding and cutting demonstration in force protection applied research (PE 0602123N).

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for laser welding and cutting demonstration in surface ship and submarine HM&E advanced technology (PE 0603508N) is hereby reduced by \$6,000,000.

SA 3944. Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 37, beginning on line 14, strike “Under Secretary of Defense for Acquisition, Technology, and Logistics” and insert “Director of Operational Test and Evaluation”.

On page 41, line 14, strike “Chapter 643” and insert “Chapter 645”.

On page 46, line 20, insert “the Under Secretary of Defense for Personnel and Readiness and” after “consult with”.

Strike section 236 and insert the following:

SEC. 236. COMPLIANCE WITH TESTING REQUIREMENTS.

(a) ANNUAL OT&E REPORT.—Subsection (g) of section 139 of title 10, United States Code,

is amended by inserting after the fourth sentence the following: “The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.”.

(b) REORGANIZATION OF PROVISION.—Subsection (g) of such section, as amended by subsection (a), is further amended—

(1) by inserting “(1)” after “(g)”;

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4);

(5) by designating the sixth sentence as paragraph (5); and

(6) by realigning paragraphs (2), (3), (4), and (5), as so designated, two ems from the left margin.

SA 3945. Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. DURBIN, Mr. FITZGERALD, and Mrs. LINCOLN)) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

At the end of subtitle D of title III, add the following:

SEC. 346. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-65) is amended by striking “and 2002” and inserting “through 2004”.

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking “2002” and inserting “2004”; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: “Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary’s views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).”.

SA 3946. Mr. LEVIN (for Mr. CLELAND (for himself and Mr. HUTCHINSON)), proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 17, line 23, insert before the period the following: “, and except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years”.

SA 3947. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 655. RATE OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL OF DEPENDENTS TRANSFERRED ENTITLEMENT BY MEMBERS OF THE ARMED FORCES WITH CRITICAL SKILLS.

(a) CLARIFICATION.—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “paragraphs (4) and (5)” and inserting “paragraphs (5) and (6)”; and

(B) by striking “and at the same rate”;

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

“(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate.

SA 3948. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 503. REPEAL OF LIMITATION ON AUTHORITY TO GRANT CERTAIN OFFICERS A WAIVER OF REQUIRED SEQUENCE FOR JOINT PROFESSIONAL MILITARY EDUCATION AND JOINT DUTY ASSIGNMENT.

Section 661(c)(3)(D) of title 10, United States Code, is amended by striking “In the case of officers in grades below brigadier general” and all that follows through “selected for the joint specialty during that fiscal year.”.

SA 3949. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of De-

fense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 154, after line 20, add the following:

SEC. 708. EXTENSION OF TEMPORARY AUTHORITY FOR ENTERING INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES FOR THE ARMED FORCES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SA 3950. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 503. EXTENSION OF TEMPORARY AUTHORITY FOR RECALL OF RETIRED AVIATORS.

Section 501(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) is amended by striking “September 30, 2002” and inserting “September 30, 2008”.

SA 3951. Mr. LEVIN (for himself and Mr. SESSIONS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes; as follows:

On page 200, between lines 14 and 15, insert the following:

SEC. 905. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

“(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

“(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list

each of the contributors of such money and the amount of each contribution in such fiscal year.

“(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.”.

(b) CONTENT OF ANNUAL REPORT TO CONGRESS.—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: “The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board’s report.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 20, 2002, at 9:30 a.m., in open session to consider the nomination of General Ralph E. Eberhart, USAF for reappointment to the grade of general and to be Commander in Chief, U.S. Northern Command/Commander, North American Aerospace Defense Command.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, June 20, 2002, at 4:30 p.m., to hold a “top secret” classified hearing on the security of nuclear facilities under the jurisdiction of the U.S. Nuclear Regulatory Commission. The hearing will be held in S. 407 of the Capitol.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 20, 2002, at 9:30 a.m., for the purpose of holding a hearing regarding “President Bush’s Proposal to Create a Department of Homeland Security.”

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on “Workers Freedom of Association: Obstacles to Forming a Union” during the session of the Senate on Thursday, June 20, 2002, at 10 a.m., in SD-430.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

the Judiciary be authorized to meet to conduct a markup on Thursday, June 20, 2002, at 10 a.m., in Dirksen Room 226.

Agenda

I. Nominations

Lavenski R. Smith to be a U.S. Circuit Court Judge for the Eighth Circuit; David Cercone to be U.S. District Court Judge for the Western District of Pennsylvania; Morrison Cohen England Jr. to be U.S. District Court Judge for the Eastern District of California; and Kenneth Marra to be U.S. District Court Judge for the Southern District of Florida.

For the Department of Justice: Lawrence Greenfield to be Director, Bureau of Justice Statistics.

To be U.S. Marshal: Anthony Dichio for the District of Massachusetts; Michael Lee Kline for the Eastern District of Washington; and James Thomas Roberts for the Southern District of Georgia.

II. Bills

S. 1291, Development, Relief, and Education for Alien Minors Act [Hatch].

S. 2134, Terrorism Victim's Access to Compensation Act of 2002 [Harkin/Allen].

H.R. 3375, Embassy Employee Compensation Act [Blunt].

S. 486, Innocence Protection Act [Leahy/Smith].

S. 2621, A bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems. [Leahy/Biden/Hatch].

S. 2633, Reducing Americans' Vulnerability to Ecstasy Act [Biden/Grassley].

S. 1754, Patent and Trademark Office Authorization Act of 2002 [Leahy/Hatch/Cantwell].

H.R. 1866, To amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents [Coble].

H.R. 1886, To amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings. [Coble].

H.R. 2068, To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title [Sensenbrenner/Conyers].

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 20, 2002, at 2:30 p.m., to hold a closed hearing on Intelligence Matters.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Com-

mittee on Aging be authorized to meet on Thursday, June 20, 2002, from 9:30 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 SUPERFUND, TOXICS, RISK AND WASTE MANAGEMENT

Mr. REID. Mr. President: I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Superfund, Toxics, Risk and Waste Management be authorized to meet on Thursday, June 20, 2002, at 9:30 a.m., to hold a hearing to assess asbestos remediation activities in Libby, MT., lessons learned from Libby, as well as evaluate home insulation concerns related to asbestos. The hearing will be held in SD-406.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, June 20, at 2:30 p.m., in SD-366. The purpose of this hearing is to receive testimony on the following bills:

S. 139 and H.R. 3928, to assist in the preservation of archaeological, paleontological, zoological, geological and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City;

S. 1609 and H.R. 1814, to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomb-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail;

S. 1925, to establish the Freedom's Way National Heritage Area in the states of Massachusetts and New Hampshire, and for other purposes;

S. 2196, to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes;

S. 2388, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, SC, relating to the Reconstruction Era;

S. 2519, to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; and

S. 2576, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Dr. Howard Forman and Anup Patel of my staff be granted the privileges of the floor for the balance of today.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stacey Sachs be granted the privilege of the floor.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that John Elliff, who is detailed to my committee office, be granted the privilege of the floor during the course of the proceedings today.

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

Mr. GRAMM. Mr. President, I ask unanimous consent that privilege of the floor be granted to Mark Garrell, a legislative fellow with Senator BUNNING, for the duration of the DOD authorization bill.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Rebecca Kockler and Brian Hanley be allowed to be on the floor for the rest of the day.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that Dr. Jonathan, Epstein, Mr. Dana Krupa, Mr. JOHN Kotek, and Scott Young, legislative fellows in the office of Senator BINGAMAN, be given floor privileges during the pendency of S. 2514 and any votes thereon.

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

Mr. WARNER. Mr. President, on behalf of Senator ALLARD, I ask unanimous consent that the privilege of the floor be granted to Carol Welsch, a national defense fellow in Senator ALLARD's office, and Lance Landry of Senator ALLEN's office, during the entire debate of the National Defense Authorization Act for fiscal year 2003.

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

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107-8

Mr. REID. As in executive session, I ask unanimous consent that the injunction of secrecy by removed from the following treaty transmitted to the Senate on June 20, 2002, by the President of the United States: Moscow Treaty (Treaty Document 107-8).

I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Affairs and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (the "Moscow Treaty").

The Moscow Treaty represents an important element of the new strategic relationship between the United States and Russia. It will take our two nations along a stable, predictable path to substantial reductions in our deployed strategic nuclear warhead arsenals by December 31, 2012. When these reductions are completed, each country will be at the lowest level of deployed strategic nuclear warheads in decades. This will benefit the peoples of both the United States and Russia and contribute to a more secure world.

The Moscow Treaty codifies my determination to break through the long impasse in further nuclear weapons reductions caused by the inability to finalize agreements through traditional arms control efforts. In the decade following the collapse of the Soviet Union, both countries' strategic nuclear arsenals remained far larger than needed, even as the United States and Russia moved toward a more cooperative relationship. On May 1, 2001, I called for a new framework for our strategic relationship with Russia, including further cuts in nuclear weapons to reflect the reality that the Cold War is over. On November 13, 2001, I announced the United States plan for such cuts—to reduce our operationally deployed strategic nuclear warheads to a level of between 1700 and 2200 over the next decade. I announced these planned reductions following a careful study within the Department of Defense. That study, the Nuclear Posture Review, concluded that these force levels were sufficient to maintain the security of the United States. In reaching this decision, I recognized that it would be preferable for the United States to make such reductions on a reciprocal basis with Russia, but that the United States would be prepared to proceed unilaterally.

My Russian counterpart, President Putin, responded immediately and made clear that he shared these goals. President Putin and I agreed that our nations' respective reductions should be recorded in a legally binding document that would outlast both of our presidencies and provide predictability over the longer term. The result is a Treaty that was agreed without protracted negotiations. This Treaty fully meets the goals I set out for these reductions.

It is important for there to be sufficient openness so that the United States and Russia can each be confident that the other is fulfilling its reductions commitment. The Parties will use the comprehensive verification regime of the Treaty on the Reduction and Limitation of Strategic Offensive Arms (the "START Treaty") to provide the foundation for confidence, transparency, and predictability in further strategic offensive reductions. In our Joint Declaration on the New Strategic Relationship between the United States and Russia, President Putin and I also decided to establish a Consultative Group for Strategic Security to be chaired by Foreign and Defense Ministers. This body will be the principal mechanism through which the United States and Russia strengthen mutual confidence, expand transparency, share information and plans, and discuss strategic issues of mutual interest.

The Moscow Treaty is emblematic of our new, cooperative relationship with Russia, but it is neither the primary basis for this relationship nor its main component. The United States and Russia are partners in dealing with the threat of terrorism and resolving regional conflicts. There is growing economic interaction between the business communities of our two countries and ever-increasing people-to-people and cultural contacts and exchanges. The U.S. military has put Cold War practices behind it, and now plans, sizes, and sustains its forces in recognition that Russia is not an enemy, Russia is a friend. Military-to-military and intelligence exchanges are well established and growing.

The Moscow Treaty reflects this new relationship with Russia. Under it, each Party retains the flexibility to determine for itself the composition and structure of its strategic offensive arms, and how reductions are made. This flexibility allows each Party to determine how best to respond to future security challenges.

There is no longer the need to narrowly regulate every step we each take, as did Cold War treaties founded on mutual suspicion and an adversarial relationship.

In sum, the Moscow Treaty is clearly in the best interests of the United States and represents an important contribution to U.S. national security and strategic stability. I therefore urge the Senate to give prompt and favorable consideration to the Treaty, and to advise and consent to its ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, June 20, 2002.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 105-277, announces the appointment of the following individuals to serve as members of the Parents Advisory Council on Youth Drug Abuse:

Darcy L. Jensen of South Dakota (Representative of Non-Profit Organization), vice Kerrie S. Lansford, term expired.

Dr. Lynn McDonald of Wisconsin, vice Robert L. Maginnis, term expired.

George L. Lozano of California, vice Darcy Jensen, term expired.

Rosanne Ortega of Texas, vice Dr. Lynn McDonald, term expired.

ORDERS FOR FRIDAY, JUNE 21, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, June 21; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Department of Defense authorization bill.

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

PROGRAM

Mr. REID. Mr. President, as announced earlier today, at 9:30 we will start a vote on the Murray amendment.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is in further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:29 p.m., adjourned until Friday, June 21, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 20, 2002:

DEPARTMENT OF JUSTICE

RICHARD VAUGHN MECUM, OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE ROBERT HENRY MCMICHAEL, TERM EXPIRED.

BURTON STALLWOOD, OF RHODE ISLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE JOHN JAMES LEYDEN, RESIGNED.

GEORGE BREFFNI WALSH, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS, VICE DONALD W. HORTON.