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Senate

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

(Continued)

AMENDMENT NO. 4060

Mr. WYDEN. Mr. President, I call up amendment No. 4060 that I offer on behalf of myself and Senator SMITH of Oregon.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. SMITH of Oregon, proposes an amendment numbered 4060.

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

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

The amendment is as follows:

(Purpose: To authorize with an offset, $4,800,000 for personnel and procurement for the Oregon Army National Guard for purposes of Search and Rescue (SAR) and Medical Evacuation (MEDEVAC) missions in adverse weather conditions)

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

SEC. 1010. AVAILABILITY OF AMOUNTS FOR OREGON ARMY NATIONAL GUARD FOR SEARCH AND RESCUE AND MEDICAL EVACUATION MISSIONS IN ADVERSE WEATHER CONDITIONS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY PROCUREMENT.—The amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft is hereby increased by $3,000,000.

(b) AVAILABILITY.—Of the amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft, as increased by subsection (a), $3,000,000 shall be available for the upgrade of three UH–60L Blackhawk helicopters of the Oregon Army National Guard to the capabilities of UH–60Q Search and Rescue model helicopters, including Star Safire FLIR, Breeze-Eastern External Rescue Hoist, and Air Methods COTS Medical Systems upgrades, in order to improve the utility of such UH–60L Blackhawk helicopters in search and rescue and medical evacuation missions in adverse weather conditions.

(c) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by $1,800,000.

(d) AVAILABILITY.—Of the amount authorized to be appropriated by section 421 for military personnel, as increased by subsection (d), $1,800,000 shall be available for up to 26 additional personnel for the Oregon Army National Guard.

(e) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by $4,800,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

Mr. WYDEN. Mr. President, the Pacific Northwest must have a search and rescue capability. The vast expanses of Federal land in our part of the country mean our citizens constantly face the risk of disasters and accidents, far from help. Local communities, many of them with tiny populations, do not have the resources to provide search and rescue services to the extraordinarily large surrounding wilderness areas.

The amendment I offer this afternoon on behalf of myself and Senator SMITH is a compromise. It would not have been our first choice. In an effort to work with our colleagues and appeal to our colleagues on a bipartisan basis, we offer this compromise to preserve a search and rescue capability in our region. Without this capability, the Pacific Northwest faces the certain loss of lives for disasters, fires, and accidents that are unique to our region.

This amendment authorizes a total of $4.8 million to the Oregon National Guard to upgrade three Blackhawk helicopters of the National Oregon Guard to the capabilities of the UH–60Q search and rescue helicopters similar to upgrades in the past. It would increase the authorization for military personnel by $1.8 million to ensure the Oregon Guard can respond to emergencies that require rapid medical attention.

Particularly during this season we are concerned about the host of possibilities that can strike our local communities, tragedies we have already seen won in recent difficulties in our region. We cannot afford to play Russian roulette with the safety, health, and security of our citizens.

I urge my colleagues to support the Wyden-Smith amendment that we have worked on with both the majority and the minority for many days.

I reserve my time to speak later in the debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I thank my colleague for being a partner in this cause to preserve in the Pacific Northwest a search and rescue capability.

Mr. President, I rise today to introduce an amendment with Senator WYDEN to preserve a truly invaluable search and rescue capability in the Pacific Northwest.

On May 30, all eyes in Oregon and across the nation watched as brave Oregonians put themselves in harms way to rescue climbers on Mt. Hood.

The rescuers included members of the Oregon National Guard, the Portland Mountain Rescue, and the Air Force Reserve 939th Air Rescue Wing, whose members have been lauded for scores of rescues on Mt. Hood and the Oregon Coast, not to mention rescues in our neighboring state of Washington. In fact this rescue wing volunteers for these types of rescues.

Recently, nine climbers were swept into a 20-foot deep crevasse on Mt. Hood. Tragically, three of the climbers did not survive, but the skills of the rescuers ensured that others would survive.

This rescue highlighted the skills of the Rescue Wing and the importance Oregonians place on the Wing's capabilities in the region. While adverse wind conditions most likely sent one of the helicopters into an inevitable crash, the highly skilled pilot of the 939th ensured that the crew survived and that all on the ground were unharmed.

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

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Just one week prior, the 939th rescued a sick climber from Mt. Hood's Sandy Glacier. I believe this rescue highlights the Wing's capabilities: Late in the evening, the 304th Rescue Squadron used its night vision capabilities to spot the climber at an elevation of 8,750 feet.

The Pave Hawk, equipped with a hoist, lowered down Steve Rollins of Portland Mountain Rescue onto the Glacier to assess the climber. After being secured to the hoist, the climber and rescuer were raised into the helicopter and transported to safety.

Mr. President, Oregonians were devastated to hear of Air Force plans to take away the 939th Search and Rescue Wing out of the state.

Oregonians realize that the 939th's mission is to rescue our brave men in combat. In fact, we believe that the members of the 939th are among the very best trained in the nation. We know this because we know the Oregon terrain and we have witnessed firsthand their skill under most challenging conditions.

My original amendment with Senator WYDEN would have prohibited the use of funds to take this search and rescue unit away from the Pacific Northwest. Senator WYDEN and I understand the committee members have a problem with this amendment and we therefore introduced another amendment that would not interfere with the Air Force's force structure.

The managers have told Senator WYDEN and me that they would support this compromise: it authorizes a total of $4.8 million for the Oregon National Guard to be able to perform this mission.

I appreciate the assistance from Senators WARNER, LEVIN, LOTT and STEVENS, and look forward to working with them on this important issue.

Mr. President, let me close by illustrating why this is so important to me and all Oregonians.

The pioneer spirit of the Oregon Trail did not end with the settlement of the valleys of Oregon. That spirit and bravery is very much still alive in my state.

But Oregonians cannot go any further west. They can only go up—into the skies and into the mountains. It is there that the modern-day pioneers meet with both triumph and tragedy, and their lessons are learned.

The lessons of last week on Mt. Hood are harsh one that remind us of human frailty and the unbending forces of nature.

Not unlike the tragic events of the last year, what I saw in the recovery on Mt. Hood also illustrates the bravery and compassion inherent in us all, and I want that spirit to continue in Oregon.

Mr. President, this is the spirit that is the bedrock of America's Armed Forces. It is clear to met that removing the 939th from Oregon would truly be a tragedy without a lesson.

Again, on May 30, Oregonians became aware of a unit called the 939th. Prior to that, very few Oregonians would have any idea it was there, even though throughout the year, every year, the 939th has saved people trapped in natural disasters or engaged in recreational activities or sometimes just going about their business.

Truly, what they saw on May 30 was a tragedy that unfolded on national television when nine hikers climbing Mount Hood lost footing, fell into a crevice in which a number of them were killed. Many different units, from police, the Oregon National Guard, and the Air Force 939th search and rescue, came to their rescue.

They volunteered to do this. The 939th is always training to be prepared to help in military situations. They say these real-life situations are truly the best training they can have. In the course of training, they have saved countless human lives.

About a year ago, Senator WYDEN and I were informed that the Air Force was to move the 939th from Oregon. I am not one to interfere with basing decisions of the Air Force. When this happened, it was clear to every Oregonian that we needed them. So Senator WYDEN and I tried to make the case a few weeks ago that they ought to stay. Senator MCCAIN of Arizona pointed out we should not be telling the Air Force where to base their people. I think he has a good point.

Senator WYDEN and I are offering a compromise to say, fine, let us have the upgrades in the helicopters. Let us have the personnel for the Oregon National Guard. By the way, these upgrades have been made available in most of the 50 States, but not Oregon. All we are saying is we need some military component in the Pacific Northwest. The 939th is going to Arizona. I do not begrudge that to my colleagues from Arizona. I love Arizona and I love my colleagues. My Udall ancestry is all from there and I want Arizonans to have all the search and rescue capability they need. But, doggone it, why take it from Oregon and say you cannot have any comparable replacement? We are talking peanuts here when it comes to issues of life and death.

So I plead with my colleagues to allow this authorization because the whole country had the case made for them on national TV when they saw this rescue effort tragically end in a crash but with no additional loss of human life.

I wish the 939th well as they go to Arizona. This $4.8 million that it takes to upgrade these helicopters and to provide some personnel is precious little to ask in an authorization as gargantuan as this. So I appeal to the hearts and the feelings of all 50 States. Don't leave the Pacific Northwest without this capacity.

I have the privilege of sitting in Mark Hatfield's seat. Mark Hatfield, for reasons of personal conscience, was not a big advocate of military expenditure. The military money went in other places. He brought other kinds of expenditures to Oregon, I grant you. But what little we have probably puts Oregon the 50th of 50 States in receiving military appropriations. I say $4.8 million is not too much to ask.

I yield the floor and ask for the consideration and votes of colleagues on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the proponents of this bill and Senators MCCAIN and KYL. I do not know how much more time the Senators from Oregon want. They originally told me they wanted about 10 minutes. I think they used about that. The Senators from Arizona indicated they would take about 15 minutes, 20 at the most—10 for Senator KYL and Senator MCCAIN, in reverse order.

I am not asking unanimous consent at this time, but I hope that would be about all we need to talk on this amendment. We will have a vote on it. We were very close at one time to final passage. We will propound some unanimous consent requests in the near future, but I am indicating to Senators, maybe there will not be too much more talk on this?

Mr. WYDEN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. WYDEN. It is not clear to me what the Senators from Arizona intend. Certainly I understand the desire of the distinguished Senator from Nevada to move expeditiously. I think both of us will try to do that.

Mr. MCCAIN. If the Senator will yield, I say to Senator REID we are going to have to, because of a previous unanimous consent agreement, get unanimous consent to allow a second-degree amendment to be considered. That would have to be the first order for us, to be able to get that.

Mr. REID. I understand.

Mr. MCCAIN. We were seeking that because we were under the impression, clearly a false one, that the Wyden-Smith amendment would be ruled, postcloture, nongermane. The Wyden-Smith amendment is germane so we had wanted to propose a second-degree amendment. If one of the Senators from Oregon objects, then obviously we hear the objection.

Could I be recognized, Mr. President?

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

Mr. MCCAIN. I ask unanimous consent a second-degree amendment on behalf of myself and Senator KYL, to the Smith amendment, be taken up at this time.

Mr. WYDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I regret Senator WYDEN chooses to take what I think is an unwise course because I have to tell Senator WYDEN now that I will fight in the conference—and I will be a conferee—to have it either amended as we want it done or to take it out completely.

I think I may have the support of my colleagues because it really is unreasonable of Senator WYDEN to object because it was clear, and everybody is clear, that we were under the impression that the amendment was nongermane. We would have filed a second-degree amendment if it had been germane.

I do not question the choice of the Senator from Oregon, but I can assure the Senator from Oregon that, No. 1, Senator KYL and I could care less whether it went to Arizona or Alaska or New Jersey. I have steadfastly opposed micromanaging any of the services.

By the way—Senator KYL is going to want to talk about this a little bit—it is up to $69,000 per person we are going to expend on this, which is quite a remarkable expense that they have.

Second, if the Oregon National Guard wants to spend money, let them take it out of their existing funds. They are perfectly capable, under their budgetary and decisionmaking process, to make a decision that they want to upgrade their aircraft with the existing funds that they have.

I do not think Senator KYL and I would demand a vote on this. I will leave it up to Senator KYL. But I assure Senator WYDEN I would not have treated him in the same fashion. But I yield the floor.

Mr. WYDEN. Will the Senator yield?

Mr. MCCAIN. I have already yielded the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to make clear how extensive the efforts have been on the part of Senator SMITH and myself to work with the Senator from Arizona, to work with all of our colleagues on this issue. We have tried again and again. The distinguished Senator——

Mr. MCCAIN. Will the Senator yield on that point? Has the Senator ever said a word directly to me about his amendment?

The PRESIDING OFFICER. The Senator has the floor.

Mr. WYDEN. If I might finish? The fact is, we have come to the distinguished Senator from Arizona and discussed this several times. In fact, we discussed it at some length the night the Senator was unwilling to support another bipartisan effort to reach out to the distinguished Senator. I want to make it clear, I think he knows——

Mr. MCCAIN. Will the Senator yield on that point? Will the Senator yield on that point?

Mr. WYDEN. I will be glad to yield as soon as I finish.

Mr. MCCAIN. I didn't think he would.

Mr. WYDEN. I will be happy to yield to my colleague. As he knows from our work on the Senate Commerce Committee, I worked with the Senator from Arizona again and again because I appreciate his counsel and his wisdom. Yes, we have talked about this subject. We talked about it, in fact, the night that Senator SMITH and I tried another effort to come up with a bipartisan approach that would satisfy the Senator from Arizona. Today, we do feel that we have to go forward and protect our constituents.

People in Arizona are, in fact, going to be protected. As Senator SMITH said, the 939th is going to go to Arizona. That means the two Senators from Arizona, both of whom I value as good friends and worked with on many subjects, are going to have protection for their constituents.

What we have said is, now that Arizona is going to be protected, let us try another approach, an approach that is not injurious to the Senators from Arizona, so that our citizens, in an area where there are vast amounts of Federal land and great risks for our citizens, can also be protected. So it is in that context that I seek to have this move forward today in conjunction with Senator SMITH.

Finally, as I yield to my good friend from Arizona, I want to say to him that I will continue to work with him on this issue and virtually everything else that conceivably comes before the U.S. Senate because I value his input and his counsel.

We have worked together on a whole host of questions. Now, if the Senator from Arizona desires me to yield to him, I am glad to yield to the distinguished Senator.

Mr. MCCAIN. I thank my friend from Oregon. The fact is I have never had a direct conversation with the Senator from Oregon on this issue. He knows it and I know it.

Mr. WYDEN. I have to reclaim my time to say that is factually wrong. The night we tried to have the compromise, we in fact talked about it on several occasions.

Now I am happy to yield further to the Senator from Arizona.

Mr. MCCAIN. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Let me say, first of all, it gives me no great pleasure to oppose an amendment offered by two of my best friends in the Senate, one Republican and one Democrat, good colleagues with whom we have worked on a lot of things.

This is not a matter of Arizona v. Oregon. It came to my attention on the night the senior Senator from Oregon was mentioning that there was an objection to the inclusion of an item in the managers' amendment to the supplemental appropriations bill which a number of Senators—Senator GRAMM of Texas, our colleague Senator MCCAIN, and I believe some others in this part of the Chamber were going through the managers' amendment to the supplemental appropriations bill. We objected to a whole variety of amendments which attempted to either spend money or micromanage money in ways inappropriate in our view at that time.

That is when this matter first came to my attention because a Member of the other side mentioned to me there was a managers' relating to the State of Arizona. Naturally, I was curious when I saw that the Air Force's 939th unit was going to be moved from Oregon to Arizona and that the amendment of the Senator from Oregon would have stopped that. I didn't know about it at the time. We objected to that and a variety of other things because we believed it was inappropriate to be on the supplemental appropriations bill.

Now our colleagues from Oregon have determined that they should not interfere with the movement of that unit to Arizona. But they want to make up for its loss through the amendment they are presenting here—I think that is a fair way to present it—as a result of which they want to take $3 million from the Army's active-duty operations and maintenance account for upgrades of helicopters; $3 million will be spent for procurement of helicopters and $1.8 million for the 26 Oregon National Guard personnel.

If I am incorrect, correct me. I believe those numbers are correct.

The fact that I don't view this as Arizona v. Oregon is illustrated by the fact that the unit will move to Arizona, and Arizona is no worse off.

I speak on this matter having nothing in terms of a parochial interest involved but, rather, because I have taken President Bush and Secretary Rumsfeld at their word. And Senator MCCAIN and I have worked for many months—in fact, a number of years, even before President Bush came into office—trying to preserve as much in the way of funding for our military as possible to be spent in an efficient way and not be wasted.

It is one reason we both support and are cosponsors of the base closing amendment, notwithstanding the fact that it jeopardizes at least one or maybe two Air Force bases. In at least one round, we had a major base closed. We are willing to take that risk for the State of Arizona because we believe we are United States Senators and we have an interest first to protect the United States of America and to protect our constituents to the extent we can. But when it comes to national security and national defense, we don't play around with it. I don't put parochial interests ahead of the interests of America in its defense.

When the President says, I don't have enough money for defense and I have to spend every nickel we get in the wisest possible way, and when the Secretary of Defense says, I am going to husband these resources and allocate them in the following way, then I don't think it is a good idea for Congress to say, because we want something for our home State, we are going to take money out of the Army's active-duty operations and maintenance account—almost $5

million—and put it into our State because we want a search and rescue mission for people who get into trouble in our beautiful mountains.

That is not right. I have no doubt that the local communities around Mount Hood and some of these other areas may not have the tax base to pay for this themselves. But the State of Oregon is on television—I have seen the ads, and they look great because they happen in the prettiest country in the world. You see the ads: ''Come to Oregon''—I believe it is. I won't give the exact quotation of the ad. But they are very effective ads.

There is a great deal to come to Oregon for. Their beautiful mountains are part of that. If the State of Oregon, I think, with its multimillion-dollar budget—over a billion-dollar State budget—has enough money to urge people to come to the State of Oregon to enjoy its beauties, then I think they also have the ability to provide for their safety when they are there if $4.8 million is the difference; in other words, to provide some mechanism for the State to be sure people needing rescue on the side of a mountain could be rescued.

I have no idea what this unit is going to be doing in Arizona. We don't have big, beautiful snowcaps. We have a couple of them, but not the same kind of tourist attractions as the mountains in Oregon. The training, I believe, could be for the number of illegal aliens who come across the border to be rescued. About 50 or 60 have died already this year. Maybe that is what they intend to do. But I don't know. That is really, in a way, beside the point.

Neither State, nor any other State, should be seeking to take active-duty account money from the Defense Department and using it for what is a parochial need. I don't say parochial in a negative sense, but a local need, a need that could be satisfied by the people of the State.

That is reason for our opposition. It is not an Arizona v. Oregon issue, as the Senator from Oregon was himself being very clear. We don't believe we should be micromanaging the military, let alone taking money from the active-duty accounts.

I regret we are not able to offer the second-degree amendment because that would have prevented this, in effect. But it would require people from Oregon to make some choices about the $9 million we just added last night in this bill for Oregon. They will be able to move that money around and make the choices themselves as to where they want to get the funding. But it wouldn't have to come from active-duty accounts.

I hope if this amendment is adopted—I urge my colleagues not to allow it to be adopted—that there will be some discussion along the lines the Senator from Oregon was alluding to earlier. I don't think at the end of the day, as it is going right now, this is going to result in a conclusion that will be desirable from the standpoint of our colleagues from Oregon.

I appreciate what they are trying to do. Again, it gives me no pleasure to oppose them. But I think, if we have any concern at all about our active-duty troops, if we have any concern about spending money wisely, and keeping U.S. Federal military missions focused on our military and not the parochial needs of individual States to rescue people who may get into trouble, we should keep our eye on that ball, vote against this amendment, and allow the Defense Department to spend the money the way it wants to and help the State of Oregon get its funding in some other way.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I would like to tell the Senator exactly what the 939th will do in Arizona. They will train. They will look for opportunities to help in a civic way to be relevant to the people of Arizona and to rescue them because they want to be ready for combat situations. So they are going to look for opportunities to save the lives of Arizonians. God bless them in that effort.

What is the Defense budget? Probably $300 billion which we are going to vote for, and we are talking about $4.8 million.

I think what is really lost in my friends' comments is the role of the National Guard and the national defense. It is growing. It is not declining. National Guard people are looking all the time to do the same thing as the Air Force's 939th unit.

To suggest that somehow the Oregon National Guard is irrelevant to the national defense is just demonstrably false. As we speak, there are many Oregon National Guard units in Bosnia, Kosovo, and Afghanistan. They are deployed. I think the National Guard's role is growing. It is not diminishing.

To have these kinds of capacities, which many other States have, in Oregon is entirely reasonable, and it is entirely fair. I don't begrudge the Air Force moving the 939 to Arizona.

I am not sure I am very comfortable hearing that out of $300 billion, the Air Force can't allow $4.8 million for the State of Oregon when Oregonians are taxpayers too. We contribute to the national defense, and we get less in defense dollars than probably any State in America. Is that right? I say it is wrong. I say we ought to get some help here today on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I wish to pick up on a remark of the Senator from Arizona. Again, he knows how much I enjoy working with him. We have worked together on the forest fires and a whole host of issues that are important.

I wish to address my friend's comments with respect to the contribution Oregon makes to our national security and why Senator SMITH and I see this as being important to our military and why it is a very constructive expenditure as it relates to the military.

For example, my colleague from Arizona said our State does not have high mountains. Well, the State of Oregon does. The State of Oregon—and we are very proud of them—have many high mountains. Those high mountains are part of a very good training ground for our military.

The Department of Defense has consistently said—as both of the Senators from Arizona know because they are very knowledgeable in military policy—that we ought to, as a nation, be strengthening our search and rescue capability.

I think my good friend, Senator KYL, has pointed out one of the aspects that Arizona lacks and with which Oregon can assist, and that is training as it relates to dealing with rescues from high mountains. The fact is, the people in the Northwest have been trained to rescue men and women wounded in combat. The value to our Nation of having this national training ground and this capability is a central reason why we are in support of this effort.

I am very hopeful that our colleagues will approve our bipartisan amendment.

I want to wrap up by way of saying I certainly do not consider this an Oregon against Arizona kind of battle. I am going to continue to work with both of my colleagues on this issue, but it seems to me that when we have tried to be considerate of the State of Arizona throughout this process, we would just hope that our colleagues would be willing to address these concerns that our constituents have, especially when we are showing that the contribution that Oregonians make is a contribution that advances our national security, advances our military well-being, and particularly makes a contribution that Senator KYL has said cannot be made in terms of training people in Arizona.

Mr. President, I yield at this time and reserve the right to respond to comments that might be made further.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the Pentagon says: The Pacific Northwest will continue to have a ''very robust rescue capability.'' There are 109 rescue-capable helicopters in the Pacific Northwest and units on alert in Salem and Astoria. Assets include CH–47s on alert for high-altitude rescue, recovered mishap HH–60. Long-range, over-water missions are covered by the California Air National Guard.

In summary:

> The Pacific Northwest will continue to have a very robust search and rescue force even after the assets from the 939th wing are moved to active duty units.

I have to tell the Senator from Oregon, the 939th is moving to active duty units in Arizona. It will not be practicing on civilians. There are two major bases in Arizona: Luke Air Force Base and Davis Monthan Air Force

Base. They will be there ready to conduct search and rescue missions in case those many training flights that take place from both those bases suffer a mishap. That is what they will be doing.

They will also be patrolling our border from time to time because, as Jon said, people have died crossing the desert. But their primary mission will be to support the flight operations out of two major Air Force bases.

Mr. SMITH of Oregon. Will my colleague yield?

Mr. MCCAIN. Sure.

Mr. SMITH of Oregon. I say to my friend—and I really mean that—you made my point. They will be focused on military missions. They will volunteer for these real-life rescue missions. They will save people in the desert.

Mr. MCCAIN. They won't volunteer.

Mr. SMITH of Oregon. They do volunteer. That is what they do in Oregon.

Mr. MCCAIN. They are an active duty unit now when they move.

Mr. SMITH of Oregon. All the helicopters you just named—all those helicopters—we are just asking them to get the upgrade. Other States have received them. We have not.

Mr. MCCAIN. I thank my colleague.

We have probably wasted way too much of the Senate's time on this issue.

One, the administration opposes it. And the Army opposes it. The Army says, you are taking the money out of the U.S. Army's operating funds, which they badly need. According to them, insufficient infrastructure funding decreases readiness. They do not have enough money. And now you are going to take the money out of operations and maintenance for our active duty men and women—active duty men and women—in the military, and you are going to move it to the Guard.

All we are saying is—if you and your colleague would have allowed us—take the money out of the Guard units; shift it around to your own priorities in the National Guard. That seems eminently fair to me.

The Guard is very well funded. You are talking about the overall funding. The Guard is very well funded as well. I am not going to take too much more time on this.

The administration opposes it. The Army opposes it. We oppose it. It is something, frankly, that is unnecessary. To have this kind of transfer of funds, when our active duty military is already very short of funds, I think is a mistake.

Again, I think we could have solved this very easily with a second-degree amendment, if it had been allowed, that the money would have been taken out of existing Guard funds. Then you could upgrade it or do whatever you wanted to with Guard funds instead of taking it away from the men and women in the military.

I will tell the Senator from Oregon, there are too many people living in barracks that were built during the Korean war. There are too many people who are on active duty who have insufficient housing, lifestyles, quarters, and other basic amenities of life. And we are an all-volunteer force.

You are taking the money from the active duty personnel in order to satisfy what your perceived needs are of the Guard in the State of Oregon. I do not think that is fair to the active duty men and women in the military.

I yield the floor. And I don't think we have any further debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just to be very brief, with regard to the amount of time the Guard has spent overseas, they might as well be active duty people. These are people who have served our country with extraordinary valor all over the world. They could just as well be called active duty military.

I hope our colleagues support this bipartisan amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4060.

The amendment (No. 4060) was agreed to.

Mr. LEVIN. Mr. President, we have one amendment which has been cleared.

Mr. WARNER. Mr. President, do we have that amendment reconsidered and tabled?

Mr. REID. 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. 4077, AS MODIFIED

Mr. LEVIN. Mr. President, I call up amendment No. 4077, on behalf of Senators MILLER and CLELAND, and send a modification of the amendment to the desk.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. WARNER. There is no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. MILLER, for himself and Mr. CLELAND, proposes an amendment numbered 4077, as modified.

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

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

The amendment, as modified, is as follows:

(Purpose: To authorize $1,900,000 for procurement for the Marine Corps for upgrading live fire range target movers and to bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements)

In subtitle C of title I, strike ''(reserved)'' and insert the following:

SEC. 121. MARINE CORPS LIVE FIRE RANGE IMPROVEMENTS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by $1,900,000, with the amount of the increase to be allocated to Training Devices.

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,900,000 shall be available as follows:

(A) For upgrading live fire range target movers.

(B) To bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements.

(2) Amounts available under paragraph (1) for the purposes set forth in that paragraph are in addition to any other amounts available in this Act for such purposes.

(c) OFFSETTING REDUCTION.—The amount authorized to be appropriated by section 103(1) for the C–17 interim contractor support is reduced by $1,900,000.

Mr. LEVIN. Mr. President, this amendment, as modified, would add, with an offset, $1.9 million for buying upgrades for Marine Corps training devices to support live-fire training and live-fire range control systems.

I believe the amendment has been cleared.

Mr. WARNER. Mr. President, the chairman is correct.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 4077), as modified, 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. REID. Mr. President, I renew my previous unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Our Republican leader has reviewed this and approves it.

Mr. REID. It is two pages long. I did not want to read it again. It is spread on the RECORD. I send a copy of it to the desk in case there is any misunderstanding.

I ask approval of the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. REID. Mr. President, we are going to have the vote on final passage at 3:15. As most know, Secretary Rumsfeld is going to be here at 2:45 for a short period of time. But that will give everyone time to visit with him. Then we would start a vote at 3:15.

NUNN-LUGAR EXPANSION ACT

Mr. LUGAR. Mr. President, I rise today to engage in a colloquy with the chairman of the Armed Services Committee, Senator LEVIN, and the chairman of the Foreign Relations Committee, Senator BIDEN, to discuss the legislative intent of the Nunn-Lugar Expansion Act.

I appreciate Chairman LEVIN's strong support for my bill. Under his leadership the Armed Services Committee adopted the bill and included it as section 1203 of the fiscal year 2003 Authorization bill. Furthermore, Chairman

BIDEN is a cosponsor of the bill and his support is critical to the successful implementation of the nonproliferation authorities provided to the Secretary of Defense.

Section 1203 seeks to capitalize on the unique nonproliferation asset the Nunn-Lugar Program has created at the Department of Defense. An impressive cadre of talented scientists, technicians, negotiators, and managers has been assembled by the Defense Department to implement non-proliferation programs and to respond to proliferation emergencies. Equally impressive credentials are held by other agencies such as the Department of Energy, State Department, and Nuclear Regulatory Commission. Section 1203 acknowledges the unique skills held by various agencies and seeks to broaden the President's menu of response options. Our legislation rejects a ''one size fits all'' response and provides another department with the authorization to respond to a proliferation threat.

As the United States and our allies have sought to address the threats posed by terrorism and weapons of mass destruction in the aftermath of September 11, we have come to the realization that, in many cases, we lack an appropriate assortment of tools to address these threats. Beyond Russia and other states of the former Soviet Union, Nunn-Lugar-style cooperative threat reduction programs aimed at weapons dismantlement and counter-proliferation do not exist. The ability to apply the Nunn-Lugar model to states outside the former Soviet Union would provide our President with another tool to confront the threats associated with weapons of mass destruction.

If the President determines that we must move more quickly than traditional consultation procedures allow, the legislation provides that authority to launch emergency operations. We must not allow a proliferation or WMD threat to ''go critical'' because we lacked the foresight to empower the President to respond with a variety of options.

In the former Soviet Union the value of being able to respond to proliferation emergencies has been clearly demonstrated. Under Nunn-Lugar the U.S. has undertaken time-sensitive missions like Project Sapphire in Kazabstan and Operation Auburn Endeavor in Georgia that have kept highly vulnerable weapons and materials of mass destruction from being proliferated. But these endeavors have also illustrated the inherent problems of the inter-agency process in addressing time sensitive threats. We have seen on more than one occasion that teams of lawyers haggling over agency prerogatives and turf have delayed responses to critical threats. We must not allow this to continue. We cannot permit the intersection of terrorism and weapons of mass destruction.

This type of scenario does not mean Congress will abandon its oversight responsibilities or the Administration should be continue and coordinate its actions to ensure the most seamless and effective response. Section 1203 requires extensive reporting requirements if action is taken under emergency circumstances. Furthermore, this legislation is not a blank check. We expect this legislation to be implemented with close consultation between relevant agencies. But at the same time, the legislative authority provided therein enables the President to avoid inter-agency logjams that would retard urgent American action.

Mr. BIDEN. I am delighted to join with my dear friend and colleague, Senator LUGAR, in supporting section 1203 of this bill. The Nunn-Lugar program and the several nonproliferation programs that have developed over the last decade were born in the need to secure excess weapons and dangerous materials and technology in the former Soviet Union. They have not yet fully achieved that objective, but they have accomplished far more than anybody other than Senators NUNN and LUGAR foresaw a decade ago, The record of former Soviet weapons and materials secured and destroyed, and of former weapons scientists given useful and honorable work, is a testament to the importance of positive incentives in foreign and strategic policy.

Proliferation is a worldwide threat, and there are sensitive materials and technology in many countries. Section 1203 is rightly designed to permit Nunn-Lugar activities the former Soviet Union, when there are opportunities to ensure that sensitive materials will never be acquired by rogue status of terrorists.

I am pleased that Senator LUGAR spoke of the need to give the President the authority to act in such cases. The current language of section 1203 could be construed to permit the Secretary of Defense to pursue such opportunities on his own, absent specific direction from the President. In my view, that might invite the Secretary of Defense to initiate sensitive foreign activities without the knowledge or support of the Secretary of State. I understand that this was not the intent of the managers, Senator LUGAR, or cosponsors of this bill. Because this was clearly not the intent, I understand the managers will work to clarify the language of section 1203 in conference so as to make clear that the authority to order these operations resides in the President, not in the Secretary of Defense. That will be a very useful contribution, and I commend them for it. I understand also that the conferees will make clear that the authority to draw funds from other programs will extend only to other Department of Defense programs, and I appreciate that clarification.

I would hope that the managers of the bill would also see fit to broaden the list of receipts of the reports required by section 1203. The Foreign Relations Committees of Congress have a legitimate interest in knowing when sensitive non-proliferation programs are to be instituted overseas. I understand that this concern will be kept in mind in conference, and I thank the managers for that courtesy.

Mr. LEVIN. I want to thank the sponsors of the legislation that was included as section 1203 in the fiscal year 2003 National Defense Authorization bill for bringing this matter to my attention. Of course the responsibility to initiate and expand the type of activities provided for in section 1203 of the bill rests ultimately with the President. As you are the original sponsors of this provision, I will honor your request and will urge the conferees to make the needed changes during the conference process.

THE PRICE-ANDERSON ACT

Mr. SMITH of New Hampshire. Mr. President, in March of this year, when we passed the energy bill, Senator VOINOVICH offered an amendment to reauthorize the Price-Anderson Act that passed overwhelmingly 78–21. The Price-Anderson Act expires on August 1, 2002. This act sets up a system of insurance and indemnification to protect the public against losses stemming from nuclear accidents. It has served the nation well since the 1950s and has been reauthorized three times. Price-Anderson has been amended over the years so that the utility industry that operates nuclear reactors is charged premiums for this insurance. The private Department of Energy (DOE) contractors that are involved in strategic weapons production, clean up of national security sites, nuclear research and technology, as well as other related national priorities are indemnified by the government. In keeping with the directions in the current law both the DOE and the Nuclear Regulatory Commission (NRC) have issued reports urging renewal. The provisions of the Voinovich amendment to the energy bill to reauthorize this legislation were crafted in consonance with these reports. In the Defense authorization bill we are now considering, there is a provision to only renew the authority for the private DOE contractors. There is strong justification for doing so, since a lapse in the authority will affect important cleanup and defense programs as I mentioned before. Private industry must be indemnified properly before undertaking these important national projects. Reauthorization is vital to national defense and must be considered on ''must do'' legislation such as the defense bill. However, the NRC provision of Price-Anderson, one that falls under the jurisdiction of the Environment & Public Works Committee, is not included in this bill. Historically, in the reauthorization of Price-Anderson, we have never separated the DOE contractor provision from the NRC licensee provision. The three previous renewals of Price-Anderson have extended both the DOE and NRC portions of the Act at

the same time for identical time periods. As the ranking member of the Environment & Public Works Committee and as a senior member of the Armed Services Committee, it was my hope that we could ensure that these two provisions of Price-Anderson be moved through the legislative process as one package, and not be separated. Due to the need of keeping non-military provisions off of the Defense Authorization bill while the bill is under consideration by the Senate, adding the NRC provision of Price-Anderson will not be possible at this time. However, it is certainly the hope of this Senator that the DOE and the NRC provisions of Price-Anderson remain on as close of a parallel legislative tracks as is possible, however that can be accomplished.

Mr. INHOFE. I am in complete agreement with my colleague. Should we let this authority lapse, it will jeopardize national security programs. Therefore, we must act in this bill with the provisions that cover the private DOE contracts. However, we must try to get the entire act renewed as recommended by the administration and the agencies that have help to develop, modify and oversee its activities over the past nearly half century that have served us so well. I strongly believe that it vital to pass full and comprehensive reauthorization of the Price-Anderson Act. The law has worked well and has been considered a model in other countries. It insures against terrorism against the plants and has been studied in an attempt to help fashion the terrorism insurance recently passed in this body. I would urge that we do what we can in this body to get Price-Anderson renewed in the most expeditious fashion. I want to thank my colleagues on both the Armed Services Committee and the Environment and Public Works Committee, of which I am the ranking member of the Nuclear Subcommittee, and I look forward to working with them so that we may pass comprehensive Price-Anderson reauthorization during the 107th Congress.

Mr. VOINOVICH. I Thank my colleagues for their commitment to this issue that is of the utmost national importance. I add my support to the idea that we should keep the pieces of this legislation together. I certainly agree that we should make certain that our private DOE contractors do not experience a protracted lapse in authority that will surely delay the implementation of important programs. But I want to point out that energy security and national security are very much related, and both are integral parts of our overall economic security. Nuclear power, science and technology are vital to this country. Nuclear generation provides 20 percent of our electricity and is the largest contributor to avoiding emissions. If we are to meet the future demands for electricity we will have to build more nuclear plants to augment the present fleet. All over the world, nations are considering building new nuclear facilities. The current administration wants to move forward with new plants that use new, more efficient nuclear technologies that reduce the volume of spent fuel and have even more safety features than the current plants which have unparalleled safety records. The original law was put together to support both aspects of nuclear operations. They have worked very well together. I would agree with my fellow Senators who have just spoken on this matter. I was proud to have introduced the original Price-Anderson reauthorization bill and was very pleased when the Senate voted overwhelming to include my Price-Anderson amendment on the energy bill. It is important that we reauthorize the entirety of this statute and I look forward to continuing to work with my fellow Senators to ensure that the Price-Anderson Act is reauthorized this Congress.

Mr. WARNER. I agree with my colleagues that reauthorization of Price-Anderson, both for DOE contractors and for NRC licensees is a priority for the Nation. I am hopeful that these two provisions to extend Price-Anderson will soon be enacted into law.

Mr. ALLARD. Mr. President, we just passed an amendment which will require the Missile Defense Agency to provide yet another report. While we accepted this amendment, I believe it is redundant and wasteful.

The criticism of MDA for classifying information on targets and countermeasures for future missile defense tests has been surprising, at best. The Missile Defense Agency (MDA) informed us some time ago that such information would be classified as testing becomes more sophisticated.

From the last three successful long-range intercept test successes, MDA has begun a progressive and more rigorous testing program to evaluate emerging and evolving technologies. These technologies include countermeasure to missile defenses that our adversaries might use and the means MDA devises to overcome those countermeasures. MDA has laid in a structure and process to identify likely or possible countermeasures and to assess their potential effectiveness; and to identify and assess possible counter-countermeasures.

I can't resist noting that the majority has cut about half the funding for this function in its missile defense proposals in this bill. I think if they were that concerned about countermeasures, perhaps they wouldn't have made this cut.

After MDA has identified these countermeasures, it designs and builds them. That's the only way MDA can test against them. Detailed knowledge of ballistic missile defense countermeasures techniques—techniques that we may be developing ourselves to test the strengths and weakness of our missile defense systems—could lead our adversaries to develop capabilities that can defeat our systems.

I don't believe anyone wants to reveal information that might compromise our security. We should not share information on targets and countermeasures with the likes of Iran, Iraq, and North Korea.

I fully concur with those who believe that Congress should have access to all relevant information related to missile dense tests. MDA has assured me that it will provide us with this information. All members, and staff with appropriate clearances, will have access to this information. Indeed, staff received classified information related to targets and countermeasures prior to the last long-range missile defense test.

To those who suggest that this move is designed to disguise or hide missile defense test failures, I would note that test successes or failures really can't be hidden.

Congress will have access to all the information, classified or otherwise. Not all information will be classified. it will be clear to the public whether the interceptor hit the target or not. Classification may actually make it harder for MDA to demonstrate success to the public because it can't make details of the test public. Details of almost all military tests are classified. Have we ever explained to our adversaries how to defeat stealth technologies? Why would we do so with missile defense technology?

The decision to classify this information meets the criteria of Executive order 12958 that guides all DOD agencies in decisions on these matters. This executive order notes that information can be classified if it relates to ''military plans, weapons systems, or operations'' and ''vulnerabilities or capabilities of systems. . . . relating to the national security''; or if release of the information could reasonably be expected to ''reveal information that would assist in the development or use of weapons of mass destruction.''

I believe MDA countermeasures and targets information qualifies in all three categories.

Is classification premature? I don't think so. We hope to have early missile defense capabilities in the field in the not too distant future. These capabilities will be based on test assets. Publicly revealing the weaknesses of our test systems to our adversaries simply doesn't make any sense.

At this time, I would also like to make a few more points regarding the original cuts made by the Majority to the missile defense programs.

While I am very happy that the $814 million cut was restored by the Warner/Allard amendment, I am concerned that there is confusion that the second degree amendment in some way reflects that this Senate believes that the President does not have the flexibility to spend the money as he fits between missile defense and counter-terrorism. As a matter of fact, according to the Office of Management and Budget, as well as the chairman, the second

degree amendment does not preclude the President from deciding where to spend the money—missile defense or counter-terrorism. And that is certainly my understanding, as well as the ranking member of the Armed Service Committee.

One of the major criticisms stated by the majority is the expenditure rates for Ballistic Missile Defense projects, particularly the rate of expenditure in the BMD System program element.

The Missile Defense Agency is attempting to develop a single integrated ballistic missile defense system capable of attacking missiles of varying ranges in all phases of flight and defeating missiles of all ranges.

Thus MDA has shifted from an element-centric approach with a focus on THAAD, PAC-3, NTW, NMD etc., to a system-centric approach that knits each of the elements into an integrated whole. The goal is to develop a seamless took-kit of sensors, shooters, platforms battle management, and command and control assets that function as a single integrated BMD system.

Critical to this refocusing are integration efforts to tie disparate BMD projects into a coordinated whole. The BMD System program element is key to success in the endeavor.

But the chairman seems to argue that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed.

I strongly disagree and several points need to be made.

The 2002 budget was approved late. The FY 2002 defense authorization act wasn't signed until January of this year, at the end of the first quarter of the fiscal year. MDA projects—and all other DOD projects—were late in getting FY 2002 funds.

The expenditures that the chairman cited are already out of date. The figures he used were the expenditure figures from March 31, less than three months after MDA started receiving 2002 funds. The figure updated for the end of April is already about $100 million.

The end of year expenditure projection for this program element is about half the funds appropriated. More than 90 percent will be obligated. These figures are well within expected ranges.

I have the Missile Defense Agency projections for all their major project activities. All appear to be within expected ranges.

It is also very important to remember that the funding request in the BMD System program element is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding specifically to help assure funding stability and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will have Fiscal Year 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

I don't think any one believes we should do that.

Citing an outdated expenditure figure for this program element so early in the fiscal year is simply misleading and I believe misguided.

Another concern I had with the Majority's cuts was the $147 million reduction in program operations. This reduction may sound mundane but is critical to the success of the programs.

The majority has justified the cuts on grounds that the funding is redundant and excessive. The committee report notes that program operations are adequately funded in each Missile Defense Agency project and the program operations funds justified in separate lines in each program element simply aren't needed. So the Armed Services Committee bill cuts each and every one of these funding lines.

But this justification is simply wrong. It is simply mistaken to state that the funding for program operation is redundant to funding elsewhere in the MDA budget. Not only is it mistaken, this funding reduction is extraordinarily damaging to the Missile Defense Agency.

What are ''program operations?'' Program operations are people. They provide the basic support for any program. They provide information technology support—the computer support people. They provide communications support. They provide security. They provide contract support. They support basic infrastructure and facilities.

It is true that this work is done at the project level. The THAAD project funds program operations unique to the THAAD project. Each MDA projects fund program operations unique to that project.

But the simple fact is that the program operations funds in each project are not used for same purposes as the funds that have been cut in Armed Services Committee bill. The funds cut by the Committee bill are not for activities unique to any particular project. They are for common program support.

The funds identified in the MDA budget for program operations will be used to support government and contractors for common program support at Missile Defense Agency Headquarters and for the service executive agents for missile defense programs. The Missile Defense Agency is required by law—Section 251 (d) of the Fiscal Year 1996 National Defense Authorization Act to request these funds in separate program elements.

This bill cuts almost all of this funding—$147 million of $185 million requested, or nearly 80 percent.

What does this cut do?

This reduction cuts nearly 1,000 people who provide basic support for Missile Defense Agency projects and activities. Army Space and Missile Defense Command will lose almost 400 people. The Army Program Executive Office for Air and Missile Defense will lose another 60. Missile Defense Agency Headquarters will lose around 400. The Navy and Air Force will lose about 75.

Heres how MDA describes the impact:

> The majority of Army SMDC and Army PEO-AMD staffs would be eliminated.
>
> Air Force and Navy organizations responsible for centralized management and/or sharing of common program management costs would be eliminated.
>
> All contract support at MDA for program operations would be eliminated; computer center and thus computers shut down; no security (technical or physical), no staffing for supply/mail room, cleaning, and facility maintenance; no contractor support for common acquisition management functions performed by MDA, e.g. contracting, financial management, cost estimating, human resources.

That is an incredible hit on any organization.

Could MDA recover by redirecting funds to cover these functions? If these cuts survive the process, MDA would have to move money into activities in direct contravention of Congressional intent which is usually a pretty bad idea.

But even if MDA were to try use project funds to perform these program-wide activities, the agency would be in the position of trying to use new people to do many of these jobs. The Missile Defense Agency simply could not do this in anything approaching a timely manner. Consider contracting support. The whole thrust of the missile defense program has changed, moving toward a single integrated missile defense system and away from autonomous ''stove-piped'' systems. This will inevitably mean contract changes as the architecture evolves. Yet MDA's institutional memory would have been surgically excised by this reduction at precisely the time it is needed most. So MDA would take a double hit—a cut to project funds to pay for program operations, and inefficient and ineffective program operations because all the people who did that job will have been fired.

The 80 percent reduction to program operation is just one example of how damaging the missile defense reductions in this bill. It is inconsistent with good management, current law, and common sense. I cannot say if the majority simply erred in this reduction, or if the intent was to cripple the organization.

Another program that was it hard by the majority's missile defense cuts deals with countermeasures—which for me makes these cuts even more surprising.

Many critics on the majority side have argued that simply countermeasures can render missile defenses ineffective. They have criticized missile defense technology and testing as too simple, and not sensitive enough to the measures our enemies might take

to defeat our defenses. The former Director of Operational Test and Evaluation Phil Coyle used to make this argument in his official capacity and had many recommendations about how to improve what he saw as deficiencies. The chairman of the Senate Armed Services Committee just recently repeated the view that simply countermeasures may be able to defeat missile defenses.

The Missile Defense Agency agreed that countermeasures represent a significant challenge, and has structured a significant part of its program to meet this challenge. Here's what they have done:

MDA moved from an architecture that relied very heavily on intercepting enemy missiles and warheads in their terminal phase, the final phase of flight as these weapons approach their target, to an architecture that seeks to intercept missiles and warheads in all phases flight-boost phase right after launch, and midcourse as the missiles and warheads fly ballistically toward their target as well as terminal phase. Countermeasures to defenses in any one phase of flight are greatly complicated by attacking missiles in all phases of flight.

MDA initiated technology efforts in the midcourse defense segment to develop counter-countermeasures and advanced kill vehicles to defeat countermeasures that our adversaries may develop or deploy.

MDA initiated a ''Red, White, and Blue'' team and a process to objectively assess the types of countermeasures that might be developed and deployed and the countermeasures that could be developed to counter them. The Red team assesses the likelihood and technical feasibility and effectiveness of various countermeasures; the Blue team assesses ways to defeat the countermeasures and does basic technical work to produce the counter-countermeasures; and the White team is the referee to make sure that proposals and assessments from the Red and Blue teams are fair.

Given the concerns expressed by our majority about the ability of adversaries to produce countermeasures that defeat our defenses, you would thank that these efforts would among those receiving the strongest support in this bill. If you thought that, you would be wrong. This bill decimates each of these approaches.

The bill makes extraordinarily deep reductions in boost phase intercept projects. The Airborne Laser program—cut by about a quarter—there is almost no funding for anything beyond the first prototype aircraft. Funding for space-based kinetic boost phase interceptors is eliminated. Funding for sea-based boost phase interceptors is eliminated. Space-based laser? That was killed last year. And the bill makes a $52 million reduction to Navy mid-course missile defense, and concept development and risk reduction effort to produce Navy missile defenses against medium, intermediate, and long-range missiles.

The bill cuts all the funding—100 percent of the funding—for the next generation kill vehicle and midcourse counter-countermeasures. This leaves the midcourse segment with no follow-on technology to defeat any advanced countermeasures our adversaries might develop or obtain and then deploy.

The bill cuts almost half of the funding for the Red, White and Blue team. This reduction is part of the 2/3 reduction to Ballistic Missile Defense System program element. A key project in that program element is system engineering and analysis. That's where the Red, White and Blue team is funded. This bill decimates this key effort.

These reductions severely damage the effort to defeat BMD countermeasures—an effort that everyone-Republicans, Democrats, MDA, and missile defense critics—believes is critical. The rationale for these reductions, to be charitable, is unclear.

Let me end my statement by summarizing some of the majority's arguments which we have heard during the course of this debate.

First, funding is not adequately justified or unclear what product will be provided.

Not true.

The committee has received hundreds of pages of justification which describes in tremendous detail activities and products in each program element. I admit that not all of the detail was available at the beginning of the budget cycle because the National Team—which plans the activities—was just standing up. It is all available now.

Many of these important activities and products included in System Engineering & Integration are: concept development and system architecture; trade studies and analysis; functional allocation; BMD element (e.g. PAC–3, ABL, THAAD) specifications; verification of text objectives; engineering process controls; configuration management; interface specification; architecture definition; threat databases; modeling and simulation; test infrastructure and target requirement definition; schedule baseline; specialty engineering; and data management.

For Battle Management/Command and Control these activities include: definition of intelligence and sensor inputs; specifications; definition of interfaces; mission planning across BMD elements BM/C2 test planning, assessments BM/C2 system performance BM/C20T&E plans; BM/D2 transition plans; order of battle definition communications architecture message definition and formats network management information assurance wargaming support; and BM/C2 verification and test.

Here is an example of some of these activities:

System and element capability specification: $17.8 million.

Description: The system capability specifications provide design requirements for system integrators and element contractors to use in development and testing. It enables contractors to understand the context in which they are designing elements and to be more innovative in ensuring that their element meets its requirements and milestones in the BMD system. The system capability specification document describes the BMD system in terms of functions and performance based capabilities, shows the allocation of those capabilities the elements in the BMD system, and identifies methods to verify those capabilities at the system level. Element and component capability specifications documents describe the functions and capabilities of BMD system elements and components as they are allocated in the systems capabilities specifications. For new elements these documents may provide a very complete description of functions and capabilities and allocations to major subsystems. For existing elements, the documents may be higher level and might serve as the basis for engineering change proposals to bring the element into compliance with BMD system allocations and specifications. These documents are reviewed quarterly and updated annually.

The committee got over 100 pages of similar material describing these activities in a minute detail.

The second argument is that the funding is redundant.

Again, not true.

There is a semantic problem in considering ''system engineering.'' System engineering takes place at the system level and the at the element level. The system level effort integrates all the disparate elements into a seamless whole. At the element level—or perhaps we would better call this ''element engineering''—provides for integration between the parts of an element. For example, the THAAD program spends about 10 percent of its funding on ''system engineering'' to assure that the THAAD components-radar, missile, launcher, BMC2—work together seamlessly.

This is not the same work that is being done at the BMD system level. The system engineering and integration across elements of the BMD system is being done at a much more detailed level and more systemtically than in the past. This is new or expanded work. On reason this work hasn't been done so much is the past is because of the former ABM Treaty constraints.

A third argument is that the funding is premature.

Once again, not true.

Much of this work has not been done before. It is needed to implement the new concept of missile defense as a single integrated system. If this work isn't started and can't continue now—the effectiveness of all missile defense systems will be degraded; deployment of effective missile defense will be delayed; costs will increase, since each element will have to ''carry more of the load'' and element-centric work

will have to be redone later to make it compatible with a single integrated system. The start or expansion of this work coincides with establishment and stand-up of the National Team.

As I mentioned earlier but I believe is important to reiterate, it has also been argued that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed. Although the 2002 budget was approved late, the obligation and expenditure rate in System Engineerring and Integration is well within expected ranges.

The funding request is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding to help asure funding stabililty and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will FY 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

Fourth, that the funding is excessive.

Once again, not true.

MDA's BMD system level engineering and integration funding request, at 2 percent of the MDA budget of the budget, is modest.

Standard text (Essentials of Project and Systems Engineering Management) estimates requested resources for systems engineering to be 4–8 percent of total project cost. Costs tend to be higher for complicated projects.

MDA's system and element level engineering and integration funding is low compared to other programs.

What other programs spend on system engineering:

V–22—7.2 percent.

B-1b—14.3 percent.

V–22 (Marine)—11.5 percent.

F–22—5.5 percent.

E–3A AWACS—13 percent.

Safeguard—16 percent.

Patriot—19 percent.

E–4 Airborne Command post—12 percent.

Pershing II—21 percent.

JTIDS—12 percent.

Here's what Ballistic Missile Defense spends on system engineering:

Ground-based Midcourse—6.9 percent.

THAAD (03)—10 percent.

BMDS SE&I—2 percent.

These figures are not at all out of line with other complex DOD programs. The BMDS systems engineering funding is low by comarison-particularly given that we haven't done this mission before. This mission is almost uniquely complex.

In conclusion—the BMDS funding reductions aim at the heart of what MDA is trying to do and how MDA is trying to do it. I believe the funding reductions are completely unjustified and I am glad we made some progress in getting these very important missile defense programs back on track.

Mr. JEFFORDS. Mr. President, I would like to thank the managers of the bill, Senators LEVIN and WARNER, for not including proposals that the Administration has put forward that would undermine many of our environmental laws, in either the legislation that was reported by the Armed Services Committee and the final legislation that we are voting on today. I would also like to make clear my continuing concern with these proposals and my opposition to any efforts to include them in conference on the DoD authorization bill.

Title XII of the administration's National Defense Authorization Act for Fiscal Year 2003 contains several provisions that not only fall within the jurisdiction of the Committee on Environment and Public Works, which I chair, but proposes changes to our environmental laws that are unnecessary, broad, and—judging from the volume of mail I already have received—very controversial. The administration contends that these changes are needed for military readiness and training. However, it has not been demonstrated that is the case.

One provision could permanently extend the timeline for DoD's conformity analysis, required under the Clean Air Act, by 3 years for all activities broadly referred to as military readiness activities, without regard to whether there is a national security emergency or other need for such an extension.

Another provision attempts to permanently exempt the DoD from broad aspects of Resource Conservation and Recovery Act, RCRA, regulation and cleanup. The proposal significantly changes the definition of ''solid waste,'' the crux of the RCRA statute. The proposal would exempt munitions that were deposited, incident to their normal and expected use on an operational range. The proposal also may exempt munitions wastes that remain after the range becomes ''non-operational'' a term not found in environmental law—prohibiting EPA and preempting the states from regulating the cleanup of the vast majority of unexploded ordnance, explosives and related materials that contaminate closed, transferring and transferred training ranges.

By exempting munitions-related materials from RCRA, the proposal could prohibit EPA and states from acting to address munitions-related environmental contamination that is not on a range at all, but has migrated from the range entirely off-site. The exemption also extends to any facility—not just training ranges—with munitions-type waste, which may include plants that manufacture explosives and other manufacturing facilities run by defense contractors. It is possible that the exemption also would extend to waste streams from the manufacture of explosives since the exemption covers ''constituents.''

The proposal also provides exemptions from the Comprehensive Environmental Response Compensation and Liability Act or Superfund. ''Explosives unexploded ordnance, munitions, munition fragments or constituents thereof'' would be permanently exempted from the definition of ''release'' under Superfund. In addition, because the definition of ''solid waste'' under RCRA triggers coverage as a ''hazardous waste'' under Superfund, the broad RCRA exemption would exempt munitions waste from regulation, ie., cleanup, under Superfund. This could similarly tie the hands of the states to compel cleanup.

By affecting the definition of ''hazardous substance,'' the proposal may preclude states and natural resources trustees from pursuing restoration of areas contaminated by munitions waste—this affects the ''natural resource damages'' section of the Superfund law. The proposal also may eliminate authority under section 104 of the Superfund law to clean up a release or respond to substantial threat of a release of hazardous substances on training ranges—and, as discussed above, possibly off-site and at manufacturing facilities as well.

The proposal would exempt the Department of Defense from the requirement of the Endangered Species Act of designating critical habitat on all ''lands, or other geographical areas, owned or controlled by the Department, or designated for its use'' if an Integrated Natural Resources Management Plan—INRMP—has been developed pursuant to the Sikes Act. The Sikes Act requires military installations to prepare plans that integrate the protection of natural resources on military lands with the use of military lands for military training. If the Fish and Wildlife Service determines that the plan ''addresses special management consideration or protection,'' they can decide not to designate critical habitat. Although the Service in the past has excluded some bases from critical habitat designation based on an INRMP, in numerous other decisions, the Service has expressly found that an INRMP would not provide adequate protection in lieu of critical habitat designation.

Under the Endangered Species Act, the Service is required to consider ''the impact on national security'' when designating critical habitat. This proposal would preclude the Service from designating critical habitat if an INRMP has been completed.

The proposal would authorize military readiness activities under the Migratory Bird Treaty Act—MBTA—without further action by the Secretary of the Interior. It would exempt the DOD from the requirement, applicable to everyone else and founded on treaties between the United States and Canada, Mexico, Russia, and Japan, that they obtain a permit from the Fish and Wildlife Service before killing migratory birds or destroying their

eggs. Such action could be carried out without any assessment of biological impact, effort to mitigate or seek alternatives, oversight or accountability.

In March of 2002, a court ruled that the MBTA applied to training activities at the Farallon de Medinilla range in the Western Pacific and enjoined the Navy from continuing the bombing activities there. The Navy has applied for a special purpose permit under the MBTA allowing for incidental take and are completing the biological justification. While the MBTA does not have an exemption for national security, it does provide for permits to be issued if the urgency of the training is determined by the Secretary of the Interior to be compelling justification and there can be compensation for the biological benefits of birds that may be taken.

It is my hope that during the conference with the House on this legislation, the provisions in the House bill amending the Endangered Species Act and the Migratory Bird Treaty Act be deleted. The Committee on Environment and Public Works is the appropriate committee to examine the need for any such environmental legislation and to act upon any such legislation.

Mr. BYRD. Mr. President, I have serious concerns about the amendments that have just been adopted to add $814 million to either missile defense funding or combating terrorism. We have heard a day and a half of debate on these amendments, which relate to one of the great issues of our national defense policy. I am stunned that these important amendments were accepted without a rollcall vote.

My concern with these amendments are numerous. The supposed offset for these additional funds is, at the moment, nothing more than a work of fiction. Supposedly, the Office of Management and Budget, in its mid-session review of the budget, will revise downward its estimate of the inflation rate. Not only is this report yet to be released, but also we are making budget decisions based upon projections that may or may not pan out.

In addition, the amendments backtrack on cuts in the missile defense program made by the Armed Services Committee. As a member of that committee, I think that we made the right choices on trimming a missile defense budget request that was far too large to support a program that remains in an elementary phrase. By pouring so much money so quickly into missile defense programs, we are only encouraging a rush to failure. I am especially alarmed that these amendments allow for more missile defense funding at a time when the programs are becoming increasingly shrouded in secrecy, as if the Pentagon wishes to stifle public debate about the utility and effectiveness of anti-missile systems.

The amendments leave the decision about whether to use $814 million for missile defense or for combating terrorism entirely to the President. There is an alarming trend in Congress to simply delegate the decisions on many important issues to the Chief Executive. The President is the Commander-in-Chief of the military, but the Constitution charges Congress with the authority to ''raise and support armies'' and to ''provide and maintain a navy.'' The Founding Fathers of this country clearly intended to have Congress determine how the funds intended for our national defense would be allocated.

The amendments adopted today delegate, from the Congress to the President, the decision of how to use $814 million. It is an advoidance of our constitutional responsibilities. The amendment offered by the chairman of the Armed Services Committee establishes the top priority for these funds to be used for combating terrorism at home and abroad, but I have no idea for what purposes these funds could be used. I do not know whether I would have supported this amendment, but it is profoundly disappointing that Senators did not have the opportunity to cast their vote on this proposal.

I had even greater concerns about the underlying amendment, offered by the ranking member of the Armed Services Committee. As I said before, I question the source of the $814 million, the potential for the funds to restore the well-justified cuts in missile defense programs, and its delegation to the President of an important decision on the funding of our military. But again, I did not have the opportunity to register my vote.

I hope that my colleagues would take a more careful look at what powers we invest in the President. We should also take a look at how we dispose of such important business as increasing the missile defense budget by $814 million. We must never allow ourselves to be absolved of our constitutional responsibilities to decide and vote on matters of such great importance.

Mr. FRIST. Mr. President, I thank the distinguished chairman and ranking member of the Senate Armed Services Committee for their assistance and support in authorizing funding for a military construction project of critical importance to the State of Tennessee and the United States. I also thank the skilled staff members on the Senate Armed Services Committee who assisted this action: George Lauffer and Michael McCord.

The amendment in question was advanced by FRED THOMPSON and I to authorize $8.4 million in funding for the construction of a Composite Aircraft Maintenance Complex at Berry Field Guard Base in Nashville, TN. This important project is vital to the combat readiness for the 118th Air Wing of the Tennessee Air National Guard. Currently, the 118th is housed in a variety of substandard buildings, some of which are more than 40 years old. This collection of buildings encroaches upon the aircraft clear zone making it difficult for personnel to work and drill, impeding combat readiness and jeopardizing aircraft safety. Aircraft cannot be moved into hangars properly or left on jacks due to wind conditions. All of these problems combine to create significant safety problems and increase the amount of time it takes to repair damaged aircraft. In addition, the 118th needs nine airfield waivers to operate and continue its mission. By constructing this new complex, several of those waivers will be eliminated and the base will be a safer and more efficient place to accomplish its vital mission.

I would like my colleagues to know that the 118th played a vital role in the immediate response to the 9–11 tragedy and continues to contribute importantly to the ongoing national security needs of the country. One item of human interest occurred within an hour after the World Trade Center was attacked by terrorists and all of the Nation's aircraft were grounded by the President. The 118th was called and given approval to fly a donated liver from Nashville to a little girl in Houston, TX. At that time, only three nonfighter aircraft were in the air over the United States—Air Force One, its supporting tanker, and a lone C–130 from the 118th. In the shadow of thousands of people killed in New York City that day, the 118th had the privilege of helping to save a life.

In the weeks after September 11, the 118th was given numerous alert missions requiring Tennessee Air Guardsmen to be on call 24 hours a day, 7 days a week. The aircraft and maintenance personnel were sleeping in an old converted aircraft hangar at night and prepared to fly anywhere at any time.

Early in the month of October 2001, the 118th was again called for an extremely vital mission of National Security and Homeland Security Support. The 118th was one of only five C–130 units deployed for Operation Noble Eagle-QRF (Quick Reaction Force). Their mission was to deploy as soon as possible to a forward base, and be ready for 24/7 operations with a 1-hour alert call out. The 118th proudly performed this mission faster and better than any other Air National Guard, Air Force Reserve, or Active Duty unit. Within 22 hours of notification, the 118th had aircraft in the air moving forward, and was the sole C–130 unit operationally ready at the 48-hour mark.

Over the next 4 months—between October 2001 and February 2002—the 118th became the standard to which other units trained in relation to the QRF. The 118th maintained operational readiness with one-third of the unit deployed, and still preserved exceptionally high training standards at home station.

To date, the 118th has activated more than 340 individuals to support the worldwide mission. The unit is currently supporting Air Mobility Command with 33 percent of its aircraft on a daily basis flying active duty missions. Back at home station, Command and Control has been operating 24/7

ever since September 11. The 118th Command Post and Crisis Action Team have played a critical role in the direction and guidance of the unit's response to every assignment and emergency that has arisen. The base medical department, normally two full-time people, has increased to 13 in order to support the increasing number of wing personnel now on active duty.

In conclusion, on behalf of the men and women of the 118th Airlift Wing, Senator THOMPSON and myself, I would like to thank the chairman, ranking member, and our Senate colleagues for authorizing this important funding.

Mr. BIDEN. Mr. President, the Senate returned yesterday to an issue which, in recent years, has polarized our debate on national security and foreign policy. An amendment proposed by Senator WARNER allowed the President to add $814 million to the research and development budget for missile defense, money that was not recommended by the Armed Services Committee.

It also provided the President the authority to allocate these funds to ''antiterrorism'' projects, but I have no reason to believe the President would choose this latter option.

Senator WARNER's amendment was passed with a second-degree amendment by Senator LEVIN that emphasized that combating terrorism should be the top priority for the use of these funds, although the President could still allocate the entire $814 million to missile defense activities.

It has been my hope that the formal U.S. withdrawal from the Anti-Ballistic Missile Treaty, an event which took place less than 2 weeks ago, would emerge as a real turning point in the debate over national missile defense. From this point forward, I fervently wish that officials of all stripes—executive and legislative, Democratic and Republican—will be freed to evaluate missile defense as we would any other major defense initiative.

The touchstone for evaluating any missile defense must be the test that the American people sent us here to propound: Will this program make the United States more secure, or less so? Will national missile defense be operationally effective under real-world conditions, or will it remain a system that no commander can rely on?

Yesterday's passage of the Warner amendment was not a final decision on the future of national missile defense, nor was it a referendum on the President's decision to withdraw from the ABM Treaty. Even if the amendment had fallen, the Senate would still have authorized $6.8 billion in fiscal year 2003 on missile defense activities, a significant sum of money of any measure.

The proponents of the Warner amendment contended that an $814 million reduction in an administration request totaling $7.6 billion would seriously hamper our Nation's efforts to move forward on missile defense. Let's take a closer look at a couple of these reductions proposed by the Armed Services Committee:

A cut of $200 million for a number of overhead activities, variously described as ''Program Operations'' or ''Systems Engineering and Integration,'' which are repeated multiple times in the administration's budget request. The administration cited this particular cut as an attempt by missile defense opponents to block the effective integration of missile defense components.

Despite repeated requests by the Armed Services Committee, however, the Missile Defense Agency never justified these duplicative requests or explained how they would fit together to enhance system integration.

A reduction of $30 million, requested by the administration for the purchase of a second Airborne Laser prototype aircraft. However, the Pentagon does not plan to test the first Airborne laser aircraft until fiscal year 2005. Doesn't it make sense to delay the purchase of a second model until you get some feedback from the testing of the initial model? After all, there are real questions regarding payload and beam stability in bad weither, which relate as much to the aircraft as to the laser.

Contrary to what missile defense advocates contended, the Armed Services Committee did not set out to destroy our national missile defense effort. If that has been their intention the committee would have cut far more than $814 million in a $7.6 billion budget.

This debate was also over priorities. How should the United States spend an extra national defense dollar: On missile defense or on other more pressing needs? In my view, when we consider underfunded antiterrorism missions, one stands out above the beyond the others.

Our first line of defense in today's world should be to ensure that rogue states and terrorists never obtain weapons of mass destruction or the materials needed to make them. We spend between $1 and $2 billion a year toward this goal. We are nowhere close to the levels recommended by numerous outside experts, including the bipartisan task force headed by Howard Baker and Lloyd Cutler a year ago, which advocated spending approximately $3 billion per year.

The committee's original reduction would still have provided funding for our missile defense efforts that was four to six times what we spend on threat reduction programs. Putting aside the overall merits of national missile defense, I ask one simple question: Why can't we show the same sense of urgency and offer the same level of resources in combating the more immediate risk to a more anonymous nuclear weapon delivered without a ballistic missile, but hidden in the hull of a ship or smuggled in the trunk of a compact car?

Were this any other weapons system but national missile defense, I doubt the Senate would have amended such a modest and sensible committee-recommended funding reduction. Major weapons programs often encounter problems. My friends on the Armed Services Committee are all too familiar with unpredictable testing schedules, skyrocketing budgets, and the need to maintain effective oversight with respect to all weapons programs. And so it is with national missile defense.

The Armed Services Committee recommended some judicious cuts in missile defense funding on account of a lack of clarity and a lack of justification by administration officials. I believe the Senate should have rejected the Warner amendment.

Neither could I support the Levin second-degree amendment. I understood the chairman's intentions—to send a clear message that this body views antiterrorism missions as the greatest priority for our Nation.

He was absolutely right—that is our No. 1 priority. But the second-degree amendment still enabled the President to dedicate some, or even all, of the additional $814 million towards missile defense.

The administration did not prove the case for additional funding for missile defense beyond the $6.8 billion recommended by the Armed Services Committee. Our Nation faces too many threats for which we are not adequately prepared, to justify spending this additional funding on missile defense.

Regardless of what each of us may think or believe on national missile defense, it does not deserve an exemption from the basic principles of rational budgeting and honest oversight which govern every other Pentagon acquisition program.

Mr. DURBIN. Mr. President, I rise today to express my concerns about the serious wilderness and public lands management problems created by title XIV of the House version of the Defense Authorization Act. This provision was added in the chairman's mark at the behest of Representative JIM HANSEN. Title XIV would profoundly impact land management of nearly 11 million acres of non-military public lands falling underneath the Utah Test and Training Range airspace in western Utah.

No hearings were held in either the House or Senate to consider the possible consequences of the sweeping and controversial provisions in title XIV. While the House Resource and Senate Energy Committees would be appropriate venues for such hearings, hearings were not held in these committees, and they were not held in the House or Senate Armed Services Committees. No General Accounting Office or Department of Defense report has ever demonstrated the need for the provisions contained in title XIV. The Department of Defense has never requested the kind of control over non-military public land mandated by the provisions in title XIV.

In truth, title XIV is an attack without justification on the traditional management of wilderness and other nonmilitary public lands.

I wish to add my voice to the voices of Representative IKE SKELTON and 19 other House Democrats serving on the Armed Services Committee who noted in the committee report that:

''The military use language of title XIV is unprecedented and not found in any other law. Ironically, these provisions set a standard for wilderness management that would provide less protection to the wilderness areas designated by title XIV than the protections available to non-designated public lands. Millions of acres of designated wilderness and millions more acres of public land underlie military airspace across the United States. None of these lands have or need the restrictive language that title XIV would apply to wilderness and public lands in Utah.

''Language in title XIV would strip the authority of the Secretary of the Interior to determine where and whether facilities and equipment are placed on public lands within wilderness areas. Another provision allows the Secretary of the Air Force to unilaterally close or restrict access to wilderness and WSAs outside the boundaries of the UTTR and the Dugway Proving Grounds. These provisions are unprecedented, and no clear rationale has been given to warrant this change from existing law. Moreover, title XIV creates a different standard for access and military use for land in Utah than is applicable to all other public land areas of the United States.

''Furthermore, title XIV requires the Secretary of the Interior to gain the prior concurrence of the Secretary of the Air Force and the commander-in-chief of the military forces of the State of Utah before developing, maintaining, or revising land use plans required by Federal law for millions of acres of public lands in Utah. Is it unwise policy, to say the least, for a Cabinet secretary's role to be subordinate to a service secretary and a state military commanders.''

Taken together, the provisions in title XIV go far beyond any language ever included in enacted wilderness legislation, they put in place unprecedented high levels of Department of Defense control for all nonmilitary public lands falling underneath the airspace of the Utah test and Training Range, and they designate as wilderness, albeit wilderness in name only, merely a small portion of lands included in America's Redrock Wilderness Act, S. 786, of which I am the lead sponsor.

I urge those Senators who will serve conferees on the Defense Authorization Act to work for the removal of title XIV in conference.

I also would like to speak for a moment on two additional provisions within the Department of Defense authorization bill that passed out of the House, HR 4546. These measures weaken protections for endangered species and migratory birds.

I would like to state for the record that there are existing provisions that allow for case-by-case exemptions to address national security interests. For example, section 7(j) of the Endangered Species Act, ESA, gives the Secretary of Defense the authority to secure an exemption from the ESA's provisions whenever the Secretary finds it necessary for reasons of national security. Moreover, title 10 U.S.C. 2014 specifically empowers the President to resolve any conflicts between the DOD and other executive agencies that affect training or readiness. These waivers should be invoked on a case-by-case basis, rather than giving the DOD a blanket exemption to ignore laws that protect the air and water in and around our military facilities, the health of the people who live on and nearby bases, and America's wildlife and public lands.

Again, I urge my colleagues who will serve on the conference for this bill to reject any permanent weakening of or permanent waivers enabling the circumvention of our Nation's environment and public health laws.

Mr. BUNNING. Mr. President, I was proud to support the recent passage of S. 2514, the National Defense Authorization Act for fiscal year 2003. This bill continues to strengthen our military and is vital to the war on terrorism.

This is the most important bill we have debated in the Senate all year. The threats against us are real and I am pleased the Senate acted swiftly in passing this strong defense package. This bill authorizes $393.4 billion for national defense. That is $43 billion above the 2002 level, and the largest defense spending increase in over 20 years.

We are in this war against terrorism for the long haul and our increased military funding is justified. We now have troops on the ground in Afghanistan, the Philippines, and many other places we could not have foreseen before September 11. Depending on what happens as we fight this war, we may have to deploy our troops elsewhere to contain and battle threats against our Nation and freedoms.

This bill focuses on five objectives for our national defense.

First, it improves the compensation and quality of life for our soldiers, retirees and their families. For the fourth year in a row this bill includes a 4.1 percent across the board pay raise for all military personnel, with a targeted pay raise between 5.5 and 6.5 percent for mid-career personnel. A new assignment incentive pay of up to $1,500 per month is authorized to encourage personnel to volunteer for hard-to-fill positions and assignments.

The bill rewards our retirees and disabled veterans. The bill authorizes concurrent receipt of retired military pay and veterans' disability compensation for all disabled military retirees eligible for non-disability retirement.

For our troops with families, this bill increases the housing allowance, with the goal of eliminating average out-of-pocket housing expenses by 2005. And on our installations, $640 million is being added above the budget request to improve and replace facilities. This will help improve the housing, dining and recreation facilities for our trainees and troops.

These quality of life issues boost the morale of our troops, and send a strong signal that we in congress and across the Nation appreciate their defense of America and her freedoms.

Secondly, this bill also contains those necessary readiness funds to allow the services to conduct the full range of their assigned missions. We have added $126 million for firing range enhancements so that we can properly and effectively train our troops to fight and win.

And to show that defense is a top priority for our Nation, this bill authorizes the administration's $10 billion request to cover the operating costs of the ongoing war on terrorism for next year. After speaking with various military leaders and hearing their testimony before the Senate Armed Services Committee, we heard how important the issue of readiness is for every branch of the military today. This bill addresses this important issue by funding the most pressing shortfalls.

Third, in this bill we also address the goal of improving efficiency and increasing savings with DOD programs and operations. These savings will allow us to redirect and focus on high-priority programs within the DOD.

Some of these provisions include $400 million in anticipated savings by deferring spending on financial systems that would not be consistent with those financial management systems available and used by non-government entities. Soon we will have a system to better keep track of valuable DOD and service funds. This brings not only savings, but accountability to the DOD and the services. Although the DOD's mission is more unique than any other Federal department, it is not immune to wasteful and duplicative spending which we often see in other Federal departments.

Furthermore, this bill holds a provision requiring the DOD to establish new internal controls to address repeat problems with the abuse of credit cards we have seen for the purchase of non-essential and questionable travel spending by military and civilian personnel. And with the $393.4 billion we are authorizing in this bill, it is imperative now more than ever that we have a real sense of accountability for oversight reasons and for the sake of making sure we are giving the taxpayers the biggest bang for the buck. After all, this bill spends more than $1 billion a day on national defense activities. For that price, the taxpayers should get their money's worth.

Fourth, this bill also helps our military meet more non-traditional

threats. We increased funding for fighting these threats to help secure our nuclear weapons and materials at Department of Energy facilities, and defend against chemical and biological weapons and other weapons of mass destruction.

Finally, our Senate Armed Services Committee wanted to be sure that our military always stay on the cutting edge of new technologies and strategies to meet the threats of the 21st century. Promoting and embracing transformation of our forces is not easy. But it is essential. This bill helps us to promote a new mind set for the future. I know it is tough to wean ourselves off of some of the legacy systems and structures in place in our armed forces. And I know that some in our armed forces are skeptical about change. But we have to begin to think differently. The world is changing, and not necessarily for the better. Our military has to keep up with that change.

While I did vote for this bill in the Senate Armed Services Committee, I did not agree with the fact that it originally slashed missile defense spending by just over $800 million. This drastically altered President Bush's national security strategy and made our Nation and allies more vulnerable to a possible missile attack.

But thankfully we found a way on the Senate floor during the bill's consideration to move just over $800 million back to President Bush's missile defense priorities to protect America. I was proud to cosponsor an amendment which fulfilled this obligation by using expected DOD inflationary savings and adjustments. This offset was responsible because it did not cut any other valuable DOD programs needed to strengthen our military. And I was pleased that this was a bipartisan effort by the Senate with the amendment's unanimous acceptance.

But, thankfully this amendment was accepted. Without it, this vital bill was jeopardized. After all, Secretary Rumsfeld, in a letter to the Senate Armed Services Committee wrote, ''if the missile defense provisions in the Senate Armed Services Committee's version of the bill were to be adopted by Congress, I would recommend to the President that he veto the Fiscal Year 2003 National Defense Authorization Act.'' So, its inclusion helped pave the way to an optimistic path to President Bush's desk.

Finally, we have had a very intense debate about the Crusader Artillery System. I would like to note that while I supported the compromise Levin amendment last week over the Crusader program, I remain concerned about our ability to effectively support our troops with adequate fire support. Right now we are vastly under-gunned in artillery by some nations. Our own artillery systems could not even meet our needs during the Gulf war more than a decade ago. And those systems have not significantly changed since then.

The possibility of shifting funds from Crusader to other indirect fire weapons concerns me in that we are again delaying when we will actually deploy sufficient fire support to protect our armed forces. The DOD hopes to speed up the deployment of these new technologies so they would be available around the same time Crusader will be. I am concerned about our ability to meet this time line.

Throwing money at a program does not necessarily mean you can magically speed up its development. Some things just take time, and Crusader is a lot farther along in the development process than many of these other technologies. I will be watching this process closely to ensure that effective indirect fire support capability reaches our troops quickly.

Overall, this is a solid bill. The sooner we get this bill to President Bush, then the better chance we have at providing our military with the essential training and strength resources to fight terrorism or anything else that seeks to destroy America, our people and our freedoms.

Mr. ROBERTS, Mr. President, I wish to clarify my comments concerning my amendment to authorize, with an offset, $1,000,000 for research, development, test, and evaluation, defense-wide, for analysis and assessment of efforts to counter possible agroterrorist attacks. The amendment was adopted June 26 by voice vote. I stated then that the $1,000,000 was destined for the In-House Laboratory Independent Research (PE 0601103D8Z) account. In fact, the funds will be applied to the Chemical and Biological Defense Program (PE 0601384BP) account. The intent of the amendment, however, remains the same. It is still my hope that universities with established expertise in the agricultural sciences can conduct studies and exercises that lead to better coordination between Federal, State, and local authorities as they attempt to detect, deter, and respond to large scale coordinated attacks on U.S. agriculture. I envision universities assisting the Department of Defense in determining what role—if any—our military or defense agencies play in countering agroterrorism. I thank my colleagues for supporting amendment No. 4138.

Mrs. FEINSTEIN. Mr. President, I rise today to thank the leadership on both sides of the aisle for clearing an amendment I introduced with my colleague from Alaska, Senator STEVENS, to prohibit the use of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

Senators LEVIN and WARNER have shown tremendous leadership by working hard to address this important issue, and I want to personally thank them for their efforts.

I want to comment briefly on the details of the amendment because I feel so strongly, as do my colleagues in the Senate, that both Chambers of Congress move to prohibit nuclear armed interceptors.

A nuclear armed interceptor is a defensive missile that uses a nuclear, rather than conventional, explosive tip to destroy its target. It is based on the premise that a large blast will overwhelm all of the components of an enemy missile.

The Washington Post reported in April of this year that the Pentagon was pursuing plans to resume research and testing of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

I think this would be a great mistake and would endanger the health and safety of all Americans.

The Post reported on April 11 that the Defense Science Board, a research body within the Department of Defense, received encouragement from Secretary Rumsfeld to consider using nuclear tipped warheads for a missile defense system.

On April 17, Senator STEVENS and I, at an Appropriations Defense Subcommittee hearing, asked General Kadish of the Missile Defense Agency to refute the Washington Post story. He responded that his agency would not conduct research into nuclear warheads.

To further clarify the point, we also asked Secretary Rumsfeld to address the allegation in writing. He also assured us the Pentagon would no longer encourage such testing.

Inexplicably, in this year's House Armed Services Committee report on the House passed Defense authorization bill, there is language sanctioning nuclear interceptor research. The report states:

> The Department may investigate other options for ballistic missile defense nuclear armed interceptors, blast fragment warheads . . . as alternatives to current approaches . . .

This troubling development led Senator STEVENS and me to introduce today's amendment, which prohibits any funds from being used for nuclear armed interceptors.

Our amendment simply states:

> None of the funds authorized to be appropriated by this or any other Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

The use of nuclear armed interceptors represents a deeply troubling departure from the missile defense testing that has occurred up to this point.

For the past year, the Pentagon has been pursuing a technically problematic approach to missile defense.

They have attempted to ''hit a bullet with a bullet.''

This means that the missile defense system has to individually hit each incoming warhead in order to eliminate the total threat.

But under this system, the Missile Defense Agency still fails to address the decoy warheads and other countermeasures that force our systems to rapidly determine which is the actual warhead to be targeted and which is simply a decoy.

This core dilemma led the Pentagon to explore the concept of using a nuclear armed interceptor to destroy all of the incoming warheads, real and decoy alike.

Instead of targeting a particular missile, a nuclear tipped interceptor would be exploded in the vicinity of the missile, ensuring the destruction of the missile and any others objects around it.

This approach raises serious questions about the confidence the Missile Defense Agency appears to have in its current ''Hit a Bullet with a Bullet'' plan.

But perhaps more importantly, this approach overlooks a laundry list of catastrophic side-effects that would accompany a nuclear blast in the atmosphere.

Even a low-yield nuclear blast in the atmosphere would have grave consequences on public health and on the global economy.

Atmospheric winds could potentially spread fall-out over American or allied sovereign territory, the very territory we are trying to protect from nuclear attack.

Add the possibility of intercepting a chemical or biological warhead, and we exponentially increase the risk of spreading spores or chemical agents over a wide area.

The Electromagnetic Pulse (EMP) from an overhead nuclear blast would severely disrupt and most likely permanently damage U.S. and foreign satellites.

These are the very satellite systems we rely on to provide us with early warning and key intelligence for national security operations.

I think we all can see the serious ramifications of pursuing such an ill-advised policy, and I believe that this amendment is needed to prevent us from going down this path.

As Senators from two States that could feel the brunt of radiological, chemical or biological fall-out in the event of a missile defense activation, we are compelled to act.

But make no mistake about it, every State in the Union faces the specter of contamination.

Given the language included in the House bill promoting nuclear intercept research, it is critical the Senate take a leadership role by preventing such research and testing.

I urge my colleagues to support this amendment and inject some common sense into the debate over the future of missile defense.

Ms. SNOWE. Mr. President, I rise to speak on the Senate version of the FY2003 National Defense authorization bill.

As a former member of the Senate Armed Services Committee and former chair of the Seapower Subcommittee, I fully appreciate the hard work and long hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of the bill.

There are many important provisions in this bill. However, there are also some critical defense requirements which were overlooked. And I would like to take a moment to address those concerns.

First and foremost, with the enormous increase in the defense budget overall, I am deeply troubled that we would fail to sustain the size of our naval fleet, which has played such a critical role in the war on terror.

Admiral Robert J. Natter, Commander in Chief of the U.S. Atlantic Fleet, captured it best when he said ''We fight them here, or we can fight them there—it's America's choice.'' And he continued ''I'd prefer to fight them there, because I know we can beat them.''

Well, we can't fight them there without a Navy. In the opening days of Operation Enduring Freedom, our Navy fired over 90 Tomahawk cruise missiles aimed at crippling Taliban air defenses. The Navy executed the majority of the air strikes in the land war. Aircraft-carrier based fighter and strike aircraft launched 60 to 80 missions a day dropping thousands of bombs on terrorists and Taliban targets. More than 50 Navy ships participated in the action. I am proud of our Navy, but the fact of the matter is, if we do not increase the ship procurement rate, the size and strength of our fleet is going to be diminished.

If we allow this to happen, we are doing future generations a great disservice. Because the reality is that, when the United States us unable, for whatever reason, to launch military strikes from ground bases in a region where U.S. interests are at stake, there are times when our Navy may be the only option.

Yet, the fleet was stretched too thin even before Operation Enduring Freedom. When I was chair of the Senate Seapower Subcommittee, I heard this time and again from senior Navy officials. As the war on terror continues, I believe it is more important than ever that we maintain a fleet large enough and strong enough to project the power we need in order to safeguard U.S. interests.

These are the facts, The Administration proposed in its budget to procure five new Navy ships in Fiscal Year 2003 and a total of 34 new Navy ships through Fiscal Year 2007. This is an average of 6.8 new ships per year. But we need 8.9 ships per year just to maintain a 310-ship fleet.

The size of the fleet could fall to 263 ships by 2015 to 2025 if we do not reverse this trend. Last year, Secretary Rumsfield painted an even more dire picture, estimating that the Navy could end up with a 230 ship Navy in the 2025 time frame without substantial increases in the build rate. Contrast this with the size of our fleet in 1987 when we had 568 ships.

I know that the administration recognizes the problem, and I credit them with understanding the need to build more ships in the future. The DOD and the Navy have acknowledged the need to build more ships. Last year, a study conducted by the Office of the Secretary of Defense concluded that the Navy should have 340 ships. Navy officials put the number at 370–380. And they should know. They are the men and women who are responsible for our forward deployed forces. But we need to help them by taking action. Whatever the ultimate number, we need to reverse the current trend and begin to build a bigger fleet. But we need to begin to produce more ships now, because there is not doubt that the size of our naval fleet is a vital matter of national security. We can't afford to wait any longer.

We can't afford to risk this essential component of our world-wide defense force. After all, 80 percent of the planet's population lives along the coastal plains of the world, and it is the Navy that has the capability that is imperative if we are to maintain military superiority and defend America's national interests in the 21st century. For even with today's rapidly changing and diverse security threats, there is no foreseeable future that would have our security interests best served by a diminished naval fleet.

Despite the fact that Secretary England has endorsed funding for a third destroyer, for example, this bill fails to fund an additional ship. To maintain readiness and to sustain the industrial base, we desperately need a third destroyer authorized and funded in fiscal year 2003.

Even to maintain a 116-ship surface combatant force, given the projected service life of 35 years for DDG–51 Class ships, requires a sustained replacement rate of over three ships per year. If you assume a 30-year service life, which is more realistic historically, sustaining even the 116-ship surface combatant force would require annual procurement of almost four DDGs each year.

And at a rate of only two destroyers a year, it may be difficult to sustain the yards that have historically built these critical platforms. That is why I was pleased to team with Senator COLLINS to extend the multi-year procurement rate for DDG destroyers through fiscal year 2007. As chair of the Seapower Subcommittee, I secured procurement authorization for three DDGs annually through fiscal year 2005, and this bill extends that authorization for an additional two years. It is still imperative to add a third destroyer to the fiscal year 2003 budget, but this multi-year procurement is a step in the right direction.

While I am very concerned about the failure to fully fund the shipbuilding accounts, I do believe credit is due in some other important areas. For example, the bill does make some invaluable personnel contributions. The measure includes a 4.1 percent across-the-board pay raise for all military personnel, with an additional targeted pay raise for the mid-career force. It includes a

provision authorizing the concurrent receipt of military retirement pay and veterans disability compensation for military retirees with disabilities, an effort which I have long supported.

The bill also reaffirms Congress's commitment to the war on terror by funding requirements needed to support our Soldiers, Marines, Sailors, and Airmen who are on the front lines with the planes, vehicles, ships and armaments they need to carry out their critical missions.

The bill would set aside $10 billion, as requested by the administration, to fund ongoing operations in the war against international terrorism during fiscal year 2003. And it includes substantial funding to meet asymmetrical terrorist threats including chemical, biological, and nuclear weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future.

It would increase by $199.7 million funding to enhance the security of nuclear materials and nuclear weapons at Department of Energy facilities. It would increase funding for U.S. Special Operations Command by $42.7 million. Defenses against chemical and biological weapons and other efforts to combat weapons of mass destruction would see an increase of $30.5 million. And the bill would find the request of over $2 billion for force protection improvements to DOD installations around the world.

Finally, the bill would also make possible continued improvements in the Navy's human resources services with the authorization of $1.5 million for operation of a pilot human resources call center in Machias, Maine under an amendment I worked to include in the bill.

This call center went on-line in January of this year. I worked hard with the Navy to locate this facility in Washington County, ME to help compensate for the loss of military personnel at the Cutler Naval Computer and Telecommunications station in Cutler, a communication center used to provide contact with U.S. submarines in the North Atlantic, Mediterranean and Arctic seas. At its peak there were 220 people working at the base—110 civilians and 110 Navy personnel.

The call center establishes a single national employee benefits center for the Department of the Navy to standardize the ''call in capability'' of services currently performed in eight separate Human Resources Service Centers. This center integrates developed computer and internet technologies to provide updated information immediately to Navy civilians and beneficiaries who make inquiries.

In closing, let me say that I hope during the House-Senate conference on the defense authorization that we will be able to build on the foundation that has been set in this bill and make it an even stronger bill.

Mr. FEINGOLD. Mr. President, I will vote against the National Defense Authorization Act for fiscal year 2003. I regret that the Senate has missed another opportunity to reorient the thinking—and spending—of the Pentagon.

I strongly support our men and women in uniform in the ongoing fight against global terrorism and in their other missions, both at home and abroad. I commend the members of the National Guard and Reserves and their families for the sacrifices they have made to protect our security and freedom. More than 85,000 National Guard and Reserve forces have been called to active duty since September 11, including personnel from a number of units in Wisconsin. All members of our military and their families—active duty, National Guard, and Reserves—deserve our sincere thanks for their commitment to protect this country and to undertake the fight against terrorism in the wake of the horrific attacks of September 11.

Each year that I have been a Member of this body, I have expressed my concern about the priorities of the Pentagon and about the process by which we consider the Department of Defense authorization and appropriations bills. I am troubled that the Department of Defense does not receive the same scrutiny as other parts of our Federal budget. This time of unprecedented national crisis underscores the need for the Congress and the administration to take a hard look at the Pentagon's budget to ensure that scarce taxpayer dollars are targeted to those programs that are necessary to defend our country in the post-cold war world and to ensure that our Armed Forces have the resources they need for the battles ahead.

There can be no doubt that Congress should provide the resources necessary to fight and win the battle against terrorism. There should also be no doubt that this ongoing campaign should not be used as an excuse to continue to drastically increase an already bloated defense budget.

When adjusted for inflation, the spending authorized by this bill, as it was reported to the Senate by the Armed Services Committee, represents the largest increase in defense spending since 1966. Just how big is this increase? The whopping $393.4 billion authorized by this bill is $152.2 billion more than combined defense budgets of the United Kingdom, Japan, Russia, France, Germany, Saudi Arabia, India, China, South Korea, Taiwan, Iran, Pakistan, Syria, Iraq, North Korea, Yugoslavia, Libya, Sudan, and Cuba.

The $46 billion increase over fiscal year 2002 alone is more than the Defense budgets of any one of these 19 countries. The country with the second-largest defense budget, the United Kingdom, spent just $34.8 billion in 2001. This bill authorizes a defense budget that is more than 11 times greater than that of our closest ally.

A strong national defense is crucial to the peace and stability of our Nation. But a strong economy is also essential to national security. We must not focus on one to the detriment of the other. Many of the expensive weapons systems that are authorized in this bill have little or nothing to do with the fight against terrorism, which is often cited as the reason for the $46 billion increase in defense spending contained in this bill. I am concerned that if we continue down this path, defense spending will spiral further out of control, perhaps putting other areas of our economy at risk.

I am pleased that the Senate adopted an amendment to cut funding for the Army's Crusader mobile artillery program. I support the Secretary of Defense's decision to cancel this outdated program. Last month, I introduced legislation that would terminate the Crusader program, saving taxpayers an estimated $10 billion over the life of the program. I commend the Secretary of Defense for his efforts to transform our military to meet the challenges of the 21st Century and beyond, and agree that cold war-era dinosaurs such as the Crusader should be terminated.

I regret that so little progress has been made to transform the military for these new challenges. The hard-fought battle to terminate the Crusader program—a program that was canceled by the Secretary of Defense—stands as an example of how difficult it is to change the mind-set of the Pentagon and the Congress. The beleaguered Crusader is the poster child for an obsolete, cold war-era program, yet there are those in the Congress and at the Pentagon who are digging in their heels and trying desperately to save it. The termination of a weapon system such as the Crusader is an example of the hard decisions that this body will have to make as we face the realities of the federal budget and as we seek to provide our Armed Forces with the equipment they will need to fight the battles of the future.

I am pleased that this bill authorizes an increase in full-time manning for the Army National Guard. As we continue to call upon the Guard and Reserves for active-duty missions that are longer in duration, the role of the full-time Army National Guard personnel who support these missions becomes increasingly important. The Army National Guard relies heavily on Active Guard/Reserves and Military Technicians to perform a wide variety of essential day-to-day operations, ranging from equipment maintenance to leadership and staff roles.

According to Lieutenant General Roger C. Schultz, Director of the Army National Guard, ''Increased full time support is an absolute necessity for Army National Guard units as the Army places greater reliance on the Army National Guard to provide trained and ready soldiers in support of Homeland Security efforts, as well as forces for theater Commander in Chiefs in support of the National Military Strategy. These full time personnel are the vital link for the traditional part

time Army National Guard commanders working to achieve expected readiness goals. Units that are understrength in full time support personnel have difficulty maintaining pace with current elevated Operational Tempo. Consequently, many units fail to attain and maintain readiness levels.''

This bill authorizes 724 additional Active Guard/Reserve positions and 487 additional military technicians, which, according to the National Guard Bureau, are the minimum essential requirements for full-time manning for the Army National Guard. These increases match those contained in an amendment that I offered to the fiscal year 2003 budget resolution that was adopted unanimously during the Budget Committee's mark-up earlier this year.

I am troubled that the Senate added to the bill the $814.3 million that the Armed Services Committee cut from the President's request for national missile defense by the unfortunate adoption of an amendment offered by the ranking member of the committee, Mr. WARNER. The amendment would allow the President to spend this money on missile defense or on defense activities to combat terrorism at home and abroad. This bill, as reported to the Senate, includes $6.8 billion for the still unproven missile defense system. While I did not originally oppose legislation authorizing development of a missile defense system, I remain skeptical about the need for such a system. Congress should maintain tight cost controls over this system, as the Armed Services Committee attempted to do by cutting $814.3 million for a number of questionable aspects of the Administration's request. I am still concerned that the $6.8 billion in the bill is far too much for this program, but these cuts were a step in the right direction.

I am also concerned that the proposed offset for the additional funding in the Warner amendment comes from ''amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.'' This flimsy accounting gimmick should not be cited as an offset. In reality, there is no offset for this spending increase.

I am pleased that the Senate adopted a language offered by the chairman of the committee, Mr. LEVIN, that directs that priority for allocating any funds made available to the Department by a lower rate of inflation be given to ''activities for protecting the American people at home and abroad by combating terrorism at home and abroad.'' Clearly, the proposed missile defense system does not fit this definition. But I am troubled by the underlying Warner amendment because I oppose giving the President the option to spend additional funding on missile defense.

I am pleased that the committee included in the bill language that will help to improve congressional oversight of the missile defense program by, one, requiring that the Director of Operational Test and Evaluation conduct an annual operational assessment of the program and that the Joint Requirements Oversight Council review the cost schedule and performance criteria for the program, and, two, requiring that the Secretary conduct a review of the major elements of the missile defense program and report to Congress cost and schedule information similar to that required for other major defense programs.

Turning to another issue, I continue to be concerned about the Marine Corps' troubled V–22 Osprey program. I met recently with Colonel Dan Schultz, the Marines' V–22 Program Manager, and others to discuss the status of this program and to express my concerns about the Osprey. I appreciate Colonel Schultz' commitment to ensuring that the Osprey is a safe and effective aircraft and his thoughtful approach to the new flight testing program, which began on May 29.

The safety of our men and women in uniform should continue to be top priority as we consider the Osprey's future.

I am troubled that the Osprey nearly made it to a Milestone III production decision in late 2000 with extensive problems in its hydraulics system and flight control software. While I appreciate the hard work that the Marines and the contractors have done to correct these problems, I remain concerned that there is no clear answer for why these deadly problems, which combined to cause the December 2000 crash that killed four Marines, weren't discovered much earlier.

I am also troubled by the lack of concrete information about how to avoid the dangerous vortex ring state, which occurs when the Osprey descends too rapidly. I remain concerned about the effect that the vortex ring state could have on the ability of the Osprey to perform in combat, especially if a pilot has to make a fast exit from a hostile situation. I will monitor closely planned extensive testing that the Marine Corps has planned to study this phenomenon and ways to help pilots avoid it.

The ongoing flight tests should provide a definitive assessment of the aircraft's capabilities. If the Osprey is not up to the job, then the Defense Department should be prepared to consider other alternatives that will meet the needs of the Marine Corps in a safe and cost-effective manner. I will work to ensure that Congress maintains strict oversight of the testing program.

In addition, I will oppose any attempt to increase procurement of the Osprey beyond the minimum sustaining rate until the Marine Corps has demonstrated that the Osprey is safe and effective and meets or exceeds all of its performance criteria. I am still not convinced that the Osprey will work, and whether it can be made to work in a cost-effective manner.

In sum, as I have said time and time again, there are millions upon millions of dollars in this bill that are being spent on outdated or questionable or unwanted programs. This money would be better spent on programs that truly improve our readiness and modernize our Armed Forces. This money also would be better spent on efforts to improve the morale of our forces, such as ensuring that all of our men and women in uniform have a decent standard of living or providing better housing for our Armed Forces and their families. For those reasons, I will oppose this bill.

Mr. JEFFORDS. Mr. President, I want to thank the chairman, the ranking member, and the staff of the Senate Armed Services Committee for their efforts to address my concerns with the current funding situation for the National Guard Competitive Sports Program. I hope this issue can be resolved in conference.

Mr. President, our world as we know it changed dramatically after the events of September 11, 2001. I believe we must support the President of the United States in a time of war and I think the Fiscal Year 2003 National Defense Authorization Act does exactly that. However, I think we must not lose sight of the fact that we still rely on an all-volunteer force to man the ranks of our military. This means we must, even in a time of war, continue to have a robust retention and recruiting program, especially if the war on terrorism becomes a lengthy one. The best recruiting and retention programs are those that enable the services to get out and interact with the public, which brings me to an issue I would like to see rectified in conference.

We need a minor change in current law, which would allow National Guard units to use a small amount of appropriated funds to sponsor sports competitions and send Guard members to those competitions. As the law reads now, only non-appropriated funds may be used to cover expenses such as health, pay, and personal expenses for participating National Guard members. Unlike our active forces, the National Guard does not have access to non-appropriated funds as they do not own or operate non-appropriated fund generating functions, such as military exchanges, commissaries, and the like.

Unlike Active Duty military personnel who have all health, pay, and personal expenses covered while participating in competitive sports, National Guard members are not on duty while competing in sporting events, and thus are not covered. For example, if a National Guard member suffers an injury while competing at the marksmanship competition, the service member must pay for the incurred health costs although the individual was competing with his or her Guard unit. And, unfortunately, placing National Guard

members on orders, as occur when military reservists participate in these competitions, is not a solution to the coverage issue.

The senior Senator from Vermont and I had hoped to offer an amendment to allow the National Guard to spend a limited amount of appropriated funds, capped at $2.5 million per year, on its sports program. It should be emphasized that we only seek to allow the National Guard to participate in the same manner as Active Duty military. The House overwhelmingly passed a National Guard Sports amendment offered by Representative BEREUTER to their Fiscal Year 2003 National Defense Act, which is identical to the change I seek. I urge the chairman and ranking member to adopt the Bereuter provision in the House bill when the Fiscal Year 2003 National Defense Authorization Act goes to conference.

On 17 June 2002, Colonel Willie Davenport, Chief of the National Guard Bureau's Office of Sports Management passed away while on travel between duty stations. I did not know Colonel Davenport, but my staff informs me that he was by all appearances a gentle, modest, and gracious man. My staff worked extensively with Colonel Davenport in preparing an amendment concerning National Guard Sports. I read the Guard's recent press release concerning Colonel Davenport, and I was quite impressed by his accomplishments as a teacher, mentor, coach, and soldier. What many may not know is that Colonel Davenport while serving as a soldier was also a five-time Olympian. He won Gold in the 110-meter high hurdles while representing the United States in the 1968 summer Olympics in Mexico City, and that was only the beginning. Colonel Davenport went on from there to represent the Army and the United States in a variety of capacities in the competitive sports world. He coached the All-Army Track and Field Team from 1993–1996, which was undefeated all 4 years. Colonel Davenport in his capacity as a teacher, mentor, coach, soldier and Olympian made a very positive, and lasting impression on a good number of young men and women who came to know, work, and enjoy his company. A man of his character and accomplishment will be missed. We know that he has prepared a good number of others to continue to light the path ahead. Colonel Davenport had a dream. His dream was to develop a program that would train and sponsor premier Army and Air National Guard athletes for international competition.

Colonel Davenport's National Guard Competitive Events Sports Program provides National Guard members with an opportunity to hone their training-related skills, such as running, swimming, and marksmanship, in a competitive atmosphere. As the National Guard actively recruits new members, this can be another feature in recruitment and retention programs for certain members of the National Guard. Through these competitions, National Guard members can qualify for higher-level national and international competitions, including the Pan American Games and the Olympics.

National Guard members who compete in athletic and small arms competitions could then do so with members of the Active Duty military. Bringing Active, Reserve, and National Guard components together at these competitive sports events will help build greater service component cohesiveness.

While recruiting, retention, esprit de corps, and community support have always been important to maintaining a strong National Guard structure, they have become even more critical as we wage the war on terrorism during which our men and women in the National Guard are more frequently called into duty overseas and to provide security on the homeland.

The National Guard needs a change in the law if Colonel Davenport's National Guard Competitive Events Sports Program is going to survive. The National Guard must be able to sponsor competitions and send its members to those competitions, as they are an important tool and incentive to recruit and retain some of America's best and brightest.

This issue is important to the Vermont Guard and the National Guard as a whole. I hope we can provide the National Guard with the authority they need to have a robust sports program.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the amendment offered by my friend and colleague, Senator HUTCHISON, regarding base closures.

Last year, with the passage of the fiscal year 2002 National Defense Authorization Act, Congress authorized a round of base closures in fiscal year 2005. So we are now on a path to a base closure round in 3 years.

Even before the horrific attacks of September 11, 2001, there were serious questions about both the integrity of the base closing process itself as well as the actual benefits. Now, with the U.S. in the midst of a war on terror, with no end in sight, I do not believe base closure is a wise path. Instead, Congress was pressed to authorize a base closure round in the dark.

Proponents of base closure claim that efforts to reduce infrastructure have not kept pace with our post cold war military force reductions, and that bases must be downsized proportionate to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war, through fiscal year 01, we reduced the military force structure by about 36 percent and reduced the defense budget by about 40 percent. But while the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to in the last decade has dramatically increased. And, keep in mind, once property is relinquished and remediated, it is permanently lost as a military asset for all practical purposes.

In addition, advocates of base closure allege that billions of dollars will be saved. And yet, the Department of Defense has admitted that savings will not be immediate—that approximately $10 billion would be needed for up-front environmental and other costs; and that savings would not materialize for years.

This is why I was pleased to team with Senator HUTCHISON in her effort to establish some basic criteria designed to guide the process, and I deeply regret that the Senate will not have the opportunity to adopt these provisions.

Senator HUTCHISON's provision, of which I am an original cosponsor, would set criteria for the base closure process—to make the process less political, less subjective, and more objective.

The Hutchison amendment would have made sure that the process accounts for force structure and mission requirements, force protection, homeland security requirements, proximity to mobilization points, costs of relocating infrastructure including military construction costs, compliance with environmental laws, contract termination costs, unique characteristics of existing facilities, and State and local support for a continued presence by the military.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submarines, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this Nation maintains the military infrastructure it will need in the years to come to support the war on terror.

In short, we must not degrade the readiness of our armed forces by closing more bases. I thank Senator HUTCHISON for her leadership on this important issue, and I remain hopeful that if we press ahead with this ill-conceived base closure round in just 3 years time we will have an opportunity to at least establish sound, basic ground rules.

Mr. WELLSTONE. Mr. President, I rise to address the subject of our Nation's security needs in the context of the Defense authorization bill presently before the Senate.

I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, warfighting, or other missions they are given. They deserve the targeted pay

raises of 4–6 percent, the incentive pay for difficult-to-fill assignments, and the upgrades to currently substandard housing contained in this bill. Under an amendment adopted by the Senate, the women who serve our country overseas in the Armed Forces will be able to obtain safe, privately funded abortions in overseas military hospitals. For many years running, those in our armed forces have been suffering from a declining quality of life, despite rising military Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed as they continue to be mobilized in the war against terrorism in response to the attacks of September 11. This bill goes far in addressing those needs, and I will vote for it today.

This bill also addresses a fundamental unfairness in the treatment of America's veterans by allowing concurrent receipt of military retiree benefits and VA disability benefits. Under current law, if you are career military and you earned a military pension, and you also have service-connected disability as a veteran, your military pension will be reduced by the amount you receive in VA disability payments. As a result, hundreds of thousands of American veterans, men and women who have served their country, are being cheated out of retirement benefits by this bizarre rule and it is time to make a change. Our disabled veterans have earned their retirement and deserve to receive fair treatment.

Last year we passed this same legislation in the Senate, but it was gutted in the House. The Defense Department says it will recommend a veto of this bill if we restore these benefits. But I do not believe that the President will veto legislation to restore the benefits earned by disabled veterans, while career military men and women are overseas fighting for their country, at great risk to their lives. Instead of making threats, let's sit down and get this done for America's vets.

I also believe the bill addresses some of the serious flaws in the process by which the Defense Department summarily terminated the Crusader Artillery system. I strongly believe in fair, transparent, and informed government-decision making processes, which did not occur in the case of the Crusader. Three Defense secretaries, three Army secretaries, and three Army chiefs of staff, as well as numerous administration officials, testified in support of the Crusader. Yet within a few weeks of this testimony, the Secretary of Defense abruptly terminated the Crusader. The decision was made without consultation with the Joint Chiefs of Staff, without consultation with the Army, and without consultation with members of Congress. The Senate adopted an amendment which would require the Army Chief of Staff and Secretary of Defense to conduct a serious study of the best way to provide for the Army's need for indirect fire support. At the same time, it provides the Secretary of Defense, following the study, a full range of options. These include termination to continued funding of Crusader, to funding alternative systems to meet battlefield requirements.

Another issue I consider to be extremely important in relation to this bill has to do with our own military presence in the Republic of Colombia. As you know, under Plan Colombia, restrictions were placed on the number of U.S. troops and contract personnel in Colombia at any given time. Initially, a 500 troop, 300 contractor limitation was in place. Over time, however, the Senate has acted to address the needs of the Departments of Defense and State by shifting the ration of troop and contractors to 1:1. As a result of recent Foreign Operations Appropriations legislation, the troop cap dropped from 500 to 400, while the contractor cap was lifted from 300 to 400 personnel.

Frankly, I am concerned that attempts may be made to raise the troop and contractor caps in Colombia. I have long argued that the United States should be careful and targeted in how it approaches the conflict in Colombia. I'm sure that most Senators would agree that it is important to retain the present limitations on U.S. troops and contractors in Colombia at 800 thru 400 troops, 400 contractors. Moreover, it is my understanding that the Department of Defense has not asked for the troop cap to be raised in Colombia, nor has the administration sought to have the troop cap waived. For this reason, I would like to be on record in support of present troop and contractor limitations in Colombia.

Although I expect future debate on the contentious issues surrounding U.S. policy in the Andes, I think it is important for the Senate to be clear on this component of our aid to Colombia. I am concerned that we are getting deeper and deeper into a devastating civil conflict with myriad violent actors of ill repute. That said, I continue to hold out hope that the Congress can work with the administration to craft a policy for Colombia that reflects the best of American values, and acknowledges the economic and social needs of Colombia's beleaguered population. The administration should retain the troop and contractor caps in Colombia, and Congress should be adequately consulted should they decide to seek any such change.

I also have concerns about the bill, especially about its missile defense provisions. The initial committee language would have cut total funding for missile defense from $7.6 billion to $6.8 billion. The Senate adopted an amendment to restore the entire $814.3 million that the Senate Armed Services Committee cut from missile defense, with the President being given the option of spending the funds on either missile defense programs or on combating terrorism. It was not my preference that the cut be restored, but I agree with the Senate's unanimous sentiment that these funds be used for the urgent priority of combating terrorism, and my strong hope is that the President will not disregard the will of the Senate and use these funds for missile defense instead.

I have long been a critic of Ballistic Missile Defense, BMD, and I still have strong reservations about the feasibility, cost, and rationale for such a system. The last time I addressed missile defense on the Senate floor was on September 25, exactly two weeks after terrorists destroyed the World Trade Center. I argued then that pressing ahead on BMD would make the U.S. less rather than more secure. Instead, I suggested the Senate give homeland defense the high priority it deserves by transferring funds to it from missile defense programs.

Given the justifiable concerns of Americans about possible terrorist attacks on U.S. nuclear facilities, it makes more sense to use the funds to protect our citizens against a priority threat rather than to counter a low priority threat with a very costly system that a number of informed scientists believe may never work.

Under Chairman LEVIN's leadership, the committee eased the effects of the administration's April decision to provide emergency funding for only 7 percent of Energy Secretary Abraham's request for $398 million to improve security of nuclear weapons and waste. In a letter sent by Secretary Abraham to OMB Director Mitchell Daniels obtained by the New York Times, the Secretary stressed that the $398 million he was requesting was ''a critical down payment to the safety and security of our nation and its people.'' I couldn't agree more. But the administration obviously didn't agree and approved only $26 million.

The April 23rd New York Times article on the matter made clear that the programs covered by the DOE request are vital to the protection of the United States from terrorist attack. Unbelievably, funding was turned down for several programs designed to safeguard nuclear weapons and weapons material in storage, including: $41 million to reduce the number of places where weapons-grade plutonium and uranium were stored; $12 million to detect explosives in packages and vehicles at DOE sites; $13 million to improve perimeter barriers and fences; $30 million to improve DOE computers, including the ability to communicate critical cyber-threat and incident information; and $34 million for increasing security at DOE laboratories.

Who can argue that BMD funding for programs that can't be justified by DOD or are duplicative should take priority over programs designed to deter terrorist actions against U.S. nuclear weapons, weapons materials, and weapons laboratories? Just a few days ago, reports of possible terrorist use of a dirty bomb against the United States caused widespread public alarm. I am sure the American people would be

even more alarmed by a threatened terrorist attack against DOE nuclear facilities.

An attack by ballistic missiles is one of the least likely threats we face. Much more probable threats which a missile defense won't address are nuclear, biological or chemical attacks using planes, boats, trucks or suitcases. And as we are all aware even an impenetrable missile defense would have been useless against the assault on the World Trade Center. In short, I remain convinced that a national missile defense would be ineffective in preventing attacks by rogue states or terrorists.

While the intelligence community continues to devote considerable resources to estimating both the threat of an ICBM and unconventional attack on the United States, it still finds that unconventional attacks are the more likely of the two. For example, recent testimony by the National Intelligence Officer, NIO, for Strategic and Nuclear Programs, before a subcommittee of the Senate Governmental Affairs Committee repeated previous intelligence community judgments that U.S. territory is more likely to be struck by non-missile means of delivering weapons of mass destruction, WMD, than by ICBM's. His remarks were based on an unclassified version of a National Intelligence Estimate, NIE, that was released in January entitled: ''Foreign Missile Developments and the Ballistic Missile Threat Through 2015.'' NIE's represent the collective judgment of the U.S. intelligence community.

In testifying on why using non-missile means of delivering WMD's are the more likely option, the NIO adduced reasons similar to those cited before by other intelligence sources. Compared to ICBM'S, he said, non-missile means are ''less costly, easier to acquire, and more reliable and adequate . . . and also can be used with attribution.''

The NIO meant by this that non-missile means have the advantage of being used without imperiling those responsible, while ICBM's have ''signatures'' enabling the U.S. to quickly identify the attackers. Consequently, countries like North Korea, Iran, and Iraq which he said could be capable of launching missiles at the U.S. by 2015, would be risking a devastating counterattack by the United States. The key question of why these countries would risk destruction by firing an ICBM at us, when non-missiles can be used without a return address has yet to be revealed by intelligence or defense sources. North Korean, Iraqi, and Iranian leaders are evil, but they aren't suicidal.

The NIO noted some states armed with missiles have shown ''a willingness to use chemical weapons with other delivery means,'' adding that U.S. territory is more likely to be attacked with non-missile WMD by terrorists. He concluded the intelligence community believes that the U.S. will face a growing missile threat because missiles have become important regional weapons for numerous countries and provide a level of prestige, coercive diplomacy and deterrence unmatched by non-missile means.

But this thesis has been ably refuted by Joseph Cirincione, head of the Carnegie Endowment's Nuclear Proliferation Program. In a February speech before the American Association for the Advancement of Science he argued that the U.S. is facing a declining ballistic missile threat rather than the increasing threat the intelligence community sees.

Cirincione focuses on the 1998 Rumsfeld Commission study which assessed the ballistic missile threat to the United States and took a much more alarmist view than intelligence assessments that had examined the same issue. The Rumsfeld Commission found that North Korea and Iran were devoting ''extraordinary resources'' to developing ballistic missiles capabilities that pose ''a substantial and immediate danger to the U.S., its vital interests and its allies.''

The Rumsfeld Commission report was an outgrowth of harsh attacks by several leading members of Congress on 1993 and 1995 NIE's. The 1993 NIE concluded that only China and several states of the former Soviet Union had the capability to attack the continental U.S. with land-based ballistic missiles, adding that ''. . . the probability is low that any other country will acquire this capability during the next 15 years.'' In a similar vein, the 1995 NIE, said: ''The Intelligence Community judges that in the next 15 years no country other than the major declared nuclear powers [i.e. Russia and China] will develop a ballistic missile that could threaten the contiguous 48 states or Canada.''

In the aftermath of harsh congressional criticism of the estimates, a congressionally mandated panel in December 1996 led by former Bush Administration CIA Director Robert Gates reviewed the 1995 NIE. The panel concurred with the NIE, finding that it was unlikely the continental U.S. would face an ICBM threat from a third world country before 2010 ''even taking into account the acquisition of foreign hardware and technical assistance, and that case is even stronger than was presented in the estimate.''

Apparently displeased by the Gates panel report as much as they were by the 1995 NIE, Congress mandated the Rumsfeld Commission panel which finally provided a different answer. The 1998 Commission report concluded that a new nation could plausibly field an ICBM ''with little or no warning.'' In the aftermath, the intelligence community adopted the ''could standard'' which became apparent in the 1999 NIE. That consensus report contained the following dissent from one of the intelligence agencies involved in producing the NIE: Some analysts believe that the prominence given to missiles countries ''could'' develop gives more credence than is warranted to developments that may prove implausible.

The ''could'' standard was one of three major changes made to assessment methodology. The other shifts were to substantially reduce the range of missiles considered serious threats by shifting from threats to 48 continental States to threats to any of the land mass of the 50 States and changing the time line from when a country would first deploy a long-range missile to when a country could first test a long-range missile. The geographic criterion change had the effect of shortening missile range by some 3,000 miles, the distance from Seattle to the western-most tip of Alaska's Aleutian Islands. In effect, this means the North Korea's medium-range ballistic missile the Taepodong-1 could be considered the same threat as an ICBM. The time line shift represents a decrease of five years, which previous estimates said was the difference between first test and likely deployment. Moreover, the new NIE's don't require a successful test.

The net effect of these three changes was to shift the goal posts in the direction indicated by the Rumsfeld Commission. These shifts account for almost all of the differences between the 1999 and 2001 NIE's and earlier estimates. Rather than representing some new, dramatic increase in the ballistic missile threat, they represent lowered standards for judging the threat.

Despite administration optimism about developing BMD and the prospects for quick deployment, prominent scientists and missile experts remain skeptical. Here are a few examples. Richard Garwin of the Council on Foreign Relations, a member of the Rumsfeld Commission, and a leading expert in military applications of science, is dubious about the administration's approach to BMD and its rationale for pursuing it.

A report in the Dallas Morning News quotes Garwin as questioning the emphasis on destroying missiles in mid-course, warning ''it's not a sensible thing to do.'' He says the major flaw is that an enemy can defeat the system by such means as concealing the payload bomb in a balloon the size of a house so that hitting the balloon would have little chance of disabling the weapon. Deploying numerous, sophisticated decoys would also be an effective counter-measure.

Garwin suspects DOD money is going to the mid-course approach because its proponents aren't really hoping to use BMD against rogue states as they claim, but are aiming at ''China first, then Russia.'' He reasons that while ships or land-based launch sites would be suitable for shooting down Iraqi or North Korean missiles in boost-phase, they would be useless against Russia and China. A mid-course strategy, however, could counter a limited missile attack from those nations. The implications are chilling. I hope and pray that Garwin is wrong about BMD's true mission, because if Russia and China reach the same conclusion, we may be in for a renewed nuclear arms race.

Dr. Garwin now questions the rationale for BMD, despite his participation in the Rumsfeld Commission which assessed the ballistic missile threat to the United States. He was quoted in a June 12 news wire report as stating: ''Fifteen million . . . cargo containers enter the United States every year with a minute chance of being inspected. Why should a nation with a few ICBM's risk their being destroyed pre-emptively when other means are available for delivery?''

Steven Weinberg, a Nobel Laureate in physics, is one of the most prominent and trenchant scientific critics of BMD. He strongly believes that it would be smarter to put the billions pouring into missile defense into other homeland security efforts. Weinberg points out that if the U.S. deploys BMD, intelligence analysts estimate China will sharply expand its arsenal from about 20 ICBM's to 200 or so. Should this occur both India and Pakistan would probably also expand their nuclear arsenals. As we all know, the last thing the world needs is a spiraling nuclear arms race in South Asia.

Weinberg believes a BMD system would be fatally flawed. He contends that missile defenses are easy to defeat. The attacker surrounding his warheads with decoys, he says always has the last move. He makes a persuasive case that a ballistic missile attack on the United States is an unlikely threat. The real danger we face, he says, is the spread of nuclear material that can be set off without missiles. He concludes that President Bush is pursuing ''a missile defense undertaken for its own sake, rather than any application it may have in defending our own country.'' While I doubt this is an accurate characterization of the President's motives, I agree with Weinberg's conclusion that the spread of nuclear materials is now a much more serious threat to our country than a ballistic missile attack.

Both distinguished missile experts and the media have opposed the Administration's new secrecy policy which will classify previously unclassified materials regarding targets and countermeasures to be used in flight intercept test of the Ground-Based Mid-course Defense system.

Such secrecy is both undesirable and unnecessary. BMD development has benefitted much from public scrutiny by physicists and other scientists, weapons experts, watchdog groups, and the press. Cutting off access would be clearly counterproductive. Philip Coyle, who served as Assistant Secretary of Defense and DOD's Director of Operational Test and Evaluation from 1994–2001 is one of the nation's foremost experts on missile defense. He argues that it will take some 20 developmental tests costing $100 million a piece and may take years before testing with realistic decoys can start. Coyle believes secrecy is premature since there's ''no danger'' the test program will be in a position to ''give away any secrets'' for years to come.

Coyle also is dismayed that MDA is withholding information from the Pentagon's own independent review offices, such as the Director of Operational Test and Evaluation. Current laws give the Director rights to unfettered access to all major DOD acquisition programs. Who can argue with Coyle when he says that if independent review of testing is stifled DOD itself won't be able ''to make reasonable judgements about the program's viability.''

The final issue I want to raise is the matter of the adequacy of current testing. Two years ago I joined Senator DURBIN in introducing an amendment to require more realistic testing of the national missile defense system. At the time I stated on the floor that missile defense testing used at that time proved little or nothing: ''Current testing determines whether or not the system works against cooperative targets on a test range. This methodology is insufficient to determine the technological feasibility of the system against likely threats. At present, even if the tests had been hailed as total successes, they would have proved nothing more than the system is unproven against real threats. . . . Current testing does not take countermeasures into account.''

Unfortunately, what I said was true 2 years ago is still true today. Philip Coyle has recently said that the missile defense program ''is not at the point where the types of decoys being used have even begun to be representative of the likely enemy countermeasures against missile defense.'' He noted that so far the decoys used have been ''round balloons which don't look at all like a target re-entry vehicle.'' Coyle who may know more about BMD testing than anyone, concluded ''it may be the end of this decade before . . . testing with 'real world decoys' can begin.''

The administration plans to rush a rudimentary missile defense system into the field beginning in 2004. Few scientists believe that it will be an effective system. Dr. David Wright, Senior Scientist, Union of Concerned Scientists and an MIT research physicist recently charged that ''rather than waiting until the technical issues are addressed, it is rushing [to deploy] immature defense systems. . . . These systems will not provide 'emergency capability' against real-world threats, only the illusion of capability.'' I couldn't agree more with Dr. Wright.

I still agree with the U.S. intelligence community, noted scientists and missile experts that ballistic missiles are one of the least likely threats we face. Much more probably threats are WMD attacks using planes, boats, trucks, or suitcases. Eminent scientists are skeptical of Administration optimism about prospects for developing and quickly deploying BMD. I fully share their skepticism.

The new DOD secrecy policy which will classify previously unclassified material regarding targets and countermeasure used in BMD is undesirable and indefensible. I strongly oppose MDA withholding information from the Pentagon's own independent review offices and applaud the Committee bill for requiring these offices to provide Congress and DOD with annual assessments of the military utility and potential operational effectiveness of major missile defense programs.

In conclusion, I believe in maintaining a strong national defense. We face a number of credible threats in the world today, including terrorism and the proliferation of weapons of mass destruction. We must make sure we carefully identify the threats we face and tailor our defense spending to meet them. We could do a better job of that than this bill does, and I hope that as we move to conference, the committee will make every effort to transfer funds from relatively low-priority programs to those designed to meet the urgent and immediate anti-terrorism and defense of our forces.

Mrs. CARNAHAN. Mr. President, I am very pleased that the Senate has agreed to accept an amendment to the Defense Department authorization bill which will protect small businesses that contract with our armed forces. I thank Senator KERRY for his leadership on this issue. I am proud to have worked with him on this amendment, on behalf of the men and women who are living the American dream by starting and growing their own businesses.

The amendment that I cosponsored with Senator KERRY is very simple. It seeks to preserve opportunities for small businesses across the country to contract with the United States Army to provide goods and services for our soldiers. The Secretary of the Army recently developed a plan to consolidate procurement contracts. Our amendment requires the Secretary to report to Congress on the effect that this consolidation plan has on the participation of small businesses in Army procurement.

I share the Secretary's goal of getting the most for taxpayers' money. And I want to ensure that our procurement policies are efficient. But I believe that the best procurement policies enable all businesses, large and small, to compete for contracts. After all, any economist will tell you that competition will drive prices down and quality up. When the Government consolidates many contracts into one enormous, unwieldy contract, it is nearly impossible for small or local businesses to compete.

I have met with many small business owners from Missouri who have told me that they are anxious to provide quality goods and services to our military; but too often their businesses have been unable to compete because we have bundled together so many diverse procurement needs into one contract that only very large corporations have the capacity to fill the entire contract. Such a system does not benefit our military or our taxpayers.

I am a cosponsor of the Small Business Federal Contractor Safeguard Act, S. 2466. This legislation addresses the problem of consolidated or bundled contracts. Of course, the Government should do all it can to take advantage of economies of scale in production or other benefits that can result from a large contract with a single supplier. Nothing in our legislation would prevent large contracts that serve a genuine economic purpose. However, I am concerned that too often contracts are bundled together simply for the sake of bureaucratic efficiency. This is a disservice to us all, and I am hopeful that the Senate will soon act on S. 2466.

I am concerned that the Army's decision to proactively consolidate contracts is a step in the wrong direction. The Army has assured me that they have considered the interests of small businesses. Our amendment simply asks the Army to report back to Congress on their progress as they reform their procurement policies. I hope that the report will be filled with good news. I hope that we will learn of the Army exceeding small business participation goals. I look forward to reading such a report. But I believe that it is imperative that we follow this issue closely. We must ensure that our military is prepared to take full advantage of the tremendous opportunities available from contracting with small businesses across the country.

I thank my colleagues for joining me in asking that the Secretary of the Army provide us with this important report.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to the two managers, staffs on both sides. It appears it would be better to vote now on final passage of this most important bill. I should alert all Members that later this afternoon, when Secretary Rumsfeld's briefing is completed, we will have another vote on a resolution dealing with the Pledge of Allegiance.

The PRESIDING OFFICER. The Senator from Arizona?

Mr. KYL. Would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Would it be possible to lock in the vote at 3:15? I am sorry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to express my profound appreciation to the distinguished Senator from Michigan for his able assistance. We have worked together, this is our 24th year on bills of this matter.

Again, I think we have achieved a bill which is in the best interest of the country. I thank you, sir. I thank all members of the Armed Services Committee. I thank all staff persons on the Armed Services Committee, particularly my able assistant, the chief of staff on the Republican side, Ms. Ansley, and her counterpart—maybe the word ''counterpart'' is a little soft—her partner, David Lyles.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank my ranking member. I can't imagine having someone to work with who is better than Senator WARNER. This has been a long relationship and a trusting relationship. It makes all the difference in getting legislation addressed, much less passed in this body.

I thank my staff, David Lyles, and crew, Judy Ansley and her staff, who, again, worked in a bipartisan way to make this bill happen, to make it possible for us to pass it. I think this is almost record time. This is only the second time in the last 10 years, I believe, where we have been able to pass the Defense authorization bill prior to July 1.

We have resolved our differences in a way which has contributed to the security of the Nation. We have had our disagreements. We are here to have disagreements, to try to resolve them, and where we can't resolve them by compromise, to have votes. That is what we have done. We again succeeded.

I also thank our majority leader, Senator DASCHLE. I thank Senator LOTT, Senator NICKLES, and particularly, I single out, to his embarrassment, again, Senator REID of Nevada. He makes the wheels run on this floor. He provides the oil and the grease which makes it possible for the wheels of this little buggy of ours to keep going. Without him, I can't imagine how we would be able to function as efficiently as we do with all of the inefficiencies to which we all know the Senate is subjected.

Mr. WARNER. I join my colleague in thanking our distinguished majority leader and Republican leader, who worked hand in hand with us, and, indeed, the majority whip. I would only revise one thing about the majority whip: He does use, as he drives the buggy, the whip. But he uses it judiciously and fairly. I received a little crack this morning myself, as did one other colleague from the other side. It was equal.

At any rate, he succeeded, and I thank my dear friend. I have the utmost admiration for him.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, working with these two experienced veterans, competent legislators has been a pleasure.

UNANIMOUS CONSENT AGREEMENT—S. 2690

Mr. REID. Mr. President, I also ask unanimous consent that immediately, following the vote on passage of the DOD bill, the Senate proceed to consideration of S. 2690, introduced earlier today by Senator HUTCHINSON and others, which reaffirms the reference to one nation under God in the Pledge of Allegiance; further, I ask the bill then be immediately read the third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate at 3:20 p.m. today.

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

Mr. REID. I ask for the yeas and nays on passage of S. 2690.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that rule XII, paragraph 4, be waived in relation to the Defense authorization bill.

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

Mr. REID. I ask for the yeas and nays on final passage of S. 2514.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Mr. President, I ask that S. 2514 be read the third time, and the Senate then vote on passage of S. 2514 without any intervening action or debate.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

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

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—97

Akaka	Dodd	Levin
Allard	Domenici	Lieberman
Allen	Dorgan	Lincoln
Baucus	Durbin	Lott
Bayh	Edwards	Lugar
Bennett	Ensign	McCain
Biden	Enzi	McConnell
Bingaman	Feinstein	Mikulski
Bond	Fitzgerald	Miller
Boxer	Frist	Murkowski
Breaux	Graham	Murray
Brownback	Gramm	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burns	Gregg	Nickles
Campbell	Hagel	Reed
Cantwell	Harkin	Reid
Carnahan	Hatch	Roberts
Carper	Hollings	Rockefeller
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Clinton	Inhofe	Schumer
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Corzine	Kennedy	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stabenow
Dayton	Landrieu	Stevens
DeWine	Leahy	Thomas

Thompson	Voinovich	Wyden
Thurmond	Warner	
Torricelli	Wellstone	

NAYS—2

Byrd Feingold

NOT VOTING—1

Helms

The bill (S. 2514), as amended, was passed.

The PRESIDING OFFICER. The provisions of the order will be executed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2515) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2516) to authorize appropriations for fiscal year 2003 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2003

The bill (S. 2517) to authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 379, H.R. 4546, the House companion measure; that all after the enacting clause be stricken and the text of S. 2514, as passed by the Senate, be inserted in lieu thereof; that the bill be read a third time, passed and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with the above occurring without further intervening action or debate.

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

The bill (H.R. 4546), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER (Mr. CARPER) appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING conferees on the part of the Senate.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. DASCHLE. I ask unanimous consent that the Senate proceed to the immediate consideration of the adjournment resolution, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

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

The concurrent resolution (S. Con. Res. 125) was agreed to, as follows:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business until the hour of 3:20 p.m., when I understand the next vote will occur.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Arkansas.

TO REAFFIRM THE REFERENCE TO ONE NATION UNDER GOD IN THE PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. Under a previous order, the Senate will proceed to the consideration of S. 2690.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

The bill (S. 2690) to reaffirm the reference to ''One Nation Under God'' in the Pledge of Allegiance bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. At 3:20 this afternoon we will vote on a piece of legislation I introduced to reaffirm Congress' commitment to the Pledge of Allegiance and our national motto ''In God we trust.'' I hope my colleagues will join me in this reaffirmation. Many already have.

I ask unanimous consent the list of 32 Senators as original cosponsors be printed in the RECORD.

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

ORIGINAL COSPONSORS OF S. 2690

Mr. Sessions, Mr. Lott, Mr. Nichols, Mr. Burns, Ms. Collins, Mrs. Hutchison, Mr. Helms, Mr. Inhoff.

Mr. Campbell, Mr. Roberts, Mr. DeWine, Mr. McConnell, Mr. Shelby, Mr. Bennett, Mr. Stevens, Mr. Voinovich.

Mr. Phil Gramm, Mr. George Allen, Mr. Ensign, Mr. Bob Smith, Mr. Bunning, Mr. Enzi, Mr. Hagel, Mr. Lugar.

Mr. Bond, Mr. Murkowski, Mr. Craig, Mr. Thomas, Mr. Crapo, Mr. Brownback, Mr. Domenici, Mr. Kyl, Mr. Zell Miller.

Mr. HUTCHINSON. Yesterday's decision by the Ninth Circuit Court of Appeals in Newdow v. U.S. Congress was, in a word, outrageous. It is inexplicable that this man so seriously objected to his daughter having to listen and watch others recite the pledge at their school. Keep in mind, in this country no one can be forced to recite the Pledge of Allegiance. It is simply a matter of respect.

It is appalling that this court took the time and judicial resources to resuscitate this case which the district court had already dismissed for failing to state a claim. This complaint was a mess. The plaintiff, Dr. Newdow, who represented himself, asked a Federal court to order the President to change a law. The court took great pains to find a claim in Mr. Newdow's complaint and then to rule in his favor.

He did this at a time when Federal judicial resources are very strained. The Nation is trying to function in the speedy manner required by the sixth amendment, with 89 judicial vacancies, a staggering number, representing 10 percent of the Federal judiciary.

According to the Judicial Conference, in the past three decades, a U.S. Courts of Appeals judges' average caseload increased by nearly 200 percent. In light of these strained resources, it is appalling to me that the court took time to resuscitate this very flawed case.