I will be checking very carefully on how he carries out his responsibilities if in fact he wins the vote. I don't even know if that is a foregone conclusion. I assume it is, if all of the other party vote to confirm. I don't know. But if he does take this position, I can assure you we will be carefully looking at how he carries out his responsibilities at the Department of Agriculture. We may still want to take a look at those earlier records.

I want to make it clear, I still do not think Mr. Dorr meets the standards, the highest standards, as Secretary Veneman said, for this position, but at least with this admission that what he did was wrong, that he has apologized for the statements he made on diversity, I believe that is at least enough for us to get past the cloture vote and to move to an up-or-down vote on this nominee.

With that, again, in the spirit of comity and trying to move this ball ahead, we will do that. I thank Chairman CHAMBLISS for all of his work and his efforts in this regard.

I will yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I express my admiration to the Senator from Iowa for his willingness to make this accommodation. Those watching, who wonder whether we do act in the spirit of bipartisan cooperation, can note this as one of those instances. I share, however, the concern of the Senator about the timing of this admission by Mr. Dorr.

The first hearing of the Senate Agriculture Committee on the original nomination was, I believe, in March of 2002. That is over 3 years ago. If Mr. Dorr had made this kind of acknowledgment in this letter back then, this matter would have been resolved some time ago. Instead, the committee records will show during that time, and I believe at the subsequent hearing—which I did not attend but I believe the record shows happened earlier this year—he said exactly the opposite. He denied any culpability, he denied doing anything wrong, he denied any responsibility for anything that might have occurred inadvertently. This is a direct contradiction of that and it does occur, as the Senator noted, at the very last instant before this matter was going to be voted for cloture—and I think it is seriously in doubt whether cloture would have been invoked, in which case that nomination would have been in limbo as it was previously, which led to a recess appointment.

I also, with reluctance but out of necessity, will vote against this nominee. Again, I commend the Senator from Iowa, but I think in this matter this is a highly suspect maneuver at the very last instant.

I yield the floor.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 198 Ex.]

YEAS—62

Akaka	Dole	McConnell
Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Pryor
Bennett	Frist	Roberts
Bond	Graham	Salazar
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Burr	Hatch	Smith
Chafee	Hutchison	Snowe
Chambliss	Inhofe	Specter
Coburn	Inouye	Stevens
Cochran	Isakson	Sununu
Coleman	Kyl	Talent
Collins	Lieberman	Thomas
Cornyn	Lincoln	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner
DeWine	McCain	

NAYS—38

Baucus	Dorgan	Levin
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Obama
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Clinton	Kerry	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

The nomination was confirmed.

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

The motion to lay on the table was agreed to.

NOMINATION OF THOMAS C. DORR TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation?

The nomination was confirmed.

The PRESIDING OFFICER (Mr. ENSIGN). Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Warner Amendment No. 1314, to increase amounts available for the procurement of wheeled vehicles for the Army and the Marine Corps and for armor for such vehicles.

The PRESIDING OFFICER. The pending question is the Warner amendment.

Mr. WARNER. Mr. President, I see the distinguished majority leader. My understanding is he wishes to lay down an amendment, for which I am grateful. We would be happy to lay aside the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

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

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

AMENDMENT NO. 1342

Mr. FRIST. Mr. President, I send an amendment to the desk. Also, I send to the desk a list of cosponsors of the amendment, and I ask unanimous consent they be added as such.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself, and others, proposes an amendment numbered 1342.

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

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

The amendment is as follows:

(Purpose: To support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America, and for other purposes)

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

SEC. 1073. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Support Our Scouts Act of 2005''.

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Federal agency'' means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term ''youth organization''—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a ''tent city'' capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

''(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

''(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

''(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

''(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.''.

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting ''or (e)'' after ''subsection (a)''; and

(2) by adding at the end the following:

''(e) EQUAL ACCESS.—

''(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

''(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.''.

Mr. FRIST. Mr. President, this amendment deals with an issue I have been working on with a number of Senators for a long period of time, many months. It deals with an organization I have been involved with for my entire life—myself and my three boys. The organization is the Boy Scouts of America.

I am proud to offer the Support Our Scouts Act of 2005 as an amendment to the Defense authorization bill. This legislation will ensure that the Defense Department will continue to provide the Scouts the type of support it has provided in the past, including jamborees on bases.

Pentagon support for Scouts is currently authorized in U.S. law.

This bill also ensures Scouts have equal access to public facilities, forums, and programs that are open to a variety of other youth organizations and community organizations. Boy Scouts, like other nonprofit youth organizations, depend on the ability to use public facilities and to participate in these programs and forums. Why am I offering this legislation? Since the Supreme Court decided Boy Scouts of America v. Dale, Boy Scouts of America's relationships with government at all levels have been the target of multiple lawsuits.

The Federal Government has been defending a lawsuit brought by the ACLU aimed at severing the ties between Boy Scouts and the Departments of Defense and HUD. The ACLU of Illinois claims that Defense Department sponsorship violates the first amendment because the Scouts are a religious organization. This is a red herring.

The Scouts are a youth organization that is committed to developing qualities, such as patriotism, integrity, loyalty, honesty, and other values, in our Nation's boys and young men. Part of that development is asking them to acknowledge a higher authority regardless of denomination.

We do this every day in the Senate when we open the Senate floor each morning, when we take our oaths of office, when our young men and women enlist in the Armed Forces—and the list goes on. Such acknowledgement and respect is an integral part of our culture, our values, and our traditions.

A decision was recently reached in this case. A U.S. district court in Chicago ruled that Pentagon support of the Scouts violates the establishment clause and, therefore, the Defense Department is prohibited from providing support to the Scouts at future jamborees.

The timing of this ruling simply could not be worse. On Monday, July 25, thousands of Scouts from around the country will be arriving at Fort AP Hill, close by, in Virginia. The event will draw 40,000 Scouts and their leaders and many more proud families, moms and dads.

This latest ruling is part of a series of attempts to undermine Scouting's interaction with government in America at all levels. The effect of these attempts of exclusion at the Federal, State, and local levels could be far-reaching. Already, it has had a chilling effect on government relationships with Scouts, and it is the greatest legal challenge facing Boy Scouts today.

The Support Our Scouts Act of 2005 addresses these issues. To begin with, my amendment makes clear that the Congress regards the Boy Scouts to be a youth organization that should be treated the same as other national youth organizations.

Second, this bill asserts the view of the Congress that Pentagon support to the Scouts at their jamborees, as well as similar support to other youth organizations, is important to the training of our Armed Forces. It contributes to—it does not detract from—their readiness.

Third, my amendment removes any doubt that Federal agencies may welcome Scouts to hold meetings, go camping on Federal property, or hold Scouting events in public forums at any level.

The Scout bill has been discussed with the Defense Department. While it includes language that establishes baseline Pentagon support for Scouting activities, it also offers the Secretary of Defense some flexibility in its application.

Since 1910, Boy Scout membership has totaled more than 110 million young Americans. Today, more than 3.2 million young people and 1.2 million adults are members of the Boy Scouts and are dedicated to fulfilling the Boy Scouts' mission. This unique American institution is committed to preparing

our youth for the future by instilling in them such values as honesty, integrity, and character. Through exposure to the outdoors, hard work, and the virtues of civic duty, the Boy Scouts has developed millions of Americans into superb citizens and future leaders.

Today, there are more than 40 Members of the Senate and more than 150 Members of the House of Representatives who have been directly involved in Scouting. I was a Boy Scout. As I mentioned, my three boys, Harrison, Jonathan, and Bryan, all were Scouts as well. Scouting is a great American tradition that has been shared by countless families over many decades.

I believe this amendment will receive broad, bipartisan support in both the Senate and the House. I believe we will pass it this year. It currently has over 50 cosponsors in this body. I encourage others to come and cosponsor this bill and to come to the floor and speak on behalf of our Scouts.

I encourage Scout supporters—indeed, all Americans—to contact their Senators and Representatives and ask them to support the Support Our Scouts Act of 2005. I do urge all my Senate colleagues to vote for the young boys and girls who are following in the worthy Scouting tradition. A vote for this amendment will be a vote for them.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend the distinguished majority leader, and I associate myself with his remarks and this report.

I just looked at one thing, and the staff advised me that the terms ''Boy Scouts'' and ''Girl Scouts'' embrace what is known as the Cub Scouts. I want to make sure my understanding is correct that was the intention of our distinguished leader, because a lot of families are very active in those organizations.

Mr. FRIST. Mr. President, I say to the Senator, indeed it is, Mr. Chairman. The Cub Scouts badges and uniform is one I wore and, indeed, my three boys wore, Harrison, Jonathan, and Bryan. It is that introduction to Scouts that most of us first experience. Indeed, it is.

Mr. WARNER. Mr. President, I thank our distinguished leader. I, too, have had a very modest career in the Scouts. I was sort of attenuated when I left and joined the Navy in World War II. So I never attained any special recognition. But I must say that the training that was given to me helped me enormously in my early training in the military because first you learned discipline, then you learned regimentation. You learned the concept of sharing with others, the need to work with your fellow Scouts. It is a magnificent organization. I am so glad you have done this.

I also must say I have attended the rally in Virginia to which you referred. I will never forget waiting, as one of the several speakers. I was a most inconsequential speaker because a world-famous baseball player attended. As far as the eye could see, there were clouds of dust. They looked like the Roman legions marching in. Tens of thousands of Scouts assembled at this rally, all carrying their banners, and the parents were all seated under the trees watching this rally. It was a spectacle to behold. It was a marvelous experience.

So again, Mr. President, I encourage other Senators to join our distinguished leader in support of this legislation.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I am an original cosponsor of Senator FRIST's legislation, which we call the Save Our Scouts Act of 2005. I will take a minute to say to my colleagues why I think the bill is important and why I am glad to be an original cosponsor. I grew up in Maryville, TN, at the edge of the Great Smoky Mountains National Park—then a town of about 15,000. Every Monday night, all year long, as soon as I was 11 years old, we went down to the new Providence Presbyterian Church at 7 p.m. for a meeting of Troop 88 of the Boy Scouts of America. There wasn't a lot of nonsense. It started at 7 and was over at 8. Our primary goal was to get organized for outdoor activities. At least once a month—sometimes twice a month—we were away from the church and were very active. Most often, we went into the Great Smoky Mountains National Park. Sometimes we went down the road to the Cherokee National Forest.

I can remember on several occasions when we went to the Oak Ridge National Laboratory, which was a source of great wonderment to us that close to the end of World War II. Sometimes we went to Knoxville to the Tennessee Valley Authority, another government agency known worldwide. We learned from that. I can remember several times we went to the Air Force base, another Federal installation. There are a lot of State and local government places we would go in Troop 88. Sometimes we met at West Side Elementary School or Maryville High School. Sometimes we went to the courthouse. I remember seeing a great attorney, Ray Jenkins, waving a bloody wrench in his hand trying to convict a murderer as a special prosecutor in a family dispute. I was cowering behind the jury box watching this great lawyer carry on. We were there in a public building. Sometimes we camped in the city parks. Sometimes we went to the State parks.

My point is that all of these places we went in Troop 88, whether it was the Great Smoky Mountains National Park, or any of the others I mentioned, those are public places. Ever since the Supreme Court made its decision in the Boy Scouts of America v. Dale case, the relationship of the Boy Scouts of America with government at all levels has been the target of multiple lawsuits. That is not just the case for boys growing up in Maryville, TN.

For the last 25 years, our family has gone up to Ely, MN, on the Canadian border. It is a million acres of territory that you have to take a canoe into. It is very restricted wilderness area. It is the center of one of the Boy Scouts' most important adventure outdoor programs. Whether they are there in the winter, when it is 20 below, or in July, when there are a lot of mosquitos, these young men learn to take care of themselves outdoors.

Every year for as long as I can remember, the Boy Scouts have looked forward to going to the jamborees, which are often held on Federal property. It is often a highlight in the lives of these young men. They look forward to it for several years. The adult scoutmasters go with them.

Mr. President, it makes no sense whatsoever to restrict, in any way, the Boy Scouts from using national parks, national forests, the Oak Ridge National Laboratory, Air Force bases, State parks, and city parks.

What do the Boy Scouts do? I tell you what it did for me. It tried to build some character. I can still say the words: Trustworthy, loyal, helpful, friendly, courteous, kind. There are 12 of them. I did not always live up to them, but they were taught to me.

The Boy Scouts taught me about my country. I earned my God and Country award before I got my Eagle Scout. It taught me about this country and what it means to be an American. It taught me to love the great American outdoors, which I have always kept and imparted to my children because we spent almost every weekend in the Great Smoky Mountains National Park or Cherokee National Forest.

I don't want the young men of the day and their volunteer leaders to be kept out of the Great Smokies and the TVA and the schools and the city parks. I don't want those volunteer leaders, who are small business people in Maryville, TN, who work at the Alcoa plant—they don't have the money or time to go to court to argue with people about whether those young boys have a right to go there.

This is a very important piece of legislation. In this country today, most people would say, when looking at our children, there is nothing they need more than mentors, and the Boy Scouts, just like the Girl Scouts, provide that. Look at our schools today. Our worst score of high school seniors is in U.S. history. At least in the Boy Scouts you learn something about the principles that unite us as Americans.

Our outdoors are under constant threat. In the Boy Scouts of America, we are constantly building tens of thousands of young men who love the outdoors, know how to take care of it, have an environmental ethic and use that for the rest of their lives.

I am glad we have a majority leader who is a Boy Scout. I am glad we have more than half the Senate who are cosponsors of this legislation. I hope the result of this legislation will remove

any doubt that Federal agencies may welcome Boy Scouts to hold meetings and go camping on Federal property, just as we did. And it says to State and local governments that in denying equal access to the public venues to scouts, they will risk some of their Federal funds if they continue to do that.

The Boy Scouts of America is one of the preeminent valuable organizations in this country, and I am proud to be an original cosponsor of the Support Our Scouts Act of 2005.

I yield the floor.

Mr. WARNER. Mr. President, I wish to thank our distinguished colleague from Tennessee. I listened carefully to his remarks. It did evoke memories of this humble Senator when I had a rather inauspicious career in the Boy Scouts. Nevertheless, they did a lot more for me than I did for them.

I remember the jamborees. I can remember very well on our first encampment filling a tick bag full of barn straw which we used for a mattress. I was greatly impressed with that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me also join Senator FRIST in this legislation. I believe it is very significant. I spoke last April on the Senate floor on behalf of this issue, and I am proud to do so again with this amendment.

Sadly, since my previous speech, there has been a recent Federal court ruling against the Pentagon's support for the National Boy Scout Jamboree, which occurs every 4 years and attracts about 40,000 people. It will be taking place on July 25.

In her decision, a Federal judge in Chicago ruled that a statute permitting the military to lend support for the National Scout Jamboree violates the establishment clause of the Constitution.

In short, the judge ruled that Pentagon funding is unconstitutional because the Boy Scouts are a religious organization as it requires Scouts to affirm a belief in God. I will speak more on this later.

However, it is clear to me that for more than 90 years, the Boy Scouts have benefited our youth and helped produce some of the best and brightest leaders in our country. I believe we must reaffirm our support for the vital work they have done and continue to do. Like many of my friends here, I was a Boy Scout many years ago.

As a result of the great work they do, I was pleased to be an original cosponsor of S. 642, the Support Our Scouts Act of 2005, as well as this amendment.

I had at one time considered introducing my own bill on this very important matter. However, I was so pleased with the substance of this bill that I was proud to add my name as a cosponsor, and I again thank Senator FRIST for his efforts on this issue.

As you may know, this bill, and now this amendment, address efforts by some groups to prevent Federal agencies from supporting our Scouts. This bill would remove any doubts that Federal agencies can welcome Scouts and the great work they do.

Sadly, as the following excerpt from a July 20, 2005, Wall Street Journal editorial demonstrates, these great organizations have come under attack. The column from this respected publication explains that:

> Because the Scouts require members to ''privately exercise their religious faith as directed by their families and religious advisors,'' the ACLU petitioned the court to declare the organization ''theistic'' and ''pervasively sectarian.'' Judge Blanche Manning didn't go quite that far last month, but she did rule it an overtly religious association because it ''excludes atheists and agnostics from membership.'' She ordered the Army to expel the next Jamboree from Fort A.P. Hill in 2010, by which time we trust the Seventh Circuit Court of Appeals will have overturned her decision.

I hope this unfortunate decision is overturned as well.

As Senator FRIST has said, this legislation will specifically ensure that the Department of Defense can and will continue to provide the Scouts the type of support it has provided in the past. Moreover, the Scouts would be permitted equal access to public facilities, forums, and programs that are open to a variety of other youth or community organizations.

It is enormously regrettable to me that the Scouts have come under attack from aggressive liberal groups blatantly pushing their own social agendas and become the target of lawsuits by organizations that are more concerned with pushing these liberal agendas than sincerely helping our youth.

Rather than protecting our religious freedoms, these groups are clearly bent on discriminating against any organization that has faith as one of its tenets.

Thus, today, the Federal Government continues to defend the lawsuit aimed at severing traditional ties between the Boy Scouts and the Departments of Defense and Housing and Urban Development.

What is more, Scouts have been excluded by certain State and local governments from utilizing public facilities, forums and programs, which are open to other groups.

It is certainly disappointing and, frankly frustrating that we have reached a point where groups such as the ACLU are far more interested in tearing down great institutions like the Boy Scouts than helping foster character and values in our young men. I am tired of these tactics. It is very disturbing to me that these groups unabashedly attack organizations, regardless of the good they do or the support they have from the vast majority of Americans, simply to further their own subjective social agendas.

I, for one, am saddened that the Boy Scouts of America has been the most recent target of these frivolous lawsuits. I reject any arguments that the Boy Scouts is anything but one of the greatest programs for character development and values-based leadership training in America today.

We should seek to aid, not impede, groups that promote values such as duty to God and country, faith and family, and public service and sacrifice, which are deeply ingrained in the oath of every Scout. To fail to support such values would allow the very fabric of America, which has brought us to this great place in history, to be destroyed.

Today, with more than 3.2 million youth members, and more than 1.2 million adult volunteers, we can certainly say that the Boy Scouts of America has positively impacted the lives of generations of boys, preparing them to be men of great character and values. Remarkably, Boy Scout membership since 1910 totals more than 110 million.

I am proud to report that in Oklahoma we have a total youth participation of nearly 75,000 boys; and in Oklahoma City alone, we have about 7,000 adult volunteers.

These young men have helped serve communities all over our State with programs such as Helping Hands for Heroes, a program where Scouts help military families whose loved ones are serving overseas. These young men have cut grass, cleaned homes, taken out the garbage, and walked dogs. What a great service for our soldiers, sailors, airmen, and marines and their families. Our Boy Scouts have also served as ushers and first-aid responders at the University of Oklahoma football games for more than 50 years.

Notably, Scouts in my State have also shared a long and proud history of cooperation and partnership with military installations in Oklahoma. Furthermore, events, such as the National Jamboree, allow an opportunity to expose large numbers of young Americans to our great military in a time when fewer and fewer receive such exposure. I believe this is a very good thing, and I will fight to see that it continues.

Given all this, I hope my colleagues will join me in defending this organization and others like it. We must not be afraid to support our youth and organizations like the Boy Scouts that support them.

As the Wall Street Journal editorial that I mentioned previously argued:

> The values the Scouts embody are vital to the national good and in need today, more than ever.

I agree and am proud to rise in support today and always for this great cause.

Mr. President, I yield the floor.

• Mr. ALLARD. Mr. President, I rise today in support of the Boy Scouts of America and the Support Our Scouts Act of 2005 amendment being offered by majority leader Frist.

I support the Boy Scouts of America and its goals. I was fortunate to be able to have most of the same experiences and training offered by the Boy Scouts

as I grew up. My boyhood on a ranch in Walden, CO, offered me the chance to develop the outdoor skills and nature appreciation that are so much a part of Scouting. As a child I also learned much about patriotism, community service, religion, political involvement and civic responsibility—the intellectual development stressed by the Boy Scouts. As a veterinarian I often served as an advisor to the Scouts on a variety of issues relating to animal care and health. Americans all over our Nation contribute and are touched by this great organization.

On July 25 through August 3, Boy Scouts from all over the Nation will gather at Fort A.P. Hill in Virginia for their National Scout Jamboree. This opportunity is time to celebrate scouting and the strong ideals it instills in it's youth.

Boy Scouts of America, like other nonprofit youth organizations, depend on the use of these public facilities for various programs and forums. Boy Scouts of America have had a long and positive relationship with the Departments of Defense and Housing and Urban Development. This relationship has fostered responsible fun and adventure to the more than 3 million boys and 1 million adult volunteers around the country.

However, since the U.S. Supreme Court decided Boy Scouts of America, BSA v. Dale, the Boy Scout's relationships with Government has been the target of frivolous lawsuits. Currently, State and local Governments are actively excluding Boy Scouts from using public facilities, forums, and programs. These are resources that are available to a variety of other youth or community organizations. Today access by the Scouts has been unfairly limited because of the Boy Scout's unwavering acknowledgment of God.

As we fight to prevent court involvement from changing our founding documents and other symbols of our national heritage we must also support and protect the heritage of Boy Scouts of America. Citizenship, service, and leadership are important values on which the Boy Scouts of America was built. The ability of the Boy Scouts to instill young people with values and ethical character must remain intact for future generations. The Boy Scouts of America is a permanent fixture in our culture and no court ruling can or should attempt to diminish their rights to equal access.

This amendment's mission is to ensure that the Boy Scouts are treated equally. I feel the Boy Scouts have been unfairly singled out. It is important to guarantee their right to equal access of public facilities, forums, and programs so that the Boy Scout of America can continue to serve America's communities and families for a better tomorrow.

Please join me in supporting the Boy Scouts of America and majority leader Frist's Support Our Scouts amendment to the Defense Appropriations bill.●

Mr. ENZI. Mr. President, I rise in support of amendment No. 1342, the Support Our Scouts Act, offered by my distinguished colleague from Tennessee, Senator FRIST. The amendment was intended to be simple and straightforward in its purpose, to ensure the Department of Defense can continue to support youth organizations, including the Boy Scouts of America, without fear of frivolous lawsuits. The dollars that are being spent on litigation ought to be spent on programs for the youth. Every time we see a group like the Boy Scouts, that will teach character and take care of the community, we ought to do everything we can to promote it.

This Saturday, over 40,000 Boy Scouts from around the Nation will meet at Fort A.P. Hill in Virginia for the National Scout Jamboree. This event provides a unique opportunity for the military and civilian communities to help our young men gain a greater understanding of patriotism, comradeship, and self-confidence.

Since the first jamboree was held at the base of the Washington Monument in 1937, more than 600,000 Scouts and leaders have participated in the national events. I attended the jamboree at Valley Forge in 1957.

Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. Boy Scouts is an education. It is an education in possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts. I say it is part of my education because each of the badges that is earned, each of the merit badges that is earned, is an education. I tell schoolkids as I go across my State and across my country that even though at times I took courses or merit badges or programs that I didn't see where I would ever have a use for them, by now I have had a use for them and wish I had paid more attention at the time I was doing it.

I always liked a merit badge pamphlet on my desk called ''Entrepreneurship.'' It is the hardest Boy Scout badge to earn. It is one of the most important ones. I believe small business is the future of our country. Boy Scouts promote small business through their internship merit badge. Why would it be the toughest to get? Not only do you have to figure out a plan, devise a business plan, figure how to finance it, but the final requirement for the badge is to start a business.

I could go on and on through the list of merit badges required in order to get an Eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use military facilities, even for their national jamborees.

These jamborees have become a great American tradition for our young people, and Fort A.P. Hill has been made the permanent site of the gatherings. But now the courts are trying to say that this is unconstitutional.

It isn't just military facilities; it is Federal facilities. A couple of years ago, we had an opportunity to debate this again on floor, and it had to do with the Smithsonian.

Some Boy Scouts requested they be able to do the Eagle Scout Court of Honor at the National Zoo and were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they asked you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they hadn't asked to sign the Declaration of Independence at the National Zoo.

This happens in the schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo.

That is kind of a fascinating experiment in words. I did look to see what other sorts of things had been done there and found they had a Washington Singers musical concert, and the Washington premiers for both the ''Lion King'' and ''Batman.'' Clearly, relevance was not a determining factor in those decisions.

But the Boy Scouts have done some particular things in conservation that are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named after him.

If the situations did not arise, this amendment would not come up. But they do.

In 2001, I worked with Senator Helms to pass a similar amendment requiring that the Boy Scouts are treated fairly, as any other organization, in their efforts to hold meetings on public school property. This amendment clarified the difference between support and discrimination, and it has been successful in preventing future unnecessary lawsuits. The Frist amendment is similar to the Helms amendment and will help prevent future confusion.

Again and again, the Scouts have had to use the courts to assure that they were not discriminated against. I am pretty sure everybody in America recognizes if you have to use the courts to get your rights to use school buildings,

military bases, or other facilities, it costs money. It costs time. This amendment eliminates that cost and eliminates that time, to allow all nationally recognized youth organizations to have the same rights.

The legal system is very important in the country but it has some interesting repercussions. Our system of lawsuits, which sometimes are called the legal lottery of this country, allow people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties for the Boy Scouts.

I remember when my son was in the Scouts their annual fundraiser was selling Christmas trees. One of the requirements when they were selling Christmas trees was that the boys selling trees at the lot had to be accompanied by two adults not from the same family.

I did not understand why we needed all of this adult supervision. It seemed as if one adult helping out at the lot would be sufficient. The answer was, they have been sued because if there was only one adult there and that adult could be accused of abusing the boys. Two adults provided some assurance that a lawsuit would not happen.

The interesting thing is, it was just me and my son at the lot and we still had to have another adult in order to keep the Boy Scouts from being sued.

They run into some of the same difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of the country has caused some of the discrimination that is done.

It is something we need to correct. This discussion of the Frist amendment is timely. U.S. District Judge Blanche Manning recently ruled that the Pentagon could no longer spend Government money to ready Fort A.P. Hill for the National Boy Scout Jamboree. The Frist amendment would assure that our free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and serve their fellow citizens. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of Americana. I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Helms amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we have no objection that I know of to this amendment. It does not purport to limit the jurisdiction of a Federal court in determining what the Constitution means. So we do not have any objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Virginia.

AMENDMENT NO. 1314

Mr. WARNER. Mr. President, in consultation with the majority leader and the distinguished Senator from Michigan, as to the amendment by Senator FRIST, I ask unanimous consent that the amendment be laid aside and that we return to my amendment No. 1314.

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

Mr. WARNER. On that matter, it is contemplated now that we will have a vote in relation to the Warner amendment regarding the wheeled motor vehicles, armored, today at 12:30.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we very strongly support the Warner amendment. I ask unanimous consent that I be listed as a cosponsor of the Warner amendment.

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

Mr. LEVIN. Mr. President, we understand there will be no second-degree amendments to the Warner amendment now.

I also ask unanimous consent that Senator KENNEDY be listed as a cosponsor.

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

Mr. LEVIN. Mr. President, we are checking on Senator BAYH right now.

Mr. WARNER. I think it is important. Senator BAYH has been very active on this issue.

AMENDMENT NO. 1314, AS MODIFIED

Mr. President, I send to the desk a modification to my amendment in the nature of a technical modification. I believe it has been examined by the other side. This modification identifies an offset of $445.4 million from the Iraqi Freedom Fund for this amendment.

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

The amendment, as modified, is as follows:

On page 303, strike line 3 and all that follows through page 304, line 24, and insert the following:

(3) For other procurement $376,700,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (a)(3), $225,000,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404. NAVY AND MARINE CORPS PROCUREMENT.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts of the Navy in amounts as follows:

(1) For aircraft, $183,800,000.

(2) For weapons, including missiles and torpedoes, $165,500,000.

(3) For other procurement, $30,800,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of $429,600,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $104,500,000.

(d) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (b), $340,400,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404A. REDUCTION IN AUTHORIZATION OF APPROPRIATION FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $445,400,000.

Mr. WARNER. Mr. President, I ask unanimous consent that Senator DEWINE and Senator COLLINS be added as cosponsors to the amendment.

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

Mr. WARNER. Mr. President, this amendment was debated yesterday. I see other Senators seeking recognition. From my perspective, the debate has been satisfied, unless there are other Senators.

Has the Chair ruled on the vote at 12:30? I ask unanimous consent that the vote in relation to the Warner amendment No. 1314 regarding wheeled vehicle armor occur today at 12:30 with no second-degree amendments in order prior to the vote.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, I had approached the chairman to ask if I could speak for a few minutes as in morning business and if it would be possible at this time for me to speak for up to 10 minutes as in morning business.

Mr. WARNER. I bring to the Senator's attention, we did have that discussion. I didn't, at the time, recognize the imminence of the vote. I see a colleague who does have an amendment in relation to the bill. Therefore, I am hesitant to grant UC to go off the bill. Could I inquire of the Senator from Oklahoma?

Mr. INHOFE. I respond to the distinguished chairman that I do have three amendments that are prepared and I am ready to bring them up and get them into the system. I also have two UC requests. If I could be recognized for that purpose, I would appreciate that.

Mr. WARNER. Mr. President, are there other colleagues who wish to address the Defense bill? Hopefully, we can accommodate our colleague from Oregon. Let's determine, procedurally, the order in which matters in relation to this bill should be brought up.

Ms. COLLINS. Mr. President, I inform the distinguished chairman that I was seeking 8 minutes to speak on the underlying bill.

Mr. WARNER. I thank the Senator from Maine.

Mr. ALEXANDER. Mr. President, I inform the chairman I would like to speak for 4 minutes on the Boy Scout amendment discussed, if time is available after other Senators speak on the underlying bill.

Mr. WARNER. I thank the distinguished Senator from Tennessee. I bring to his attention that that measure has been laid aside. It doesn't preclude his speaking to it, but we will see what we can do.

I ask my colleagues on this side, the Senator from Oregon, do you want 10 minutes or 8 minutes?

Mr. WYDEN. If the chairman could allow that, I would be appreciative.

Mr. WARNER. I wonder if the distinguished Senator from Oklahoma could proceed, followed by the Senator from Maine, and then prior to the vote, if you desire to do it before 12:30?

Mr. WYDEN. If that is at all possible. Perhaps I will ask unanimous consent to speak for up to 10 minutes after the vote; would that be acceptable?

Mr. WARNER. I would like to ask my colleague, the Senator from Michigan, to concur in that UC, that following the vote, the Senator from Oregon be recognized for a period of not to exceed 10 minutes, and we will go off the bill for that purpose.

Mr. WYDEN. I thank the chairman.

Mr. LEVIN. We appreciate that.

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

Mr. LEVIN. I wonder if we could lock in an additional speaker. I ask unanimous consent that immediately prior to the vote on the Warner amendment at 12:30, Senator KENNEDY be recognized for 5 minutes at 12:25.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Reserving the right to object, I would like to be in the queue before 12:30.

Mr. WARNER. I assure you that you will have 5 minutes in that period of time. If the Senator from Oklahoma could present his amendments, followed by the Senator from Maine, the Senator from Tennessee, and then Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am afraid I didn't hear that request. Are the speakers that have been identified speaking on the pending amendment?

Mr. WARNER. Not the pending. In other words, I desire not to go off the bill to accommodate our friend from Oregon. He has now been accommodated. We are looking at a period of roughly 40 minutes to be allocated among three Senators who wish to speak to matters in relation to this bill and reserving at 12:25 that Senator KENNEDY be recognized for a period of 5 minutes.

Mr. LEVIN. I ask unanimous consent that we add to that request that Senator LAUTENBERG then be recognized to offer an amendment immediately after the speakers who have been identified.

Mr. WARNER. Mr. President, we will do our very best to at least introduce an amendment at that time.

The PRESIDING OFFICER. Is there objection to Senator LAUTENBERG being added at the end of the three previous speakers?

Mr. WARNER. Might I inquire as to the amount of time the distinguished Senator from New Jersey might wish?

Mr. LAUTENBERG. I would like a half-hour evenly divided on the amendment. We have 50 minutes left before a vote. If I might say, could our distinguished colleague be accommodated immediately after the vote, following the Senator from Oregon?

Why don't I just lay it down and take a couple minutes to talk about it.

Mr. WARNER. Five minutes then.

Mr. LEVIN. He would just lay down an amendment prior to Senator KENNEDY speaking and then he would pick up after the vote.

Mr. WARNER. I have no objection.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first, I thank the distinguished chairman of the Senate Armed Services Committee for allowing me to offer these amendments. I will stay within a timeframe that will allow other speakers under the UC to be heard. I have three amendments I will be bringing up.

I first ask unanimous consent that Senator COLLINS be added as a cosponsor to amendment No. 1312 and that Senator KYL be added as a cosponsor to amendment No. 1313.

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

AMENDMENT NO. 1311

Mr. INHOFE. Mr. President, is it necessary to set aside the pending amendment for me to offer my amendment?

The PRESIDING OFFICER. That is correct.

Mr. INHOFE. I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk, No. 1311, and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 1311.

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

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

The amendment is as follows:

(Purpose: To protect the economic and energy security of the United States)

At the appropriate place, insert the following:

ECONOMIC AND ENERGY SECURITY

SEC. __. Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking ''The President'' and inserting ''(1) IN GENERAL.—The President'';

(C) by inserting '', including national economic and energy security,'' after ''national security'';

(D) by adding at the end the following new paragraph:

''(2) NOTICE AND WAIT REQUIREMENT.—

''(A) NOTIFICATION OF APPROVAL.—The President shall notify the appropriate congressional committees of each approval of any proposed merger, acquisition, or takeover that is investigated under paragraph (1).

''(B) JOINT RESOLUTION OBJECTING TO TRANSACTION.—

''(i) DELAY PENDING CONSIDERATION OF RESOLUTION.—A transaction described in subparagraph (A) may not be consummated until 10 legislative days after the President provides the notice required under such subparagraph. If a joint resolution objecting to the proposed transaction is introduced in either House of Congress by the chairman of one of the appropriate congressional committees during such period, the transaction may not be consummated until 30 legislative days after such resolution.

''(ii) DISAPPROVAL UPON PASSAGE OF RESOLUTION.—If a joint resolution introduced under clause (i) is agreed to by both Houses of Congress, the transaction may not be consummated.'';

(E) in paragraph (1)(B) (as so designated by this paragraph), by striking ''shall'';

(2) in subsection (d), by striking ''subsection (d)'' and inserting ''subsection (e)'';

(3) in subsection (e), by striking ''subsection (c)'' and inserting ''subsection (d)'';

(4) in subsection (f)(3), by inserting '', including national economic and energy security,'' after ''national security'';

(5) in subsection (g)—

(A) by striking ''REPORT TO THE CONGRESS'' in the heading and inserting ''REPORTS TO CONGRESS'';

(B) by striking ''The President'' and inserting the following: ''(1) REPORTS ON DETERMINATIONS.—The President'';

(C) by adding at the end the following new paragraph:

''(2) REPORTS ON CONSIDERED TRANSACTIONS.—

''(A) IN GENERAL.—The President or the President's designee shall transmit to the appropriate congressional committees on a monthly basis a report containing a detailed summary and analysis of each transaction the consideration of which was completed by the Committee on Foreign Acquisitions Affecting National Security since the most recent report.

''(B) CONTENT.—Each report submitted under subparagraph (A) shall include—

''(i) a description of all of the elements of each transaction; and

''(ii) a description of the standards and criteria used by the Committee to assess the impact of each transaction on national security.

''(C) FORM.—The reports submitted under subparagraph (A) shall be submitted in both classified and unclassified form, and company proprietary information shall be appropriately protected.''; and

(D) by striking ''of this Act'';

(6) in subsection (k)—

(A) by striking ''QUADRENNIAL'' in the heading and inserting ''ANNUAL''; and

(B) in paragraph (1)—

(i) by striking ''upon the expiration of every 4 years'' and inserting ''annually'';

(ii) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new subparagraph:

''(C) evaluates the cumulative effect on national security of foreign investment in the United States.''; and

(7) by adding at the end the following new subsections:

''(l) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

''(2) the Committee on Financial Services, the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

''(m) DESIGNEE.—Notwithstanding any other provision of law, the designee of the President for purposes of this section shall be known as the 'Committee on Foreign Acquisitions Affecting National Security', and such committee shall be chaired by the Secretary of Defense.''.

Mr. INHOFE. Mr. President, as a practical and timely step toward addressing problems with China, I am introducing amendment No. 1311. This amendment addresses the review process of foreign acquisitions in the U.S. The review of controversial buys, such as the CNOOC, currently falls to the Committee on Foreign Investment in the United States, CFIUS. I will state this simply: CFIUS has not demonstrated an appropriate conception of U.S. national security. I understand that Representatives HYDE, HUNTER and MANZULLO expressed similar views in a January letter to Treasury Secretary John Snow, the chairman of CFIUS. Of more than 1,500 cases of foreign investments or acquisitions in the U.S., CFIUS has investigated only 24. And only one resulted in actually stopping the transaction. This lone disapproval, in February 1990, occurred with respect to a transaction that had already taken place—it took President George H.W. Bush to stop the transaction and safeguard our national security.

Another example of CFIUS falling short is with Magnequench International Incorporated. In 1995 Chinese corporations bought GM's Magnequench, a supplier of rare earth metals used in the guidance systems of smart bombs. Over 12 years, the company has been moved piecemeal to mainland China, leaving the U.S. with no domestic supplier of neodymium, a critical component of rare-earth magnets. CFIUS approved this transfer. The United States now buys rare earth metals, which are essential for precision-guided munitions, from one single country—China.

Some experts believe that China's economic policy is a purposeful attempt to undermine the U.S. industrial base and likewise, the defense industrial base. Perhaps it is hard to believe that China's economic manipulation is such a threat to our Nation. In response, I would like to read from the book ''Unrestricted Warfare'', written by two PLA, People's Liberation Army, senior Colonels:

> Military threats are already no longer the major factors affecting national security . . . traditional factors are increasingly becoming more intertwined with grabbing resources contending for markets, controlling capital, trade sanctions and other economic factors.

I have outlined in my earlier speeches how China is a clear threat. I believe it is. But I also believe that this threat can be addressed and allow a healthy, mutual growth for both our countries. The CFIUS process is at the heart of this issue. Chairman of the US-China Economic and Security Review Commission, Dick D'Amato, stated this morning that the CFIUS process is ''broken.'' This amendment is a step toward fixing the problems, enabling the foreign review to carry out its function and truly protect our national security.

First, it clearly charges the commission with measuring energy and economic security as fundamental aspects of national security.

Second, it brings congressional oversight into the foreign investment review process. After a 10-day review period, an oversight committee chairman can extend the review period to 30 days. Congress then has the option to pass a resolution of disapproval and thus stop an acquisition harmful to our country.

Third, the amendment calls for a report on the security implications of transactions on a monthly basis. There will also be a yearly report to the proper congressional committees that will review the cumulative effect of our sales with China.

The amendment also changes the name of the review mechanism to reflect the national security focus that it should be emphasizing. The new name would be Committee on Foreign Acquisitions Affecting National Security, or CFAANS. Further, the designated chairman of the process would become the Secretary of Defense, also reflecting the security focus that the process should be based on.

The foreign investment review process is vital to providing for U.S. security, particularly in relation to countries such as China. However, it is in need of attention and changes no less drastic than I have suggested here.

We are going to have to do something about the performance of this organization. To do it, we will have to change the structure. I am going to be recommending that the chairman of CFIUS no longer be the Secretary of the Treasury but be the Secretary of Defense, since they deal with very critical national security issues.

AMENDMENT NO. 1312

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I send amendment No. 1312 to the desk and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Ms. COLLINS, proposes an amendment numbered 1312.

Mr. INHOFE. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission)

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions to encourage the creation of a new United Nations framework for monitoring the proliferation of WMD and their delivery systems in conformance with member nations' obligations under the Nuclear Non-Proliferation Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. The new monitoring body should be delegated authority to apply sanctions to countries violating these treaties in a timely manner, or, alternatively, should be required to report all violations in a timely manner to the Security Council for discussion and sanctions.

(F) Actions by the administration to conduct a fresh assessment of the ''One China'' policy, given the changing realities in China and Taiwan. This should include a review of—

(i) the policy's successes, failures, and continued viability;

(ii) whether changes may be needed in the way the United States Government coordinates its defense assistance to Taiwan, including the need for an enhanced operating relationship between United States and Taiwan defense officials and the establishment of a United States-Taiwan hotline for dealing with crisis situations;

(iii) how United States policy can better support Taiwan's breaking out of the international economic isolation that China seeks to impose on it and whether this issue should be higher on the agenda in United States-China relations; and

(iv) economic and trade policy measures that could help ameliorate Taiwan's marginalization in the Asian regional economy, including policy measures such as enhanced United States-Taiwan bilateral trade arrangements that would include protections for labor rights, the environment, and other important United States interests.

(G) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(H) Actions by the administration to develop and publish a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(I) Actions to revise the law governing the Committee on Foreign Investment in the United States (CFIUS), including expanding the definition of national security to include the potential impact on national economic security as a criterion to be reviewed, and transferring the chairmanship of CFIUS from the Secretary of the Treasury to a more appropriate executive branch agency.

(J) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(K) Actions by the administration to restrict foreign defense contractors, who sell sensitive military use technology or weapons systems to China, from participating in United States defense-related cooperative research, development, and production programs. Actions by the administration may be targeted to cover only those technology areas involved in the transfer of military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(L) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

Mr. INHOFE. In October of 2000, Congress established the United States-China Security Economic Review Commission to act as a bipartisan authority on how our relationship with China affects our economy and industrial base and China's military and weapons proliferation. I have read these recommendations. I have given four 1-hour speeches on the floor of the Senate concerning the recommendations. I think it is appropriate that we have those recommendations incorporated into the Defense authorization bill under consideration at this time. My amendment 1312 puts these recommendations into place that I have spoken on before in the Senate Chamber.

As I said, in October of 2000 Congress established the U.S.-China Security Economic Review Commission to act as the bipartisan authority on how our relationship with China affects our economy, industrial base, China's military and weapons proliferation, and our influence in Asia. For the past 5 years the commission has been holding hearings and issuing annual reports to evaluate ''the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Their job is to provide us in Congress with the necessary information to make decisions about this complex situation. However, I fear their reports have gone largely unnoticed.

In the most recent report, dated June 2004, the commission makes this alarming opening statement:

> Based on our analysis to date, as documented in detail in our Report, the Commission believes that a number of the current trends in U.S.-China relations have negative implications for our long-term economic and national security interests, and therefore that U.S. policies in these areas are in need of urgent attention and course corrections.

As their report and recent news headlines show, China has continued on an alarming course of expansion, in some aspects threatening U.S. national security. I have found the recommendations in the commission's 2004 Report objective, necessary, and urgent, and I am introducing an amendment to express our support for these viable steps. This amendment expresses the sense of the Senate that: China should revaluate its manipulated currency level and allow it to float against other currencies. In the Treasury Department's recent Report to Congress, China's monetary policies are described as ''highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth.''

Appropriate steps ought to be taken through the World Trade Organization

to hold China accountable for its dubious trade practices. Major problem issues such as intellectual property rights have yet to be addressed.

The U.S. should revitalize engagement in the Asian region, broadening our interaction with organizations like ASEAN. Our lack of influence has been demonstrated by the Shanghai Cooperation Organization recently demanding that we set a pullout deadline in Afghanistan.

The administration ought to hold China accountable for proliferating prohibited technologies. Chinese companies such as CPMIEC or NORINCO have been sanctioned frequently and yet the Chinese government refuses to enforce their own nonproliferation agreements.

The U.N. should monitor nuclear/biological/chemical treaties and either enforce these agreements or report them to the Security Council. The U.S.-China Commission has found that China has undercut the U.N. many areas, undermining what pressure we've tried to apply on problematic states such as Sudan or Zimbabwe.

The administration ought to review the effectiveness of the ''One China'' policy in relation to Taiwan to reflect the dynamic nature of the situation.

Various energy agencies should encourage China to develop a strategic oil reserve so as to avoid a disastrous oil crisis if availability should become volatile.

The administration should develop and publish a national strategy to maintain U.S. scientific and technological leadership in regards to China's rapid growth in these fields.

The Committee on Foreign Investment in the United States, CFIUS, should include national economic security as a criterion for evaluation and the chairmanship to be transferred to a more appropriate chair, allowing for increased security precautions.

The administration should continue in its pressure on the EU to maintain its arms embargo on China.

Penalties should be placed on foreign contractors who sell sensitive military use technology or weapons systems to China from benefiting from U.S. defense-related research, development and production programs. The administration should also provide a report to Congress on the scope foreign military sales to China.

And finally, we should provide a broad consensus in support of the Commission 2004 Report's recommendations.

The U.S.-China Economic and Security Review Commission have done an outstanding job providing us with a clear picture of a very complex and serious situation. Unless our relationship with China is backed up with strong action they will never take us seriously. We will certainly see more violations of proliferation treaties. They will continue to manipulate regional and global trade through currency undervaluation and other unhealthy practices. They will develop unreliable oil sources and energy alliances with countries that threaten international stability. They will continue to escalate the situation over Taiwan, raising the stakes in a game neither country can win. In today's world we see how the unpaid bills of the past come back to haunt us in full; ignoring these problems is unacceptable. As the China Commission states,

> We need to use our substantial leverage to develop an architecture that will help avoid conflict, attempt to build cooperative practices and institutions, and advance both countries' long-term interests. The United States cannot lose sight of these important goals, and must configure its policies toward China to help make them materialize . . . If we falter in the use of our economic and political influence now to effect positive change in China, we will have squandered an historic opportunity.

The U.S.-China Commission was created to give us in Congress a clear picture about what is going on—they have done their job. Now let's do ours.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purposes of consideration of amendment No. 1313 which I send to the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. KYL, proposes an amendment numbered 1313.

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

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

The amendment is as follows:

(Purpose: To require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross)

At the end of title XII, add the following:

SEC. 1205. ANNUAL REPORT ON THE INTERNATIONAL COMMITTEE ON THE RED CROSS.

(a) ANNUAL REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall, with the concurrence of the Secretary of Defense and the Attorney General, submit to Congress the activities and management of the International Committee of the Red Cross (ICRC) meeting the requirements set forth in subsection (b).

(b) ELEMENTS OF REPORTS.—(1) Each report under subsection (a) shall include, for the one-year period ending on the date of such report, the following:

(A) A description of the financial contributions of the United States, and of any other country, to the International Committee of the Red Cross.

(B) A detailed description of the allocations of the funds available to the International Committee of the Red Cross to international relief activities and international humanitarian law activities as defined by the International Committee.

(C) A description of how United States contributions to the International Committee of the Red Cross are allocated to the activities described in subparagraph (B) and to other activities.

(D) The nationality of each Assembly member, Assembly Council member, and Directorate member of the International Committee of the Red Cross, and the annual salary of each.

(E) A description of any activities of the International Committee of the Red Cross to determine the status of United States prisoners of war (POWs) or missing in action (MIAs) who remain unaccounted for.

(F) A description of the efforts of the International Committee of the Red Cross to assist United States prisoners of war.

(G) A description of any expression of concern by the Department of State, or any other department or agency of the Executive Branch, that the International Committee of the Red Cross, or any organization or employee of the International Committee, exceeded the mandate of the International Committee, violated established principles or practices of the International Committee, interpreted differently from the United States any international law or treaty to which the United States is a state-party, or engaged in advocacy work that exceeded the mandate of the International Committee.

(2) The first report under subsection (a) shall include, in addition to the matters specified in paragraph (1) the following:

(A) The matters specified in subparagraphs (A) and (G) of paragraph (1) for the period beginning on January 1, 1990, and ending on the date of the enactment of this Act.

(B) The matters specified in subparagraph (E) of paragraph (1) for the period beginning on January 1, 1947, and ending on the date of the enactment of this Act.

(C) The matters specified in subparagraph (F) of paragraph (1) during each of the Korean conflict, the Vietnam era, and the Persian Gulf War.

(c) DEFINITIONS.—In this section, the terms ''Korean conflict'', ''Vietnam era'', and ''Persian Gulf War'' have the meaning given such terms in section 101 of title 38, United States Code.

Mr. INHOFE. Mr. President, this is a very simple amendment. We have talked about some of the problems that have existed with the ICRC, the International Committee on the Red Cross. I would like to make sure people understand we are not talking about the American Red Cross. There have been problems that have come up. My first concern is for the American troops. The ICRC has been around since 1863 and has been there for American soldiers, sailors, airmen, and Marines through two world wars. I thank them for that good work they did. Likewise, I thank all Americans for their military service to America. I did have occasion to be in the Army. That was one of the best things that happened in my life.

In my continuing preeminent concern for American troops, however, I am compelled to note some concerns and pose some questions about the drift in focus of the ICRC. In spite of some of the things that have been very good that they have done in the past, there have been some very serious problems. I think they need to be called to the attention of the Senate and be made a part of this bill.

Specifically, the ICRC has engaged in efforts to reinterpret and expand international law so as to afford terrorists and insurgents the same rights and privileges as military personnel of

states party to the Geneva Convention. They have advocated, lobbied for arms control, issues that are not within the organization's mandate, and inaccurately and unfairly accused the United States of not adhering to the Geneva Conventions when the ICRC itself has demonstrated reluctance to ensure that the Geneva Convention protections are afforded U.S. prisoners of war.

Neither the American Red Cross nor any other national Red Cross or Red Crescent Society is consulted by the ICRC or is in any way involved in the ICRC's policy decisions and statements. The Government has remained the ICRC's single largest contributor since its founding in 1990. The Government has provided more than $1.5 billion in funding for the ICRC. Congress should request from the administration and the GAO an examination of how the ICRC spends the U.S. taxpayers' dollars to determine whether the entire annual U.S. contribution to the ICRC headquarters—in other words, the ICRC operations—is advancing American interests.

Additionally, Congress should request that the State, Defense, and Justice Departments jointly certify that the ICRC's operations and performance have been in full accord with its Geneva Conventions mandate. The administration strongly advocates for full transparency of all ICRC documents relating to the organization's core and noncore activities and the administration argues for a change in the ICRC statute so as to allow non-Swiss officials to be a part of the organization and directing bodies of the ICRC.

Indeed, I fear that the ICRC may be harming the morale of our American troops by unjustified allegations that detainees and prisoners are not being properly treated.

For example, an ICRC official visited Camp Bucca, a theater internment facility for enemy prisoners of war that is, as of January 2005, being operated by the 18th Military Police Brigade and Task Force 134, near Umm Qasr in southern Iraq. As of late January 2005, the facility had a holding capacity of 6,000 prisoners but only held 5,000. These prisoners were being supervised by 1,200 Army MPs and Air Force Airmen.

According to the Wall Street Journal, citing a Defense Department source, the ICRC official told U.S. authorities, ''you people are no better than and no different than the Nazi concentration camp guards.''

The ICRC and the State Department have confirmed that this ICRC official is now transferred from the Iraq assignment in the wake of her comment. Such a comment is obviously damaging to the morale of our American troops and offended the soldiers and airmen present.

The Senate Armed Services Committee has now held 13 hearings on the topic of prisoner treatment.

Sometimes we get bogged down in all the detail and we forget about the overall picture, the big picture. And I'm shocked when I found, only last Tuesday, from the Pentagon's report, that after 3 years and 24,000 interrogations, there were only three acts of violation of the approved interrogation techniques authorized by Field Manual 3452 and DOD guidelines.

The small infractions found were found by our own government, corrected and now reported. In all the cases no further incidents occurred. We have nothing to be ashamed of. What other country attacked as we were would exercise the same degree of self-criticism and restraint.

Most, if not all, of these incidents are at least a year old. I'm very impressed with the way the military, the FBI, and other agencies have conducted themselves. The report shows me that an incredible amount of restraint and discipline was present at Gitmo.

Having heard a lot about the Field Manual 3452, I asked, ''Are the DOD guidelines, as currently published in that manual, appropriate to allow interrogators to get valuable information, intelligence information, while not crossing the line from interrogation to abuse?'' The answer from Gen. Bantz J. Craddock, Commander of U.S. Southern Command was, ''I think, because that manual was written for enemy prisoners of war, we have a translation problem, in that enemy prisoners are to be treated in accordance with the Geneva Conventions—that doesn't apply. That's why the recommendation was made and I affirmed it. We need a further look here on this new phenomenon of enemy combatants. It's different, and we're trying to use, I think, a manual that was written for one reason in another environment.''

Lt. Gen. Randall M. Schmidt, the senior investigating officer said, ''Sir, I agree. It's critical that we come to grips with not hanging on a Cold War relic of Field Manual 3452, which addressed an entirely different population. If we are, in fact, going to get intelligence to stay ahead of this type of threat, we need to understand what else we can do and still stay in our lane of humane treatment.''

Brig. Gen. John T. Furlow, the investigating officer, stated, ''Sir, in echoing that, F.M. 3452 was originally written in 1987, further updated and refined in 1992, which is dealing with the Geneva question as well as an ordered battle enemy, not the enemy that we're facing currently. I'm aware that Fort Huachuca's currently in a rewrite of the next 3452, and it's in a draft form right now.''

It is clear that our military has humane treatment placed at the forefront of their concerns.

At the same time I want to ask, ''What other country would freely discuss interrogation techniques used against high-value intelligence detainees during a time of war when suicide bombers are killing our fellow citizens?

Why would we freely explain the limitations placed on our interrogators, when we know that our enemy trains his terrorists in methods to defeat our interrogations?

We're handing them new information on how to train future terrorists. What damage are we doing to our war effort by parading these relatively minor infractions before the press and the world again and again and again while our soldiers risk their lives daily and are given no mercy by the enemy?

Our enemies exploit everything we do and everything we say. Al-Zarqawi, the other day, said to his followers, quote, ''The Americans are living their worst days in Iraq now. Even Members of Congress have announced that the u.S. is losing the war in Iraq.''

Let us stop demoralizing our troops. I say let us support our troops in their continuing humane treatment of the detainees at Gitmo.

While we have done more than enough examining of ourselves, I believe it is fair to pose some questions to others as well.

In this amendment, I am requesting, with my cosponsors, simply a report to the Congress about activities of the ICRC.

In the past 15 years the United States has provided more than $1.5 billion dollars in funding to the ICRC. I would like to ask for some accountability for the use of this money and a modicum of oversight. For example, I think it is fair to ask:

''How is our money being spent?''

''What are the activities of the ICRC to determine the status of American POW's/MIA's unaccounted for since World War II?''

''What are the efforts of the ICRC to assist American POW's held in captivity during the Korean War, Vietnam War, and any subsequent conflicts?''

''Has the ICRC exceeded its mandate, violated established practices or principles, or engaged in advocacy work that exceeds the ICRC's mandate as provided for under the Geneva Conventions?''

Please join with me in supporting this simple, fair request for such a report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, the Senator's amendment will be considered on the floor in due time. But I assume that at least two of the amendments involve another committee, the Banking Committee, other than the Armed Services Committee; would I be correct in that?

Mr. INHOFE. I am aware that only one affects the Banking Committee. The national security ramifications of the performance and the functions of CFIUS are far greater than any banking function. I would be happy to deal with the chairman of the Banking Committee and talk about the proper jurisdiction.

Mr. WARNER. I thank the Senator. As to the other two amendments, is it his judgment that they are solely within the jurisdiction?

Mr. INHOFE. That is my judgment.

Mr. WARNER. I accept that.

Mr. LEVIN. I wonder if the good Senator will also share the amendment with the chairman and the ranking member in the Banking Committee, both.

Mr. INHOFE. Yes, that is a fair request.

Mr. WARNER. Mr. President, at this time I believe our colleague from Maine has an amendment.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise today in strong support of the National Defense Authorization Act of 2006. This legislation authorizes critical programs for our soldiers, sailors, airmen, and marines serving our country around the world—programs such as those that provide vital protective gear, military pay raises, and increased bonuses and benefits, and the advanced weapons systems on which our troops rely.

Let me thank and recognize the extraordinary efforts of our chairman of the committee and the ranking member for putting together an excellent bill. I commend Senator WARNER and Senator LEVIN also for their strong commitment to our Armed Forces, to making sure that our military's needs are met.

This legislation authorizes $9.1 billion for essential shipbuilding priorities, and it includes a provision to prohibit the use of funds by the Navy to conduct a ''one shipyard winner-take-all'' acquisition strategy to procure the next generation of destroyers, the DD(X). Not only does this legislation fully fund the President's request for the DD(X) program, but it also provides an additional $50 million for advanced procurement of the second ship in the DD(X) class at General Dynamic's Bath Iron Works in my home State of Maine. I am, understandably, very proud of the fine work and the many contributions of the skilled shipbuilders at Bath Iron Works to our Nation's defense.

The high priorities placed on shipbuilding in the Senate version of the Defense authorization bill stand in stark contrast to the House version of the Defense authorization. The House bill, unwisely and regrettably, slashes funding for the DD(X) program, in contrast to the President's budget. Moreover, it actually rescinds funding for the DD(X) that was provided last year.

Just this week, in testimony before a House Armed Services Subcommittee, the Chief of Naval Operations testified that the Navy must have the next generation destroyer, the DD(X). Admiral Clark, in what is undoubtedly one of his final, if not the final, appearances as Chief of Naval Operations before his retirement, stated before the subcommittee:

For the record, I am unequivocally in full support of the DD(X) program. . . . The failure to build a next-generation capability comes at the peril of the sons and daughters of America's future Navy.

In response to the House addition of $2.5 billion to the shipbuilding budget to buy two additional DDG *Arleigh Burke*-class destroyers in fiscal year 2006, the CNO clearly stated, ''I have enough DDGs.'' It is essential that we proceed with the DD(X) destroyer program.

The DD(X) will have high-tech capabilities that do not currently exist on the Navy's surface combatant ships. These capabilities include far greater offensive and precise firepower; advanced stealth technologies, numerous engineering and technological innovations that allow for a reduced crew size; and sophisticated, advanced weapons systems, such as a new electromagnetic rail gun.

Unfortunately, instability and dramatic changes have held back the progress on the DD(X) program. Initially, the Pentagon planned to build 12 DD(X)s over 7 years. To meet budget constraints, the Department slashed funding and now proposes to build only five DD(X)s over 7 years, even though the Chief of Naval Operations has repeatedly stated on the record before the Armed Services Committee, in both Chambers, that the warfighting requirements remain unchanged and dictate the need for the greater number—12 DD(X)s.

We have heard a lot about the cost growth in the DD(X) program and, indeed, the increase in the anticipated cost of constructing these vital destroyers is troubling to us all. But, ironically, one of the primary drivers of cost growth in shipbuilding is instability. This lack of predictability in shipbuilding funding only increases the cost to our Nation's shipbuilders because they cannot effectively and efficiently plan their workload. And, of course, ultimately, it increases the cost to the American taxpayer.

The Congress and the administration should be trying to minimize shipbuilding costs by ensuring a predictable, steadier, year-to-year level of funding. Regrettably, that has not been done.

Mr. President, the key to controlling the price of ships is to minimize fluctuations in the shipbuilding account. It is crucial that we not only have the most capable fleet but also a sufficient number of ships—and I add, shipbuilders—to meet our national security requirements. Avoiding budget spikes affords more than ships; it provides stability in Naval ship procurement planning and offers a steady workload at our shipyards.

When budget requests change so dramatically from year to year, even when the military requirement stays the same, shipbuilders cannot plan effectively, and the cost of individual ships is driven upward. The national security of our country is best served by a competitive shipbuilding industrial base, and this legislation before us today fully supports our Nation's highly skilled shipbuilding employees.

This important legislation also provides much-needed funds for other national priorities. It includes an important provision that builds upon my work and the work of other committee members last year and this year to authorize an increase in the death gratuity payable to the survivors of our military who have paid the ultimate price. It also authorizes an increase in the Servicemembers' Group Life Insurance benefit. Surely, that is the least we can do for our brave service men and women.

This bill also improves care of our military by recommending a provision that would strengthen and extend health care coverage under TRICARE Prime for the children of an Active-Duty service member who dies while on active duty.

This authorization bill is good for our Navy, good for our men and women in uniform who are serving our country all around the world, and I am pleased to offer my full support.

I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that Senators CANTWELL and SNOWE be added as cosponsors to the amendment of the Senator from Virginia.

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

Mr. WARNER. Mr. President, I want to make certain the Senator from Virginia is added as a cosponsor to the Frist amendment now pending at the desk.

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

Mr. WARNER. The distinguished Senator from Massachusetts, I believe, under the UC is about to address the Senate.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from New Jersey is to be recognized next, is my understanding.

Mr. WARNER. Mr. President, can we have a clarification?

Mr. KENNEDY. I understand my friend from New Jersey has a unanimous consent request to make. I will be glad to yield.

AMENDMENT NO. 1351

Mr. LAUTENBERG. I thank the Senator from Massachusetts.

I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Mr. LAUTENBERG. Mr. President, I understand I will be able to have some time after the vote to discuss the amendment.

Mr. WARNER. Mr. President, that is very clear. The Senator from New Jersey seeks up to how much time?

Mr. LAUTENBERG. If I can have 15 minutes.

Mr. WARNER. Can we enter into a time agreement equally divided?

Mr. LAUTENBERG. If we have time equally divided, then I ask the Senator from Virginia to allow a half hour equally divided.

Mr. WARNER. Mr. President, I think we will have to enter into that agreement later, but I will work toward that goal.

Mr. LAUTENBERG. With no second degrees possible.

I yield the floor.

Mr. WARNER. Is the amendment of the Senator from New Jersey now at the desk?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. CORZINE, Mrs. CLINTON, and Mr. FEINGOLD, proposes an amendment numbered 1351.

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

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

The amendment is as follows:

(Purpose: To stop corporations from financing terrorism)

At the end of the bill, add the following:

TITLE XXXIV—FINANCING OF TERRORISM

SEC. 3401. SHORT TITLE.

This title may be cited as the ''Stop Business with Terrorists Act of 2005''.

SEC. 3402. DEFINITIONS.

In this title:

(1) CONTROL IN FACT.—The term ''control in fact'', with respect to a corporation or other legal entity, includes—

(A) in the case of—

(i) a corporation, ownership or control (by vote or value) of at least 50 percent of the capital structure of the corporation; and

(ii) any other kind of legal entity, ownership or control of interests representing at least 50 percent of the capital structure of the entity; or

(B) control of the day-to-day operations of a corporation or entity.

(2) PERSON SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term ''person subject to the jurisdiction of the United States'' means—

(A) an individual, wherever located, who is a citizen or resident of the United States;

(B) a person actually within the United States;

(C) a corporation, partnership, association, or other organization or entity organized under the laws of the United States, or of any State, territory, possession, or district of the United States;

(D) a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled in fact by a person or entity described in subparagraph (A) or (C); and

(E) a successor, subunit, or subsidiary of an entity described in subparagraph (C) or (D).

(3) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is an alien;

(B) a corporation, partnership, association, or any other organization or entity that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) a foreign governmental entity operating as a business enterprise; and

(D) a successor, subunit, or subsidiary of an entity described in subparagraph (B) or (C).

SEC. 3403. CLARIFICATION OF SANCTIONS.

(a) PROHIBITIONS ON ENGAGING IN TRANSACTIONS WITH FOREIGN PERSONS.—

(1) IN GENERAL.—In the case of a person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person, that prohibition shall also apply to—

(A) each subsidiary and affiliate, wherever organized or doing business, of the person prohibited from engaging in such a transaction; and

(B) any other entity, wherever organized or doing business, that is controlled in fact by that person.

(2) PROHIBITION ON CONTROL.—A person subject to the jurisdiction of the United States that is prohibited as described in subsection (b) from engaging in a transaction with a foreign person shall also be prohibited from controlling in fact any foreign person that is engaged in such a transaction whether or not that foreign person is subject to the jurisdiction of the United States.

(b) IEEPA SANCTIONS.—Subsection (a) applies in any case in which—

(1) the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Trading with the Enemy Act (50 U.S.C. App.) to prohibit a person subject to the jurisdiction of the United States from engaging in a transaction with a foreign person; or

(2) the Secretary of State has determined that the government of a country that has jurisdiction over a foreign person has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)), or any other provision of law, and because of that determination a person subject to the jurisdiction of the United States is prohibited from engaging in transactions with that foreign person.

(c) CESSATION OF APPLICABILITY BY DIVESTITURE OR TERMINATION OF BUSINESS.—

(1) IN GENERAL.—In any case in which the President has taken action described in subsection (b) and such action is in effect on the date of enactment of this Act, the provisions of this section shall not apply to a person subject of the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action described in subsection (b) on or after the date of enactment of this Act, the provisions of this section shall not apply to a person subject to the jurisdiction of the United States if such person divests or terminates its business with the government or person identified by such action within 1 year after the date of such action.

(d) PUBLICATION IN FEDERAL REGISTER.—Not later than 90 days after the date of enactment of this Act, the President shall publish in the Federal Register a list of persons with respect to whom there is in effect a sanction described in subsection (b) and shall publish notice of any change to that list in a timely manner.

SEC. 3404. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR NOTIFICATION.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

(b) CLERICAL AMENDMENT.—The table of contents in subsection (b) of such Act is amended by adding at the end the following new item:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

SEC. 3405. ANNUAL REPORTING.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that investors and the public should be informed of activities engaged in by a person that may threaten the national security, foreign policy, or economy of the United States, so that investors and the public can use the information in their investment decisions.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue regulations that require any person subject to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to disclose in that person's annual reports—

(A) any ownership stake of at least 10 percent (or less if the Commission deems appropriate) in a foreign person that is engaging in a transaction prohibited under section 3403(a) of this title or that would be prohibited if such person were a person subject to the jurisdiction of the United States; and

(B) the nature and value of any such transaction.

(2) PERSON DESCRIBED.—A person described in this section is an issuer of securities, as that term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), that is subject to the jurisdiction of the United Sates and to the annual reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m).

Mr. WARNER. Mr. President, I ask that the amendment now be laid aside for purposes under the UC agreement so that the Senator from Massachusetts may address the Senate, I believe for 5 minutes.

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

AMENDMENT NO. 1314

Mr. KENNEDY. Mr. President, I am delighted to join our chairman of the Armed Services Committee and others in cosponsoring the chairman's amendment. I commend him for his impressive leadership in bringing it before the Senate as one of the first amendments on this extremely important bill.

The amendment increases funding by $340 million for the Marine Corps and $105 for the Army for more and better armored vehicles for our troops in Iraq.

This issue has been divisive for far too long. All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives and carry out their missions.

More than 400 troops have already died in military vehicles vulnerable to roadside bombs, grenades, and other notorious improvised explosive devices.

Many of us have visited soldiers and marines at Walter Reed and Bethesda

and seen the tragic consequences of inadequate armor. We want to ensure that parents grieving at Arlington National Cemetery no longer ask, ''Why weren't more armored humvees available?''

It is scandalous that the administration has kept sending them into battle year after year in Iraq without adequate equipment. It is scandalous that desperate parents and spouses here at home have had to resort to Wal-Mart to try to buy armor and mail it to their loved ones in Iraq to protect them on the front lines. Secretary Rumsfeld has rarely been more humiliated than on his visit to Iraq, when a soldier had the courage to ask him why the troops had to scavenge scrap metal on the streets to protect themselves. The cheer that roared out from troops when he asked that question said it all.

We have been trying to make sure the Army and Marine Corps has had the right amount of funding for vehicles for over 2 years. Last year, we tried to get additional funding in committee and faced resistance, but ultimately added money to the supplemental.

This past spring, we were successful in getting the Army $213 million for uparmored humvees. That amendment was adopted, but it was a very narrow vote.

The Marine Corps leadership clearly understated the amount and types of ground equipment it needs. In April, we were told in a hearing that based on what they knew from their operational commanders, the Marine Corps had met all of the humvee requirements for this year, which was 398 uparmored humvees.

Less than a month later, the Inspector General of the Marine Corps conducted a readiness assessment of the their ground equipment in Iraq. One of the key findings was that the requirement for additional upamored humvees would continue to grow. Based on that report and other factors, the Marine Corps reversed itself and testified the need was almost triple the original amount.

The inspector general's teams inspected many humvees in Iraq that had been damaged by mines and other explosive devices. In nearly every case, they found that the cabin was well protected despite significant damage to the engine compartment wheels.

The inspector general also found that even with recommended changes, including replacing damaged vehicles, the war will continue to take a toll on the marines' equipment. Nearly all of its fighting gear is ready for combat this year, they found but it would drop to less than two-thirds by the middle of 2008. It has taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep hoping the problem will somehow go away.

We have been told for months that the Army's shortage of uparmored humvees was a thing of the past. In a letter last October, General Abizaid said:

> The fiscal year 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues you mentioned to include the procurement of . . . humvees.

The Army could have and should have moved much more quickly to correct the problem. As retired General Paul Kern, who headed the Army Materiel Command until last November, said:

> It took too long to materialize.

He said:

> In retrospect, if I had it to do all over, I would have just started building uparmored humvees. The most efficient way would have been to build a single production line and feed everything into it.

In April, GAO released a report that clearly identifies the struggles the Pentagon has faced. In August 2003, only 51 uparmored humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month. Now the Army says they can now get delivery of 550 a month. The question is, Why did it take so long? Why did we go to war without the proper equipment? Why didn't we fix it sooner, before so many troops have died?

We need to get ahead of this problem. It is a tragedy for which our soldiers are still paying the price for this delay. As Pentagon acquisition chief Michael Wynne testified to Congress a year ago:

> It's a sad story to report to you, but had we known then what we know now, we would probably have gotten another source involved. Every day, our soldiers are killed or wounded in Iraq by IEDs, RPGs, small-arms fire. Too many of these attacks are on humvees that are not uparmored, . . . We are directing that all measures to provide protection to our soldiers be placed on a top priority, most highly urgent, 24/7 basis.

But 24/7 didn't happen even then until January this year. The plant had capacity that the Pentagon never consistently used, as the plant's general manager has said.

The delay was unconscionable. Without this amendment, the production rate of uparmored humvees could drop off again later this year. That is the extraordinary thing. We need to guarantee that we are doing everything possible to get the protection to our troops as soon as possible. We owe it to them, to their families here at home and to the American people.

We have an opportunity now to end this frustration once and for all. Our soldiers and marines deserve the very best, and it is our job in Congress to make sure the Department of Defense is finally getting it right. Too many have died because of these needless delays, but hopefully, this will be solved by what we do in this bill.

The amendment contributes significantly to this goal, and I urge my colleagues to support it.

Mr. WARNER. I will be happy to share my brief time for remarks with my colleague. The Senator has joined our bill and I appreciate him expressing confidence in this amendment of the Senator from Virginia. I commend the Senator from Massachusetts, Mr. KENNEDY, the Senator from Indiana, Mr. BAYH, and many others who worked in this area of the up-armoring of our military vehicles. But I must take issue with the Senator's observations that in any way the Department of Defense is open to criticism because it has been a constantly evolving requirements issue before the combatant commanders.

When we look at this record in a careful manner, we will see that the Department has responded very quickly to the communication from the combatant commanders to adjust through the military departments, primarily the Department of Army, the procurement of the necessary equipment.

This Senator from Virginia and others are very conscious of the IED problem. I just visited Quantico and looked at their research and development facilities dealing with the IED question. Our committee periodically, at least every 60 to 90 days, has the general in charge of the overall responsibility of IEDs in the Department to brief us on what are his needs and are they fully met financially and in every other way.

I frankly think the record shows that the Department of Defense is doing its very best for a quickly evolving and changing set of facts requiring the addition of up-armored vehicles.

Mr. President, is the amendment the pending business for the purpose of a vote at 12:30?

The PRESIDING OFFICER. It will be at 12:30.

The Senator from Michigan.

Mr. WARNER. I yield the floor.

Mr. LEVIN. Mr. President, let me also commend the Senator from Massachusetts and the Senator from Indiana. They have been stalwarts in terms of urging we address this armor question.

Our service men and women continue to die and suffer grievous wounds in Iraq and Afghanistan, and by far the major casualty producer is the roadside bomb or mine—what the military calls an improvised explosive device or IED. The services are working to counter that threat through a variety of means—better intelligence, innovative tactics, techniques and procedures, the use of jamming devices, and of course, adding armor to Army and Marine Corps HMMWVs and other trucks. On my recent visit to Iraq, met with the Marines in Fallujah and viewed and discussed the various levels of armor protection on their HMMWVs and the new armor package for their heavy truck.

The armor issue is both a good news and a bad news story. The good news is that in just over 2 years, the Army and Marine Corps have gone from only a few hundred armored trucks to nearly 40,000 and 6,000 respectively. Many people have worked night and day to make that happen, and we commend and thank them for doing so. Congress has

consistently provided all the funding requested and, in several instances, has provided funding ahead of any request. In fact, the fiscal year 2005 Defense emergency supplemental added $1.2 billion for various force protection equipment, most notably for uparmored HMMWVs and add-on armor for HMMWVs and other trucks. As of last month, all known requirements for truck armor for Iraq and Afghanistan were funded, and the Army and Marine Corps were on track to complete those requirements for HMMWVs by July and September respectively, and for other trucks by December of next year.

The bad news is that military commanders have been slow to recognize the growing threat to thin-skinned HMMWVs and other trucks in Iraq and Afghanistan and determined requirements for armored trucks slowly and incrementally. For instance, in May of 2004, my staff sent me a memo which said:

> The current Central Command requirement for [up-armored HMMWVs in Iraq and Afghanistan is 4454. This appears to be an ever-increasing number over the last year, having been increased from 253 to 1233 to 1407 to 2957 to 3142 to 4149 to 4388, and finally to 4454. We have no confidence that it will not be increased again in the future.''

That was a prescient statement because over the next year, the requirement for uparmored HMMWVs continued to increase—to 10,079 for the Army and 498 for the Marine Corps. The story was similar for the requirements to armor other Army and Marine Corps trucks. These incremental increases in requirements have led to inefficient acquisition and unnecessary delays in getting armored trucks for our troops.

It has also caused a lot of confusion and some fingerpointing, particularly between the Army and the Marine Corps on the one hand O'Gara Hess, the company which produces the uparmored HMMWV, On the other. A recent New York Times article reported that ''in January, when it [referring to the Army] asked O'Gara to name its price for the design rights for the armor, the company balked and suggested instead that the rights be placed in escrow for the Army to grab should the company ever fail to perform.'' With respect to the Marine Corps' uparmored HMMWV requirement, the same article further reported that, ''asked why the Marine Corps is still waiting for the 498 humvees it ordered last year, O'Gara acknowledged that it told the Marines it was backed up with Army orders, and has only begun filling the Marines' request this month. But the company says the Marine Corps never asked it to rush.''

I questioned the Army Chief of Staff and the Commandant of the Marine Corps on these issues in a hearing on June 30. I asked the Army Chief of Staff for an answer for the record as to whether or not it was true that the Army sought to purchase the design rights so that we could produce the uparmored HMMWVs a lot more quickly and that the company balked. I also asked the Commandant of the Marine Corps for an answer for the record as to whether the Marine Corps ever asked O'Gara to rush its order for uparmored HMMWVs. Just this morning, I received a formal response from the Army on the design rights. The Marine Corps has informally asserted that it did ask the company for accelerated production.

In its defense, Armor Holdings, the parent company of O'Gara Hess, has said that at the time of the Marine Corps' inquiry in September of 2004 relating to potential production of additional uparmored HMMWVs, the company indicated its interest in and its ability to produce those vehicles, and that as soon as the order was actually placed by the Marines in February 2005, it began to work on and has already begun to deliver those vehicles. What is still unclear is whether the Marine Corps ever coordinated a request for accelerated production through the Army's Tank Automotive and Armaments Command which handles all of the contract actions for upamored HMMWVs, and if it did, why the company was not issued a contract to increase the production rate over and above the increase from 450 to 550 a month that the Army requested in December of 2004.

With respect to the technical data package, TDP—the ''design rights'' discussed in the New York Times article—the Army says it requested, for informational purposes only, that O'Gara Hess submit a cost proposal for procurement of the technical data package in order to obtain a price for a TDP complete enough for any firm to manufacture the current uparmored HMMWV. The company has argued that the TDP was developed by Armor Holdings, with its own money, under its own initiative; that a formal request was never made by the Army to purchase that TDP as required under Federal Acquisition Regulations; that the company responded to an informal e-mail inquiry to that effect in January 2005 by offering to place the TDP in escrow and in so doing, allow the Army instant access to the design information if the company ever failed to meet the Army's request. In the company's view, it saw no logic to the inquiry because it had met or exceeded every production requirement and schedule, was ready and willing to produce more, and consequently there was no need for the Army to obtain alternative production sources.

What is not clear is why the Army would request the rights to the TDP for the uparmored HMMWV in January 2005, since already contracted for a the uparmored HMMWVs it planned to procure in fiscal year 2006—the last year that it intends to procure uparmored HMMWVs as it moves to implement its long-term armor strategy of procuring removable armor kits. I am expecting further information from the Army and the Marine Corps soon to clear up these matters.

This illustrates the continued confusion surrounding uparmored HMMWVs that has frustrated so many of us in Congress.

Given this background, and in light of the uncertainty as to whether requirements would continue to increase, the Senate Armed Services Committee, in the markup of the fiscal year 2006 authorization bill, added $120 million for the Army to continue to procure uparmored HMMWVs or add-on armor for HMMWVs and other trucks, even though the known requirements for Iraq and Afghanistan had been met with fiscal year 2005 emergency supplemental funding.

Now, however, it appears that the requirements have once again changed. Central Command is currently considering a request from the Southern European Task Force commander for additional uparmored HMMWVs for Afghanistan. And the Marine Corps has decided to upgrade and ''pure-fleet'' all 2,814 Marine Corps HMMWVs in the CENTCOM area of operations to the uparmored HMMWV configuration. Based on current, on-hand quantities, the Marine Corps could be short 1,826 uparmored HMMWVs.

To compound the potential problem, the Army plans to end all production of the uparmored HMMWV as it ramps up the production of a new HMMWV model with a heavier chassis that is ready to accept an integrated, bolt-on/off armor kit. However, the fiscal year 2006 President's budget only funds 90 of these vehicles with the armor kit. This would not appear to be a prudent approach, given the history to date of ever increasing requirements for truck armor.

The pending amendment would do two things: it would add $340 million to fund the 1,826 shortfall in the newest Marine Corps requirement for uparmored HMMWVs, and it would add $225 million to the Army for truck armor, an increase from the $120 million currently in the authorization bill. That is enough for the Army to procure the add-on armor kits for the 4,037 M1152 HMMWVs that will currently be fielded without armor in fiscal year 2006. With this funding and these additional armor kits, by the end fiscal year 2006 the Army will have fielded 16,768 HMMWVs with the highest—Level 1—armor protection.

I whole-heartedly support this amendment and urge my colleagues to do likewise. I also urge the Department of Defense to thoroughly review Army and Marine Corps long-term truck armor strategies and ensure that all requirements are identified in a timely manner, and that sufficient funding is requested in a timely manner so that we can ensure our troops get the equipment they need and deserve as quickly as possible.

Mr. President, to reiterate, lack of armor for our troops has been truly one of the most discouraging elements of the Iraq war. Partly it is because of what the Senator from Virginia said.

There has been a change in requirements along the way. Partly it has been administrative failures along the way inside the Department.

Listen to a New York Times article that has a conflict between the Army and Marines on the one hand and our producer, O'Gara Hess, on the other hand. The New York Times article says:

> In January, when the Army asked O'Gara to name its price for the design rights for the Army, the company balked and suggested instead that the rights be placed in escrow for the Army to grab should the company ever fail to perform.

So we have the Army asking the manufacturer how much would it cost to buy the design rights so we could have a second line, so we could have a second source, we are short of armor. And the Army says they never got the answer. The producer says it was never asked formally. In the meantime, men and women are dying in Iraq because of that kind of confusion.

So, yes, the requirements have changed, but there have also been administrative failures as well.

Then the Marines say they asked the company to rush the orders. The company denies it ever got the request to rush the orders.

Yes, the chairman is right, there have been changes in the requirements, the numbers needed, but I am afraid the Senator from Massachusetts is also right, that there have been some true failures and incompetence in the administration of the armor program. The differences in the conflicts that exist between the stories told by the Army and Marines on the one hand and the company that produces the humvees on the other, it seems to me, are evidence of those failures.

Mr. KENNEDY. Will the Senator yield for 30 seconds?

Mr. LEVIN. I will be happy to yield.

Mr. KENNEDY. I know the time has run out. I want to mention the family of Mr. Hart, from Dracut, MA, who lost a son in Iraq. I remember seeing the letter that his son wrote that said: Unless we get an up-armored, I am not going to last very long. And 30 days later he was killed. Mr. Hart has been tireless in trying to make sure other service men and women in Iraq receive the kind of protection they need. I have to mention his name associated with the increase in the protection for American servicemen because here is an individual who has made an extraordinary difference for our service men and women.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I think the vote is scheduled for 12:30. I ask unanimous consent to proceed for 1 additional minute.

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

Mr. LEVIN. Mr. President, I wholeheartedly support this amendment. I commend our chairman for it and urge our colleagues to support the amendment. In addition to that, I hope the Department of Defense will thoroughly review the Army and Marine Corps long-term truck armor strategies so we can identify requirements in a timely manner, sufficient funding be requested in a timely manner so we can assure our troops that they will get the equipment they need and deserve in time to meet the threat.

I know this Congress, under this chairman's leadership, has over and over again told the Defense Department: We will give you every dollar you need. There are no financial constraints when it comes to supporting our troops.

We have told them that over and over again. It should not be necessary to add this money, but it is. I wholeheartedly support it, and I thank the chairman for his leadership.

I ask unanimous consent that Senator BAYH of Indiana, who I know is trying to get to the floor to support this amendment because of his leadership in this area, be added as a cosponsor of the amendment.

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

The Senator from Virginia.

Mr. WARNER. I believe the vote is in order at this time.

The PRESIDING OFFICER. That is correct. All time has expired.

The question is on agreeing to amendment No. 1314, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—100

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Thune
Craig	Levin	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Lugar	
Dodd	Martinez	

The amendment (No. 1314), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Before the Senator from Oregon addresses the Senate, I wish to speak for 2 minutes and thank colleagues for their strong support of this amendment. We do not often get 100 votes. It was not put up here in mind that there would be 100 votes. It is very reassuring to send this strong messages to our Armed Forces and indeed throughout the world that the Senate stands behind those measures which will strengthen our ability to fight terrorism in the world.

At this point in time in the struggle against terrorism, not only with our country but the coalition of nations, the type of weapons being employed, while basic in nature, are lethal in nature, and it requires the modification of our military equipment. This amendment provides the funds to do it.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

JUDGE JOHN G. ROBERTS

Mr. WYDEN. Mr. President, in this Congress, no issue has riveted the attention of the American people like the heart-wrenching circumstances of the late Terri Schiavo. No issue has generated more public debate, more heated controversy, or more passion than that tragedy. On the eve of the Easter recess, I blocked the effort in this Senate to dictate from the Senate a specific medical treatment in that end-of-life tragedy.

I did that for two major reasons. First, I believe that under the Constitution, the Founding Fathers intended for our citizens and their families to have the privacy to decide these types of matters. Second, under the Constitution, to the extent government has a defined role in medical practice, it is a matter for the States and certainly not a subject that should prompt Federal intrusion and meddling.

In my opinion, the events that unfolded in the Senate over Terri Schiavo need to be remembered as the Senate begins the consideration of the nomination of Judge John Roberts to serve as an Associate Justice of the United States Supreme Court.

It is important for the Senate to reflect on those events because while the Court ultimately did not take up the Schiavo case, it was not for lack of effort on the part of those who read the Constitution very differently than the intent of the Founding Fathers and longstanding legal precedent prescribe.

I have come to the Senate today because I believe there will be many more end-of-life cases presented to the U.S. Supreme Court. Current demographic trends, the advancement of medical technologies, and certainly the

passions this issue has generated ensure that the Court will be confronted again and again with end-of-life issues.

Therefore, in my opinion, the Senate—under the advice and consent clause—has an obligation to inquire into how Judge Roberts sees end-of-life issues in the context of the Constitution.

I don't believe in litmus tests for Federal judges, but I intend to weigh carefully Judge Roberts' judicial temperament in this regard.

Moreover, I have a longstanding policy, begun first with our legendary Senator, Mark Hatfield, and continued with my good friend, Senator GORDON SMITH, that I will work in a bipartisan way to select Federal judges from our State for the President's consideration. Repeatedly, Oregon judges have been confirmed with whom I have disagreed on a number of issues and with whom Senator GORDON SMITH has disagreed on a number of issues. I have put the ''no litmus test'' policy to work often here in the Senate. I want to make clear that I hold to that principle today, but I will follow Judge Roberts' views on end-of-life issues carefully as his nomination is considered.

My statement today is also not an attempt to tease out a preview of how Judge Roberts might rule on end-of-life cases that come before the Court. I do believe, however, that the Senate would be derelict, given the importance of this issue, not to ask the nominee questions that will shed light on how he interprets the Constitution as it relates to end-of-life medical care.

End-of-life health care presents American families with immensely difficult choices. In a country of 290 million people, our citizens approach these choices in dramatically different ways. Their judgments about end-of-life care often blend religion, ethics, quality-of-life concerns, and moral principles together and as the Senate found out this spring, these judgments are considered extraordinarily personal and are passionately held.

What the Senate learned last spring in the Schiavo case is that the American people want what the Constitution envisioned as their right—just to be left alone. Privacy law is complicated, and surely Senators have differing interpretations about the meaning of legal precedent in this area but the American people spoke loudly last spring that they considered the congressional action to mandate a specific medical treatment for Terri Schiavo to be a gross overreach. I said at the time that I agreed. I do not believe the Constitution should be stretched so as to crowd the steps of the Congress with families seeking settlement of their differences about end-of-life medical care. However, the U.S. Supreme Court is another matter. That body will most definitely see more such end-of-life appeals. That is why the views of Judge Roberts on this issue are so important.

Even as the Constitution envisioned a wide berth for individuals to decide these private matters, it also provides parameters if there is to be any government involvement at all. Those parameters are guided by the 10th amendment to our Constitution. The 10th amendment stipulates that the powers not delegated to the United States—the Federal Government—by the Constitution are reserved for the States. Historically and correctly, that includes the determination of medical practice within a State's own borders. There are few medical practice decisions more wrenching than those at the end of life.

Once again, in the Schiavo case, the Congress sought to overstep its constitutional bounds. What I want to know is whether Judge Roberts is similarly inclined to stretch our Constitution or whether he will consider end-of-life issues with respect for our hallowed Constitution and the doctrine of stare decisis.

Finally, as we approach these issues, I make clear that I do not intend to prejudge the outcome of the confirmation process, but ask only that the Senate weigh carefully these important issues and that questions about end-of-life care be posed to the nominee.

I look forward to learning about the nominee's views, not just on end-of-life care, but on a variety of other critical matters and look forward to the Judiciary Committee beginning its thorough and careful evaluation in the days ahead. I have tried to make bipartisanship a hallmark of my service in the Senate. I certainly intend to use that approach as the Senate goes forward and considers the nomination of Judge Roberts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 1351

Mr. LAUTENBERG. Mr. President, I have an amendment at the desk. This amendment shuts down a source of revenue that flows to terrorists and rogue regimes that threaten our security.

President Bush has made the statement that money is the lifeblood of terrorist operations. He could not be more right. Amazingly, some of our corporations are providing revenue to terrorists by doing business with these rogue regimes. My amendment is simple. It closes a loophole in the law that allows this to happen, that allows American companies to do business with enemies of ours. This will cut off a major source of revenue for terrorists. What we need to do is to starve these terrorists at the source. By using this loophole, some of our companies are feeding terrorism by doing business with Iran, which funds Hamas, Hezbollah, as well as the Islamic Jihad.

I want to remind my colleagues that it was Iran that funded the 1983 terrorist act in Beirut that killed 241 United States Marines—241 Marines killed by Iranian terror—and yet we are currently allowing United States corporations to provide revenues to the Iranian Government. It has to stop.

So how do U.S. companies get around terrorist sanctions laws? Because we have those laws that are supposed to prevent contact and opportunity for those nations that support terrorism. The process is simple. These companies run the Iranian operations out of a foreign subsidiary.

I have a chart here that shows the route that is taken to get these funds to these companies that do business with Iran. The U.S. corporation sets up a subsidiary, sets up a foreign subsidiary. They do business directly with Iran. And again, support for Hezbollah and Hamas is common knowledge with Iran.

Our sanctions laws prohibit United States companies from doing business with Iran, but the law contains a loophole. It enables an American company, a U.S. company's foreign subsidiaries, to do business prohibited by the parent. As long as this loophole is in place, our sanctions laws have no teeth. My amendment would close this loophole once and for all. It would say foreign subsidiaries controlled by a U.S. parent, American parent, would have to follow U.S. sanctions laws—pretty simple.

The Iranian Government's links to terrorism are, as you know, Mr. President, substantial. In addition to the 241 Marines who were brutally murdered in their sleep in 1983 in Beirut, Iranian-backed terrorists killed innocent civilians in Israel.

A constituent of mine, Sarah Duker, 22 years old, from the town of Teaneck, NJ, was riding a bus in Jerusalem. The bus was blown up in 1996 by Hamas, and Hamas receives funding support from the Iranian Government. We were able to create an opportunity for American citizens to bring action against Iran, and they did that, and there was a resolution of significant proportion that holds Iran responsible and has them owing substantial sums of money to the victim's family. We also have to worry, however, about providing revenue to Iran because of its well-known desire—we see it now. It worries us all. We have all kinds of conversations about what we do as Iran tries to build a nuclear bomb and other weapons of mass destruction. Well, we don't want to help them, we don't want to help provide revenues, opportunities for them to continue this crazy pursuit.

The 911 Commission, which established the intelligence organization reform, concluded in their report, and I quote:

> Preventing the proliferation of WMD warrants a maximum effort.

Everybody in our country shares that view. Allowing American companies to provide revenue to rogue WMD programs is clearly not part of a maximum effort.

Some think this is an isolated problem, but it is not. A report by the Center for Security Policy says there is a large number of companies doing business with Iran and other sponsors of terror. Think about it. Here we have

130,000, 140,000 of our best young people over there fighting to bring democracy to Iraq while Iran is funding terrorist activities, people who come in there and help those who would kill our troops. The terror they fund has killed hundreds of Americans. Iran continues to seek to develop nuclear weapons, and yet American companies are utilizing a loophole in the law in order to do business with the Iranian Government. It is wrong but not yet illegal. And we want to make it illegal. This amendment would change that.

It is inexcusable for American companies to engage in any business practice that provides revenues to terrorists, and we have to stop it. Here we have a clear view of what happens. We have a chance to stop it with this amendment. I urge my colleagues to support the amendment and close the terror funding loophole.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on our side we will at an appropriate time interject our opposition to this amendment. We have just gotten the amendment, and it requires some further study. So until such time as I get some additional material, I will have to defer my statement in opposition.

Mr. LAUTENBERG. I hope my distinguished colleague and friend from Virginia, without having a chance to do the examination he would like, has not suggested opposition even though there hasn't been time for a thorough review.

I know the distinguished chairman of the Armed Services Committee very well, and we have visited sites of war, and he, like I, served in World War II, and we are veterans. I hope I could encourage the Senator from Virginia and colleagues across the aisle to join us to shut down this loophole that permits American companies to do business indirectly through sham corporations and to earn profits as there are attempts to kill our young people. I hope the distinguished manager of the bill would give us a chance to talk about the amendment and not register opposition before having a chance to study it.

Mr. WARNER. Mr. President, as I said, in due course I will have further to say. But again it comes down to separation of powers between the executive and legislative branches, and given those situations—and I respect my good friend's evaluation of the tragedy associated with people in those lands and the potential for some dollars being funded toward that purpose. But the President has to look at this situation constantly, every day, 365 days a year. Situations change. And for the Congress to lay on a blanket prohibition on Presidential power to exercise his discretion of where and when and how to disrupt the flow of dollars, as pointed out by my colleague from New Jersey, we are very much hesitant to do that. So at the appropriate time I will have further to say about this amendment.

Mr. LAUTENBERG. I thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend our colleague from New Jersey for this amendment. It is ironic—the person who is presiding at this moment will understand this reference—that when it comes to Cuba, the sanctions not only apply to companies that would deal with Cuba under our law but also apply to their subsidiaries. And yet when it comes to the subsidiaries of companies that are dealing with terrorism, which have sanctions against them for different reasons, we don't cover the subsidiaries. So with Cuba, the subsidiaries are covered when it comes to sanctions, but when it comes to dealing with states that are on a terrorist list where the President of the United States decides to exercise his discretion to impose sanctions against a country and where companies are not thereby allowed to do business with that country, we don't cover the subsidiaries of the corporations, only the corporations themselves.

It is not only a loophole which has been pointed out by my friend from New Jersey, but it is a very inconsistent treatment. What the Senator from New Jersey is saying is let's do the same for the subsidiaries of corporations that deal with terrorist states and terrorist organizations and groups as we cover subsidiaries that deal with Cuba. I thank him for pointing out the loophole. If we are going to be serious about our war on terrorism, we have to be serious about providing sanctions against states that support terrorism. We have to be serious about telling American companies they cannot deal with those states or with those entities, and that we are truly serious. We have to also tell companies when we say you may not deal with terrorist states, you may not do business with terrorist states when the President so determines, that we are also applying this to your subsidiaries as well.

So it is an important amendment. We had a vote on a very similar amendment I believe a year ago or so. It almost passed this body. I think it came within one vote, and I hope that, given what we have seen in the last year, we can only reinforce the point which the Senator from New Jersey made in his amendment previously, that we can pick up the additional votes this time and pass this very important amendment. I commend him on it.

Mr. LAUTENBERG. I thank the Senator from Michigan.

The question is why we would want to protect the opportunity for an American company to help fund terrorists directly and indirectly, those who want to kill our people. If you ask the average person who are the worst enemies America has, they would, I am sure, list Iran, North Korea, among those that would develop weapons of mass destruction, and we don't even want there to be the slightest opportunity for cash to flow into their development of a weapons program based on the fact that an American company is helping to fund the development of those weapons.

Heaven knows what we are fighting in Iraq is a battle not against a uniformed army, organized military, but against insurgents, terrorists, and all one has to do is look at the death toll and see it continuing to mount. We care mostly about Americans, but we also don't like to see what happens in Iraq to infants and families. These terrorists bring their violence into the country, ripping limbs off. I don't want to get too detailed, but the horror that is brought from these insurgent attacks is beyond description. And to permit—by the way, I will say this—encourage American companies to do business with Iran is outrageous. In the war the Senator from Virginia and I were in, anybody who did business with the enemy would be pilloried, called traitors. And here, because it is a loophole, there is a roundabout way of getting these funds over there, we are saying, no, no, we don't want to interrupt that process.

I hope my colleagues on both sides will say no to this practice, and shut it down. The last thing we want to do in this room is abet and help companies that do business in Iran because the profit is not worth it. There is no way those profits can be enjoyed by shareholders, by employees, anyone.

I thank the Senator from Virginia, and I thank my friend from Virginia for being so patient in listening.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is always a pleasure to hear my old friend and colleague in the Senate of so many years. At the appropriate time I and others will put forth our case on this issue.

Mr. President, I ask unanimous consent that the Lautenberg amendment be laid aside and that time be granted to our distinguished colleague and very valued member of the committee, the Senator from Rhode Island, Mr. REED.

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

The Senator from Rhode Island is recognized.

Mr. WARNER. Mr. President, will the Senator kindly yield so I can inform the Senate of the desire on behalf of this side of the aisle?

Mr. REED. Yes.

Mr. WARNER. I will wait to propound the unanimous consent request until the other side responds. I am going to ask unanimous consent—but I will wait until we get a response from the other side—that a vote on or in relation to the Frist amendment No. 1342, regarding supporting our Boy Scouts, and others, occur at 2:15 today, with no second-degree amendments in order prior to the vote; provided further that there be 2 minutes equally divided for debate prior to the vote. So I

say there is the strong likelihood that request will be granted.

I thank the Senator for his courtesy.

Mr. REED. Mr. President, I thank the chairman.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me begin by commending Chairman WARNER and Senator LEVIN for the way they have brought this bill to the floor. It is a collaborative effort, a collegial effort which has brought to the floor a very good bill, which we hope can be improved by the amendment process. But we begin, I think, in a position of great strength and great unified support for our military forces across the globe, these young and women who make us so proud and do so much to protect our country.

I would like to step back for a moment and try to have an assessment in the context of our deliberations today with respect to the Defense authorization bill. It has been 28 months since the war in Iraq began. It has been 26 months since President Bush declared ''mission accomplished'' onboard the deck of the USS Abraham Lincoln. And it has been almost 13 months since the sovereignty of Iraq was handed over from the Coalition Provisional Authority to the people of Iraq.

It is time, I think, for an assessment. It is time for an assessment in the context of our deliberations today with respect to this very important legislation governing the conduct of our military forces around the globe.

In October 2002, I was one of 23 Members of this body who voted against the congressional authorization to use force against Iraq. Regardless of how we voted that day, on this day we are united in support of our forces in the field. We have to give them what they need to do the job they were called upon to perform.

Back in October 2002, I was not convinced there were weapons of mass destruction that could be used effectively by the Iraqis. I was also concerned that our stay in Iraq would not be tranquil, that we would not be greeted as liberators, but we would literally be sucked into a swirling vortex of ethnic and sectarian rivalries, of ancient feuds, of economic problems, of infrastructure problems, which I think should have provided us a more cautionary view of our preemptive attack.

Again, despite our forebodings then, our mission now is to be sure we provide the resources necessary for our soldiers and sailors and marines and airmen and airwomen to carry the day for us.

What we have seen since that day, in my view, has been a series of mistakes and errors by the administration in carrying out their policies, and also an inability to recognize some of these mistake and to take effective corrective action. I think this inability to recognize what has gone wrong—to admit it and to correct it—still acts to interfere with the successful implementation of our objectives in Iraq.

One of the most glaring and most obvious aspects of our runup to the war in Iraq is the fact that the American people were told one thing and in reality it turned out to be something quite different. The administration argued that Iraq posed an imminent threat to the Nation, which we all know today is simply not true, and some of us then believed was not true.

In his State of the Union to the American people in January 2003, the President talked about Saddam Hussein seeking significant quantities of uranium from Africa.

Those assertions proved unsubstantiated. In his address to the U.N. Security Council, Secretary of State Powell claimed Iraq had seven mobile biological agent factories. That, too, proved to be inaccurate.

In a February 2003 statement, President Bush stated:

> Senior members of Iraqi intelligence and al Qaeda have met at least eight times since the early 1990s. Iraq has sent bomb-making and document forgery experts to work with al Qaeda. Iraq has also provided al Qaeda with chemical and biological weapons training.

Again, these assertions have not been substantiated in the intervening days. Many leaders in the administration stated that Iraq attempted to buy high-strength aluminum tubes suitable for nuclear weapons production. These assertions also proved to be without major substantiation.

Based on these statements by our Nation's leaders, the majority of the Congress and the American people supported our operations in Iraq in October 2002. But it was not long until these misstatements became clearer to the American public.

The CIA sent two memos to the White House 3 months before the State of the Union Address expressing doubts about Iraq's attempt to buy yellowcake from Niger.

In 2002, the CIA produced a report that found inconclusive evidence of links between Iraq and al-Qaida and was convinced that Saddam Hussein never provided chemical or biological weapons to terrorist networks.

Experts at the Department of Energy long disputed the assertion that the aluminum tubes were suitable for nuclear weapons production.

The administration's use and misuse of prewar intelligence has caused an upheaval in the intelligence community and made Congress, the American people, and the world community skeptical of actions with Iraq and other countries of concern.

I believe this mistake will take years to overcome. What it has done, I think, is provide a sense of skepticism in the American public about the justifications for our operations in Iraq. This skepticism has slowly been eating away, as reflected in the polls, the view of the American public as to the usefulness of our operations in Iraq. Once again, what is heartening is the fact that this skepticism has not translated into anything other than unconditional support for our American soldiers and military personnel. That is critical to what they do and critical to what we should be encouraging here.

We are now engaged in this war. People are skeptical and critical of the premises advanced by the administration. But we must, in fact, stay until the job is done, until a satisfactory outcome is achieved.

The military phase of Operation Iraqi Freedom was brilliantly executed and a great success. It shows the extraordinary preponderance of military power we can wield in a conventional conflict where we are sending task forces of tanks and mechanized infantry against other conventional military forces.

Perhaps, however, the most important part of the operation was not defeating the enemy in the field but winning the peace in Iraq. That larger task has not gone as well as we all had hoped. One reason is because we did not plan for operations after our conventional success. According to an article in the Philadelphia Inquirer, when a lieutenant colonel briefed war planners and intelligence officials in March 2003 on the administration's plans for Iraq, the slide for the rebuilding operation, or phase 4–C, as the military denotes it, read ''To Be Provided.'' We went in with a plan to defeat the military force in Iraq but no plan to occupy and reconstruct the country.

What makes this lack of a plan worse is that the experts knew and told the Pentagon what to expect. The same Philadelphia Inquirer article states there was a ''foot high stack of material'' discussing the probability of stiff resistance in Iraq. A former senior intelligence official said:

> It was disseminated. And ignored.

There was ample planning done but not used. We have had, as all military forces, contingency plans dating back many years for possible operations in Iraq, including occupation operations. They were ignored. There was a feeling—an erroneous feeling—we would be greeted as liberators, that it would be basically a parade, rather than the struggle we have seen today.

The results are clear as to this lack of planning. The insurgency today is robust, and it continues to inflict damage not only against American military personnel but also against Iraqis who are struggling to develop a democratic country.

In May there were about 700 attacks against American forces using IEDs, the highest number since the invasion of Iraq in 2003. The surge in attacks has coincided with the appearance of significant advancement in bomb design. This is not only a robust insurgency, it is a very adaptable insurgency. They are learning as they fight, and that makes them a formidable foe.

Improvised explosive devices now account for about 70 percent of American casualties in Iraq. Recent U.S. intelligence estimates put the insurgents'

strength at somewhere between 12,000 and 20,000. I would note that in May 2003, insurgent strength was estimated to be about 3,000 persons. So this is not the last gasp of the insurgency. This is an insurgency that has momentum, has personnel, and increasingly has technical sophistication.

As of today, July 21, 1,771 American soldiers have been killed, and 13,189 have been wounded. I say American soldiers. I will use that as a shorthand for valiant marines, Navy personnel, Air Force personnel, because every service has suffered in Iraq.

One of the reasons the insurgency may be stronger is because most of the 300-mile border with Syria remains unguarded because of a lack of sufficient troops, allowing insurgents and foreign fighters to freely move back and forth between the countries. This insurgency is also allowed to move freely within the country because there are insufficient troops to break insurgent strongholds.

We have seen operations, very successful operations, such as the tremendously valiant and skillful operations of marines reducing the number of insurgents in Fallujah. But then at the end of the day, or days later, Marine forces withdraw or pull back, and Fallujah again is a source of at least incipient resistance to the central Government of Iraq.

In addition, these insurgents continue to have ample ammunition because it is estimated that even today approximately 25 percent of the hundreds of munitions dumps have not yet been fully secured. I was amazed, in my first trip to Iraq—one of five I have taken—to be up in the area of operations of the 4th Infantry Division with General Odierno, and also at the time with General Petraeus, then the commander of the 101st, when they pointed out there were hundreds and hundreds and hundreds of ammunition dumps unsecured by any military personnel, international, American, or Iraqi.

If you want to know where all this ammunition and explosives are coming from, well, it was there. It was stolen. It was diverted. It was hidden away. And now it is being used against our soldiers.

To me, that is a glaring example of why we should have had more troops on the ground at the beginning and, indeed, more troops on the ground today. But that was not done.

Perhaps the most well-known consequence of undermanning is the abuses at Abu Ghraib. It was a prison out of control, and one primary reason was the lack of U.S. military personnel. In 3 weeks, the population of this prison rose from 700 prisoners to 7,000. Yet the number of Army personnel guarding these prisoners remained at 90 personnel.

As former CPA Administrator Paul Bremer stated in October 5, 2004:

> The single most important change, the one thing that would have improved the situation, would have been having more troops in Iraq at the beginning of the war and throughout.

Subsequently, he might have modified or somehow explained this comment, but I think that is an accurate assessment. On October 5, 2004, that was his assessment. Today, months after President Bush declared the end of major combat operations and predicted that troop levels would be at 105,000, over 138,000 troops are still stationed in Iraq and are likely to be there for some time. I would argue that that, in fact, is not sufficient force. When we cannot secure the borders, when we cannot secure ammunition dumps, when we cannot do many things that are central to stability in Iraq, then we need more forces on the ground.

One of the more frustrating aspects of the administration's unwillingness to adjust troop levels was that Congress was ready and willing to help. You can't have additional forces on the ground in Iraq unless you have additional forces in the Army and the Marine Corps, our land forces. Senator HAGEL and I first raised concerns about this issue in October 2003. We offered an amendment to the fiscal year 2004 emergency supplemental to raise the end strength of the Active-duty Army by 10,000. The amendment was passed by this body, but it was dropped in conference, primarily because of the opposition of the administration. Then again in 2004, Senator HAGEL and I offered an amendment to the fiscal year 2005 Defense authorization bill which was passed by concerned Senators by a vote of 94 to 3. This amendment raised Army end strength by 20,000 personnel and the Marines' end strength by 3,000.

However, the President's budget request this year did not acknowledge these end-strength increases. We will therefore try again. The bill which we are presently considering authorizes an end strength of 522,400 personnel for the active Army, 40,000 more than the President requested, and 178,000 active personnel for the Marines, 3,000 more than requested. I hope, in fact, we might be able to augment even these end-strength numbers.

In addition, I hope we can finally pay for these increased regular soldiers not through supplemental appropriations but in the regular budget itself. We are deluding ourselves to think that we can live for the 5 or 10 years we will have a significant engagement in Iraq—and that is roughly along the lines of even admissions by the Department of Defense—unless we are prepared to have not a temporary fix to the end strength but a permanent fix, paid for through the budget and not through supplementals.

One other aspect, in addition to the notion of end strength and the number of personnel on active duty, is how do we recruit and retain these soldiers to maintain overall end strength. This issue is of acute concern because unless we are able to attract new soldiers and Marines and unless we are able to retain the seasoned veterans, we will no longer have the kind of force we need.

When Senator HAGEL and I first offered our amendment in October 2003 to increase end strength, there was a headline which said quite a bit. Its words were, ''Another Banner Military Recruiting and Retention Year.'' Back in 2003, we could attract soldiers, Marines to the service, much more so than today. That was the time period to act. Not only was the need obvious, but the means to obtain objective, willing recruits were also much more evident.

Since the administration has refused to raise the numbers of troops overall—and the number of troops in particular in Iraq—the Army has been worn down by repeated deployments and a persistent insurgency. Now, ironically, even if we raise end-strength numbers, it is going to be very difficult for the Army to recruit these new soldiers. The Army missed its February through March 2005 recruiting goals. In June, the Army recruited 6,157 soldiers, 507 over their goal. However, the June 2005 goal was 1,000 fewer soldiers than the preceding year. One might think that the goalposts were moved.

As of June 30, the Army recruited 47,121 new soldiers in the year 2005, but that is just 86 percent of its goal. General Schoomaker, Chief of Staff, said the Army will be hard pressed to reach its goal of 80,000 Active-Duty recruits by the end of the fiscal year in September.

Despite the improvement in June, the Army has only 3 months left to recruit soldiers; that is, it will have to recruit on an average of 11,000 soldiers a month, which is a target way beyond the expectation of anyone. The June numbers were also not anywhere near the 8,086 recruits the Army brought in during January. This recruiting problem is persistent, and it is causing extreme difficulty.

These are Active-Duty recruits. The Army National Guard also has its challenges in recruiting. The Army National Guard is the cornerstone of U.S. forces in Iraq. I am extraordinarily proud of my Rhode Island Guard men and women. They have served with great distinction. During the first days of the war, the 115th and the 119th military police companies and the 118th military police battalion were in the thick of the fight in Fallujah and Baghdad. Since that time, we have had our field artillery unit, the 103rd field artillery unit, deployed. We have had a reconnaissance unit, the 173rd, deployed. The 126th aviation battalion, the Blackhawk battalion, has been deployed. They have done a magnificent job. The Army National Guard, however, is also seeing the effects of this operation and the strains are showing.

The Guard missed its recruiting goal for at least the ninth straight month in June. They are nearly 19,000 soldiers below authorized strength. The Army Guard was seeking 5,032 new soldiers in June, but signed up roughly 4,300. It is more than 10,000 soldiers behind its

year-to-date goal of almost 45,000 recruits, and it has missed its recruiting target during at least 17 of the last 18 months. Lieutenant General Blum, Chief of the National Guard Bureau, said it is unlikely that the Guard will achieve its recruiting goal for fiscal year 2005, which ends September 30.

Today our Army is one Army. It is not an active force with reservists in the background. A significant percentage of the forces today in Iraq are National Guard men and women. We cannot continue to operate our Army, not only to respond to Iraq but to other contingencies, if we do not have a fully staffed National Guard and Reserves.

Looking at the Army Reserve, the story is the same. So far this year, the Army Reserve has only been able to recruit 11,891 soldiers. Their target is roughly 16,000. At this point, they are about 26 percent short of their goal.

One Army recruiting official noted that since March, the Army has canceled 15 basic training classes for the infantry at Fort Benning because it did not have the soldiers, 220 to 230 of them for each those classes. Now they will begin processing smaller classes of about 180 to 190.

Complementing the recruiting effort, of course, is the retention effort. Retention is a ''good news'' story. Retention rates are high. But they won't address certain key personnel vacancies which are being discovered within the military.

From October 1 to June 30, the Army reenlisted about 53,000 soldiers, 6 percent ahead of its goal. At that pace, the Army would finish this fiscal year with 3,800 troops ahead of the targeted 64,000. However, that still is a 12,000-troop shortfall when you look at the recruiting and retention numbers together.

One method the Army is using to maintain retention levels is the so-called stop-loss procedure, where someone who might be able to leave the service at the end of enlistment, if their unit is notified to go to Iraq, they cannot leave during that notification period and during that deployment period. That adds to retention a bit, but it is not something that, over time, year in and year out, can be sustained.

So we have a situation now where our Army is deeply stressed, and this stress is demonstrated very clearly in recruitment, very clearly in making end-strength numbers which we are trying to increase.

The Army is also trying to deal with this issue of recruitment and retention by looking at their standards. One of the dangers—and it hasn't become manifest yet but it certainly has been in previous conflicts—is that there is a huge effort or tension, if you will, to reduce standards in order to get people to come in. I don't think that has happened yet, but that is looming over the horizon. I think we have to be conscious in this body to look carefully at the numbers, not just in terms of how many soldiers enlisted but also that we are continuing to maintain adequate quality within the forces. I think we are, but I am afraid that continued pressure on the forces will force military personnel to begin to look at ways they can attract forces by weakening the criteria.

We are in a situation where we have to be very conscious of the stress that is on the Army, and we also have to do more to support the Army, particularly in recruiting and retaining. The Congressional Research Service has determined that approximately 50 new incentives have been signed into law since the United States invaded Iraq. These are positive tools to enhance recruitment and retention. But while these incentives are needed, we must acknowledge the cost the Government is paying is a significant sum. We must pay that sum, but we must recognize that this is an expensive proposition of recruiting volunteers in a time of war.

The other aspect that we should be concerned about is the fact that we have seen a situation in Iraq where now we are discovering shortages of key personnel, complaints that the soldiers in the field, the units in the field, were not fully resourced, had inadequate training, again, most demonstrably the Abu Ghraib situation where the lack of resources and training were singled out. What we have found though is that, going back, no one seemed to be complaining—at least to us—about these lack of resources.

One fear I have is that there essentially has been a chilling effect by Secretary Rumsfeld with respect to advice flowing from the field into the Pentagon and to him. The most notorious example of this might be the treatment of General Shinseki, as we all recall. He was asked—he did not volunteer—about the size of the force needed in Iraq. And he said something on the order of several hundred thousand soldiers. He was immediately castigated by the Secretary, who said his estimate was far from the mark. Secretary Wolfowitz called the estimate outlandish, and then, in his few remaining days in the Army, General Shinseki felt shunned by the civilian leadership of the Pentagon. In fact, General Shinseki's observation was more accurate than any of the plans being advanced by the Secretary of Defense.

This aspect of criticizing professional officers who come forward publicly at our request and give their professional opinion does not create the kind of environment that is conducive to bringing forward advice and to recognizing problems and to providing the kind of leadership which is necessary.

It wasn't just limited to General Shinseki. The former Secretary of the Army, Secretary Thomas White, defended the Army on several occasions, disagreed with the Secretary. He was, for all intents and purposes, cashiered. That sends a bad signal, and it has a chilling effect. We are living with that chilling effect today, unfortunately.

Then again, as I mentioned, as we look at Abu Ghraib, that is one of most serious issues we face here, this lack of resources, the lack of training. All of that was not apparently diagnosed and reported in adequate ways so it could be corrected in a timely way. We have seen how this incident has caused tremendous implications in the Islamic world. It has questioned our conduct. It has set us up for criticism, and it has been—in terms I used with Secretary Rumsfeld when he appeared before us—a disaster for us. Still, I don't think we have fully accounted for what happened. I don't think we adequately understand how techniques that were developed for use at Guantanamo, which was deemed by the President to be not under the legal control of the Geneva Convention, how those techniques might relate to Iraq which, according to the President, was fully subject to the Geneva Conventions. How did those techniques move from one area to another area? It wasn't simply five or six individual soldiers; it was something more than that. We have had several snapshots. We have had 12 reports, but they have looked at various pieces. I don't think we have a comprehensive view of what happened.

More importantly, I think we have yet to be able to step back and determine, in a careful and thoughtful way, what the rule should be. As I talk to senior officers, one of their demands is: Give us clear rules. Give us the policy. And that policy has to be produced not in the secretive corridors of the Pentagon but here—and perhaps not here, directly in the Congress, but through a commission that we can adopt that will look at what happened, put all the pieces together and then recommend what changes we must make so that we can conduct this war on terror without sacrificing our principle dedication to international laws and also without putting our troops in danger. Because unfortunately what we do, even if it is the aberrant acts of a few soldiers, could easily be emulated by others when our soldiers fall into their hands. That would be terrible.

Now, there is another aspect of the problem. We can win a military victory in Iraq, but unless we restore the country economically and help them develop a viable political process, we will not succeed. The reconstruction activities to date have been sadly lacking and lagging. We have approximately $18.1 billion committed to the effort, but these dollars have not been spent well or wisely. Most of the money is going to what they call ''security premiums'' because of the instability in Iraq.

My colleagues, including Senator LAUTENBERG, were talking about some of the aspects of what appears to be excessive billing by our contractors. And, of course, more and more attention is being paid to the issue of corruption and bribery within the context of the Iraqi economy. All of this suggests that we have a long way to go before we can demonstrate to the Iraqi people those palpable benefits which I believe

can help them and force their allegiance to their government more quickly.

One of the areas of concern is oil production. There were those in Washington, before the invasion, who said that within a few months we will be pumping oil and it will be a profit center, it will pay for the whole war, and we don't have to worry about anything. We are not nearly paying for this war with the proceeds of Iraqi oil production.

The goal was to export a certain number, and we are falling short of that number of barrels per day. Iraqi oil revenue will be $5 billion to $6 billion short this year. That revenue pays for many things—subsidies for petroleum in Iraq, food, civil service, and it pays for infrastructure. Who is going to make up that shortfall? If we leave in a situation when the Iraqis cannot generate enough money to pay their own budget, what is going to happen to that country?

So we have huge economic problems. Another manifestation of the economic problems of the Iraqi Government is electricity. It is the key to stability. There are places in Baghdad today that are enjoying fewer hours of electricity than they did under Saddam Hussein. As a result, there are brownouts and blackouts. It is a direct reminder to the people that things are not going so well. We need to get that situation in order.

Now, as General Abizaid pointed out:

> Military forces, at the end of the day, only provide the shield behind which politics takes place.
>
> Providing politics that are open, transparent, and legitimate, we have been trying to do that.

There has been established a process to draft a constitution. We hope by August 15, 2005, a draft is presented to the nation and can be voted on by October 15. If the constitution is approved, a permanent government can be elected by December 15 and take office by December 31, the end of this year. But it is a very difficult process. If you look at the headlines today, Sunni members of the parliamentary commission are at least temporarily boycotting it because of fears for their safety. There are suggestions that some provisions of the constitution would be difficult for us to support—they are heavily allied with Islamic law, or they don't provide for a robust secular sector in Iraq.

For all these reasons, we still have a long way to go in the political process and the economic process that will provide us the final means to leave the country, to take out significant military forces.

There is one other aspect of the political process and of the economic process, and that is the role not of our military forces but of our State Department personnel. One of the things that struck me when I was in Iraq last Easter was the comment by soldiers in the field that they needed more State Department support, not in Baghdad but in the field—Fallujah, Mosul, and those towns—to carry out the reconstruction, provide political advice, and be the confidants and advisers of Iraqi civilian officials. The sad story is that we don't have enough State Department personnel outside of Baghdad to do these jobs.

In Baghdad, the State Department authorized 899 positions but has only filled 665. The State Department has then authorized 169 for the rest of the country—in fact, I suggested that the level should be higher—but only 105 of those have been filled. Iraq is short about 298 needed State Department personnel. These are the people who are doing what is so critical at this juncture—providing political mentoring, providing technical assistance, providing those resources that complement military operations. Without them, military operations would not ultimately be successful.

There are several reasons for this situation with the State Department. First, the tour for State Department personnel in Iraq is not 3 years, but 6 months or a year, so State is running through people at a very rapid rate.

There is a general shortage of midlevel officers for the State Department worldwide, and those are the officers who would be placed outside Baghdad. They have the experience and expertise to operate independently. The problem is opening up too many new posts. We have situations in which new nations evolved. They have to be supported by State Department personnel.

Secretary Powell did a great job in engaging new personnel to come to the State Department, but these are entry level personnel, and the midlevel, key midlevel personnel are inadequate in terms of numbers, not in terms of skills or talents—certainly not that—but in terms of numbers.

There is another obvious reason. It is very dangerous to be outside the green zone in Iraq. All of these State Department personnel need to be protected, and that is slowing down their ability to deploy into the field.

I understand also there are incentives being considered by the State Department to get more people there. However, unless we have a robust complement of AID officials, State Department experts to help support our military efforts, we will not be able to obtain a satisfactory resolution in Iraq. I hope we can do more to do that.

This is a very perilous time in Iraq. Just this week, a Shi'a leader stated that Iraq was slipping into civil war. If it does, then we will have a terrible burden with our forces deployed in the midst of a civil war. Some others have said there has been an incipient civil war for months now and one of a more major characteristic ready to break out. We do need to respond to these issues.

There is another policy impact with respect to Iraq, and that is the impact on its other worldwide missions, like our ability to maintain our successes in Afghanistan and keep open all options with regards to North Korea and Iran.

The war in Iraq also has tremendous impact on our economy. We are a great power, and that is a function of several components. One is military power, but also economic power. If we are not able to support and afford these efforts over the 5 years, 10 years, or more this global war on terror is going to take place—and all observers see this as a generational struggle, not an episodic one—then we are not going to have the economic staying power.

Frankly, our economy is performing in a fitful fashion. We have a huge fiscal deficit that is draining our ability to fund needed programs—not just military programs but domestic programs also. We have a huge current accounts deficit which, again, will come home one day when those foreigners who are lending us money will ask for the money back with interest. These economic forces will, I think, not support indefinitely the kind of expenditures we need to protect ourselves.

So along with reforming and strengthening our military, we have to reform and strengthen our fiscal policies in the United States. We cannot continue to spend in supplementals billions of dollars a year. We have to recognize that and we have to take steps, and we have to ultimately pay for this war.

It seems to me in this context illogical, if not absurd, to advancing huge additional tax cuts at a time when we are struggling to conduct a war. If that had been our attitude in World War II, we never would have succeeded. We would have been bankrupt before 1945. At that time, we responded, as we have in every major conflict. We asked all Americans to share the sacrifice, not just those in uniform, but those on the homefront, those who can help pay for the war, as well as those who are fighting the war.

Yet today we are advancing two, in my mind, almost contradictory proposals. We are going to stay the course in Iraq, we are going to take a generation, if necessary, to defeat global terror, we are going to do it not only with military resources, but we are going to have to mobilize resources of the world to change the social and political dynamics of countries across the globe, particularly Islamic countries—all that very expensive—but, of course, we are going to cut taxes dramatically. We have to decide in a very significant way whether we can afford this dramatic contradiction. I don't think we can.

We have a great deal to do in the next few days with respect to this legislation. I think it is important to get on with it. I hope not only do we stay the course in Iraq, but we stay the course on this legislation. The majority leader has suggested he is prepared to leave this bill in midcourse to turn to legislation with respect to gun liability immunity. That would, in my

view, be moving from the national interest to one very special self-interest, the self-interest of the gun lobby.

We have soldiers in the field. We have sailors, marines, air men and women who are risking their lives. I think they would like us to finish our job before moving on to something else. I hope we don't move off this bill. Stay the course on this legislation. We will have amendments, debate them, hopefully we will adopt those to improve the bill, and then we will send, I hope, to conference a good piece of legislation of which we can be proud and, more importantly, that can assist our soldiers, sailors, marines, and air men and women in the field.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for his comments. Senator REED is an esteemed member of the committee.

I assure the Senator, I have been in consultation with our leadership and presumably the Senator's leadership about this bill. We brought it up with the understanding that there may be matters that require the attention of the Senate, at which time we do not do anything but put it aside for a brief period of time and then bring it up again. This is my 27th time I have had the privilege of being engaged in one level or another the managing of the Defense bill. I can recall one time it took us 4½ weeks to get it through. But it was a leadership decision and the managers of our bill recognize from time to time we have to accede.

I am not here to try and prejudge what legislation may or may not be brought up, but I assure the Senator, I am in total support of the leader making those decisions.

Mr. REED. Mr. President, if I may respond, I appreciate not only the leadership of the chairman, but also his incredible commitment to our military forces. My point is very simple. I think we should finish this bill. We have waited weeks to go on it. But I also point out that if other matters come before the Senate, as Senators we have the full right to use all of the procedures, we have the right to debate. I would hate to be in a situation—and I hope that is not the case—where if we attempt, let's say, next week to engage in extensive and productive debate about a particular issue, we are not reminded that we are holding up the Defense authorization bill; that no one will suggest our ability to debate an issue which, frankly, is on the agenda not through our desires but others', would somehow be interpreted as slowing down our ability to respond to the needs of our soldiers, sailors, marines, air men and women.

I am on record saying I would like to see us finishing this bill without interruption, but if there is an interruption, then this Senate and our colleagues have to have the right to fully debate any measure that comes before the floor, and I don't think we should be—and maybe I am anticipating something that will not evolve—be put in the position of being hurried off the floor because the Defense bill has to come back.

We have the bill before us now. I think we should stick to the bill.

Mr. WARNER. Mr. President, I thank my colleague. If the Senator participated in many of these bills before—for example, tonight, I am not being entirely popular with a number of individuals because I am requesting of the leadership the right to go on into the night with votes, as late as we can possibly go, and then tomorrow morning have more votes and continue tomorrow. After the votes, presumably, if they are scheduled in the morning, it may well be we will continue on the bill with some understanding among Members that the votes we desire, as a consequence of the other work on Friday, will be held on Monday some time.

I assure the Senator from Rhode Island, I am working as hard as I can to get this bill passed. I thank the Senator for his cooperation.

Mr. REED. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT REQUEST

Mr. WARNER. Mr. President, in concurrence with my distinguished ranking member, I advise the Senate that we will have a vote on amendment No. 1342, regarding supporting the Boy Scouts, occurring at 2:30, with no second-degree amendments in order prior to the vote; provided further, there be 2 minutes of debate equally divided before the vote.

Mr. LEVIN. Reserving the right to object, and I will not object, I understand that is a delay being requested from 2:15 to 2:30, so that everybody can understand.

Mr. WARNER. That is correct.

Mr. DURBIN. Reserving the right to object, is the Senator from Virginia prepared to discuss the Frist amendment? I am reading it for the first time. There is a section I would like to ask him about.

Mr. WARNER. I am prepared to discuss it.

Mr. DURBIN. Reserving the right to object, I call the attention of the Senator to page 3. If the underlying purpose of this amendment is to allow the Boy Scouts of America, or similar organizations, to have their annual jamboree—which I understand they use military facilities and continue to do so, and I have no objection to that. Could I ask the chairman of this committee to please read with me on page 3, starting with line 16, the paragraph that follows, and ask him if he would explain this to me. As I read it, it says:

> No Federal law shall be construed to limit any Federal agency from providing any form of support for a youth organization that would result in that agency providing less support to that youth organization than was provided during the preceding fiscal year.

As I read that, the Appropriations Committee could not appropriate less money for a youth organization next year than they did this year if we pass this permanent law. Is that how the Senator from Virginia reads it?

Mr. WARNER. Mr. President, I thank my colleague for raising this question. The distinguished Senator from Michigan discussed it with me earlier. You have read it and you have interpreted it correctly. It is to sustain the level of funding and activities that have been historically provided by the several agencies and departments of the Government heretofore.

Mr. DURBIN. I further ask—I have no objection to the Boy Scouts gathering at a jamboree or using the facilities. I have no objection to the appropriation of money for that purpose. But are we truly saying that you could never, ever reduce the amount of money that was given to them?

Mr. WARNER. I say to my good friend, that is the way the bill reads, and there 60-some cosponsors who, presumably, have addressed that. I brought it to the attention of the staff of the leader a short time ago and indicated this, asking do I have a clear understanding, and the Senator has recited the understanding that I have.

Mr. LEVIN. Will the Senator from Illinois yield for a question?

Mr. DURBIN. Yes.

Mr. LEVIN. I read this the same as the Senator from Illinois. It is not just that there be no possibility ever of any agency reducing any funding that goes to the Boy Scouts, which is the purported purpose of this, but it is any youth organization because it says any form of support for a youth organization. That means any youth organization, including the Boy Scouts. As I read this, it would make it impossible for any youth organization, no matter how bad it was managing its books, no matter what there might be in terms of fraud and abuse—we are talking about every single youth organization that gets funding from the Federal Government, no matter what the reduction in the number of members of that youth organization is, you could not reduce, apparently, a grant from a Federal agency to any youth organization. I think that goes way beyond the stated purpose of this amendment, which is to protect the Boy Scouts, which I agree with and understand and support.

Mr. WARNER. Mr. President, if I may say to my colleagues, in no way does this bind the Appropriations Committee to exercise such discretion as it may so desire in that level of funding. If it was brought to their attention that there was malfeasance or inappropriate expenditures at some point in

any program, they are perfectly within their authority to limit or eliminate the funding altogether.

Mr. LEVIN. My reference was to any Federal agency, which means any grant agency, not just Appropriations, which the Senator from Illinois referred to, but any Federal agency, which means any agency that makes any grant to any youth organization cannot reduce that grant, no matter what the reason is, next year. That is the way I read this. It is so overly broad, it ought to be modified or stricken or something.

I think all of us want to support the Boy Scouts and their jamboree, using the facilities or the support of the Secretary of Defense and the armed services, as they have done before, but this is way broader than that.

Mr. WARNER. Mr. President, this issue was raised and the legal counsel drew this up. I must say, you raise a point, but I am sure if there are any improprieties associated with these programs, the appropriators have full authority to curtail or eliminate the funding.

Mr. DURBIN. If I may say, I know the Senator has a pending unanimous-consent request. I would like to amend that request to allow language to be added to amend this particular section stating that if you have a youth organization that is guilty of wasting or stealing Federal funds, that youth organization is not automatically going to receive the same amount of funds in the next year. That is malfeasance at its worst and a waste of taxpayer dollars. I am sure the Senator from Virginia and the Senator from Michigan and I don't want to be party to that.

If I may reserve the right to offer a second-degree amendment to that section, I would be happy to allow the unanimous-consent agreement.

Mr. WARNER. Mr. President, what I suggest in the parliamentary situation is that I withdraw the unanimous-consent request at this time. In the interval, until we raise the question to vote again, the Senator presumably will engage with the leader's office regarding these concerns. So I withdraw the request at this time rather than amend it.

The PRESIDING OFFICER. The request is withdrawn.

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

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

Mr. WARNER. Mr. President, the amendment—we call it generically the Boy Scout amendment—offered by the distinguished majority leader is being looked at in the full expectation that it can be resolved and voted on at an appropriate time this afternoon. For the moment, I believe the distinguished Senator from South Carolina and the Senator from New York have an amendment, and I think we should proceed with that debate.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if we could reach a time agreement on this amendment to give everybody an idea as to time. We are hoping it will be accepted. It is a terrific amendment. I am wondering if the chairman might consider a time limit.

Mr. WARNER. Yes. I thank my colleague. In view of the fact that there is a strong indication by myself and my distinguished ranking member that it be accepted, can we reach a time agreement?

Mr. GRAHAM. Is 20 minutes OK?

Mr. WARNER. Equally divided between yourself and the Senator from New York? Then I think 10 minutes for Senator LEVIN—let us assume that we can do it in 30 minutes.

Mr. GRAHAM. Let us make it 30 minutes so that we can get everybody in, equally divided. I believe Senator LEAHY wants to speak on it.

Mr. LEVIN. Is Senator LEAHY a supporter or opponent of the amendment?

Mr. GRAHAM. Supporter.

Mr. LEVIN. I do not know of any opposition.

Mr. GRAHAM. That would be great.

Mr. WARNER. I ask unanimous consent that the time agreement for the amendment offered by the Senator from South Carolina and the Senator from New York be 45 minutes, 30 minutes to the proponents, and 15 minutes reserved to the managers.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1363

Mr. GRAHAM. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LAUTENBERG, Mr. DEWINE, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. COLEMAN, Mr. DAYTON, Mr. ALLEN, Ms. CANTWELL, and Ms. MURKOWSKI proposes an amendment numbered 1363.

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

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

The amendment is as follows:

(Purpose: To expand the eligibility of members of the Selected Reserve under the TRICARE program)

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

SEC. 705. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking ''(a) ELIGIBILITY.—A member'' and inserting ''(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member'';

(2) by striking ''after the member completes'' and all that follows through ''one or more whole years following such date''; and

(3) by adding at the end the following new paragraph:

''(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.''.

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking ''(b) PERIOD OF COVERAGE.—(1) TRICARE Standard'' and all that follows through ''(3) Eligibility'' and inserting ''(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility''.

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

''§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve''.

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

''1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.''.

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Mr. GRAHAM. Mr. President, I will try to keep this very short. This amendment is not new to the body. This is something that I have been working on with Senator CLINTON and other Members for a very long time. It deals with providing the Guard and Reserves eligibility for military health care.

As a setting or a background, of all the people who work for the Federal Government, surely our Guard and Reserves are in that category. Not only do they work for the Federal Government, sometimes on a very full-time basis, they are getting shot at on behalf of the Federal Government and all of us who enjoy our freedom. Temporary and part-time employees who work in our Senate offices are eligible for Federal health care. They have to pay a premium, but they are eligible. Of all the people who deal with the Federal Government and come to the Federal Government when they are needed, the Guard and Reserve, they are ineligible for any form of Federal Government health care. Twenty-five percent of the Guard and Reserve are uninsured in the private sector. About one in five who have been called to active duty from the Guard and Reserve have health care problems that prevent them from going to the fight immediately.

So this amendment will allow them to enroll in TRICARE, the military health care network for Active-Duty

people and retirees. Under our legislation, the Guard and Reserve can sign up to be a member of TRICARE and have health care available for them and their families. They have to pay a premium. This is not free. This is modeled after what Federal employees have to do working in a traditional role with the Federal Government. So they have to pay for it, but it is a deal for family members of the Guard and Reserves that I think helps us in three areas: retention, recruiting, and readiness.

Under the bill that we are about to pass, every Guard and Reserve member will be eligible for an annual physical to make sure they are healthy and they are maintaining their physical status so they can go to the fight.

What happens if someone has a physical and they have no health care? To me, it is absurd that we would allow this important part of our military force's health care needs to go unaddressed, and it showed up in the war. We have had problems getting people into the fight because of health care problems. If we want to recruit and retain, the best thing we can do as a nation is to tell Guard and Reserve members and their families, if they will stay in, we are going to provide a benefit to them and their families that they do not have today that will make life better.

I ask unanimous consent that a USA Today article entitled ''Army Finds Troop Morale Problems in Iraq,'' be printed in the RECORD.

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

[From the USA Today]

ARMY FINDS TROOP MORALE PROBLEMS IN IRAQ

(By Paul Leavitt)

A majority of U.S. soldiers in Iraq say morale is low, according to an Army report that finds psychological stress is weighing particularly heavily on National Guard and Reserve troops.

The report said 54% of soldiers rated their units' morale as low or very low. The comparable figure in an Army survey in the fall of 2003 was 72%.

Soldiers' mental health improved from the early months of the insurgency, and the number of suicides in Iraq and Kuwait declined from 24 in 2003 to nine last year, the report said. The assessment is from a team of mental health specialists the Army sent to Iraq and Kuwait last summer.

The report said 13% of soldiers in the most recent study screened positive for a mental health problem, compared with 18% a year earlier. Symptoms of acute or post-traumatic stress remained the top mental health problem, affecting at least 10% of all soldiers checked in the latest survey.

In the anonymous survey, 17% of soldiers said they had experienced moderate or severe stress or problems with alcohol, emotions or their families. That compares with 23% a year earlier.

National Guard and Reserve soldiers who serve in transportation and support units suffered more than others from depression, anxiety and other indications of acute psychological stress, the report said. These soldiers have often been targets of the insurgents' lethal ambushes and roadside bombs.

Mr. GRAHAM. This is a survey. It states: A majority of U.S. soldiers in Iraq say morale is low, according to an Army report that finds psychological stress is weighing particularly heavily on National Guard and Reserve troops.

The last paragraph states: National Guard and Reserve soldiers who serve in transportation support units suffered more than others from depression, anxiety, and other indications of acute psychological stress, the report stated. These soldiers have often been targets of the insurgents' lethal ambushes and roadside bombs.

Last month and the month before last were the most deadly for the Guard and Reserve since the war started. The role of the Guard is up, not down. It is more lethal than it used to be, and families are being stressed.

What we did last year, thanks to Chairman WARNER, was a good start. We provided relief for Guard and Reserve members who had been called to active duty since September 11, and their families. If you were called to active duty for 90 days since September 11 to now, you were eligible for TRICARE for 1 year. If you served in Iraq for a year, you would get 4 years of TRICARE. The problem is, some people are going to the fight voluntarily and don't meet that criteria. Two-thirds of the air crews in the Guard and Reserve have already served 2 years in some capacity involuntarily. They keep going to the fight voluntarily and their service doesn't count toward TRICARE eligibility.

The bottom line is we have improved the amendment. We need to reform it even more. We have reduced the amount of reservists eligible to join this program to the selected Reserves. Since I am in the indefinite Reserve status as a reservist, I am not eligible for this, nor should I be. But if you are a selected Reserve under our amendment, you are eligible for TRICARE. We have reduced the number of reservists eligible. We have reduced the amount of premiums the Reserve and Guard member would have to pay. We have reduced it from $7.1 billion to $3.8 billion over 5 years. We have made it more fiscally sound.

But the bottom line is for me, you cannot help these families enough, and $3.8 billion over 5 years is the least we can do. What does it cost to have the Guard and Reserve not ready and not fit to go to the fight? What does it cost to have about 20 percent of your force unable to go to the fight because of health care problems? This is the best use of the money we could possibly spend. There is all kinds of waste in the Pentagon that would more than pay for this, and our recruiting numbers for the Guard and Reserve are not going to be met this year because the Guard and Reserve is not a part-time job any longer. It is a real quick ticket to Iraq and Afghanistan.

The people who are in the Guard and Reserves are helping us win this war just as much as their Active-Duty counterparts, who are doing a tremendous job. Their families don't have to worry about health care problems; guardsmen and reservists do.

I have statements from the National Governors Association, the National Guard Association of the United States, the Military Officers Association of America, the Fleet Reserve Association, the Reserve Enlisted Association, and the Air Force Sergeants Association that I would like to submit for the RECORD, saying directly to the Congress:

This is a good benefit. If you will enact it, it would improve the quality of life for our Guard and Reserve members and their families. It will help recruiting and retention, and it is needed.

I ask unanimous consent to have those letters printed in the RECORD.

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

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, March 17, 2005.

Hon. LINDSEY O. GRAHAM,
U.S. Senate,
Washington, DC.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM AND SENATOR CLINTON: The nation's Governors join with you in your bipartisan legislative efforts to improve healthcare benefits for members of the National Guard and Reserves by allowing them to enroll in TRICARE, the military healthcare system. We believe ''The Guard and Reserve Readiness and Retention Act of 2005,'' will improve readiness and enhance recruitment and retention.

The men and women in our National Guard and Reserves are playing an increasingly integral role in military operations domestically and around the world. Their overall activity level has increased from relatively modest annual duty days in the 1970s to the current integration, making up approximately 40 percent of the current troop force in Iraq. Surely these patriotic men and women deserve support for complete health benefits for themselves and their families.

As our nation makes more demands on the National Guard and Reserve, we must make every effort to keep their health benefits commensurate with their service. We encourage your colleagues to support this legislation, which will allow our National Guard and Reservist members and their families the opportunity to participate in the TRICARE program.

As Commanders-in-Chief of our nation's National Guard forces, we look forward to working closely with you and other Members of Congress to ensure that this legislation passes during the first session of the 109th Congress.

Sincerely,

GOVERNOR DIRK KEMPTHORNE,
Idaho, Lead Governor on the National Guard.

GOVERNOR MICHAEL F. EASLEY,
North Carolina, Lead Governor on the National Guard.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, July 21, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAHAM: I write today to express this association's strong support for expanded TRICARE coverage for Guardsmen and Reservists as included in the Graham/Clinton amendment to the FY06 defense authorization bill. The National Guard Association of the United States appreciates the long-standing support from both sides of the Senate aisle for equity in Guard and Reserve health care coverage and believe your amendment reflects our collective commitment to that coverage.

Whether a member of the Guard is attending monthly drill or in combat in Iraq, that man or woman should have access to this coverage. As the war on te1Tor continues, the line between Guard member and active duty member has become indistinguishable. The Secretary of Defense, has said repeatedly, ''the War on Terror could not be fought without the National Guard''. Battles would not be won, peace would not be kept and sorties would not be flown without these soldiers and airmen.

Over the past two years, the Senate has included a provision in the defense authorization bill allowing a member of the National Guard or Reserve, regardless of status, to participate in the TRICARE medical program on a contributory basis. This year, the United States Senate has another opportunity to give TRICARE access to any member of the National Guard who wishes to use TRICARE as their primary health care provider, even when not in a mobilized status.

The National Guard Association of the United States urges the United States Senate to adopt the Graham/Clinton amendment and allow all members of the National Guard and their families access to TRICARE coverage on a cost-share basis, regardless of duty status.

Sincerely,

STEPHEN M. KOPER,
Brigadier General, USAF, (Ret.),
President.

MILITARY OFFICERS
ASSOCIATION OF AMERICA,
Alexandria, VA, July 15, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the nearly 370,000 members of the Military Officers Association of America (MOAA), I am writing to express our deepest gratitude for your leadership in securing needed legislation for America's servicemembers. Your planned amendment to S 1082 that would authorize permanent, fee-based TRICARE eligibility for all members of the Selected Reserve is one of MOAA's top legislative priorities for 2005.

Extending permanent cost-share access to TRICARE for all Selected Reserve members will help demonstrate Congress's and the nation's commitment to ensuring fair treatment for the citizen soldiers and their families who are sacrificing so much to protect America.

A few weeks ago, during a Fox News Channel interview, I was asked what might be done to address Guard and Reserve health care access problems being reported in the media. I said the most important action right now is your legislative fix to offer these families permanent and continuous health care coverage, and that all Americans should ask their legislators to support your effort.

In the meantime, MOAA has sent letters to all members of the Senate requesting their vote in favor of your amendment.

MOAA is extremely grateful for all of your support on this and other issues, and we pledge to work with you to do all we can to secure your amendment's inclusion in the FY2006 Defense Authorization Act.

Sincerely,

NORBERT R. RYAN,
President.

FLEET RESERVE ASSOCIATION,
Alexandria, VA, May 31, 2005.

Hon. LINDSEY O. GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The Fleet Reserve Association (FRA) is pleased to offer its support for your amendment to S. 1082 that would authorize permanent, fee-based Tricare eligibility for all members of the Selected Reserve. This will be a major improvement to the temporary eligibility authorized by the U.S. Congress last year.

FRA believes strongly that your amendment is the right way to go. The Nation can ill afford to mobilize its reserve forces in the war against terrorism, place them in an indefinite period of active service then, offer them a health care plan that does not encourage participation.

Recruiting and the retention of members of the Reserve forces is becoming an increased challenge. The availability of enrolling in a permanent health care plan that embraces the family with comfort and assured assistance, not only provides the reservist with ease of mind particu lady if he or she is immediately ordered to or serving in a hazardous duty zone.

FRA is assured that extending permanent cost-share to Tricare for all selected Reserve members will help demonstrate Congress's and the nation's commitment to protecting the interests of our citizen soldiers, airmen, sailors, Coast Guardsmen, and Marines who are sacrificing so much to protect the United States and it citizens.

FRA encourages your colleagues to support your amendment.

Sincerely,

JOSEPH L. BARNES,
National Executive Secretary.

RESERVE ENLISTED ASSOCIATION,
Washington, DC, July 20, 2005.

Senator LINDSEY GRAHAM,
U.S. Senate, Washington DC.

DEAR SENATOR GRAHAM, I am writing on behalf of the Reserve Enlisted Association supporting all Reserve enlisted members. We are advocates for the enlisted men and women of the United States Military Reserve Components in support of National Security and Homeland Defense, with emphasis on the readiness, training, and quality of life issues affecting their welfare and that of their families and survivors.

REA supports the Graham/Clinton amendment to provide TRICARE for all participating Reserve Component members. This amendment ensures continuity of healthcare for the Reserve Component member and their family. Currently it is difficult to assess the health and mobilization readiness of Guard and Reserve members because their medical records are scattered between their civilian providers, their unit of attachment, their mobilization unit, and their temporary duty location. This same continuity of care would be extended to our families which we anticipate will affect recruiting and retention efforts.

We are dedicated to making our nation stronger and our military more prepared and look forward to working together towards these goals. Your continued support of the Reserve Components is appreciated.

Sincerely,

LANI BURNETT,
Chief Master Sergeant (Ret), USAFR,
REA Executive Director.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, February 26, 2005.

Hon. LINDSEY GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM, on behalf of the 132,000 members of the Air Force Sergeants Association, thank you for introducing S. 337, the ''Guard and Reserve Readiness and Retention Act of 2005.'' This bill would provide a realistic formula allowing members of the National Guard and Reserve to receive retirement pay based upon years of service. Importantly, it would allow members that qualify to receive retirement benefits prior to age 60. As you know, the Guard and Reserve are the only federal entities that do not receive retirement pay at the time their service is complete. This bill would help correct this injustice encountered by many of our members.

We also applaud the provision to improve the healthcare benefits for the members in the Guard and Reserve by allowing them the option of enrolling in TRICARE on a monthly premium basis, regardless of their activation status. These two initiatives would go far to improve the morale, readiness, and retention of our valuable reserve forces.

Senator Graham, we appreciate your leadership and dedication to America's servicemembers and their families. We support you on this legislation and look forward to working with you during the 109th Congress.

Sincerely,

RICHARD M. DEAN,
Excutive Director.

Mr. GRAHAM. We are building on what we did last year. This fight is going to go on for a long time in Iraq and Afghanistan. We can't leave too soon. The idea of having a smaller involvement by Guard and Reserves is an intriguing idea, but it is not going to happen anytime soon either. This benefit will help immeasurably the quality of life of guardsmen and reservists, take stress off of them and their families, and it is the least we can do as a nation who are being defended by part-time soldiers who are really full in every capacity and die in every bit the same numbers, if not greater, than their Active-Duty counterparts.

I will yield the floor to Senator CLINTON, who has been with us every step of the way. We have made a great deal of progress. We are not going to stop until this provision becomes law.

To my friends in the House, the House Armed Services Committee passed this provision with six Republicans joining with the Democratic side of the aisle to get it out of the committee and, through some maneuvering on the floor, this provision helping the Guard and Reserve families was taken out of the bill. There has been one vote after another in the House where over 350 people have supported the concept.

To my friends in the House, I appreciate all you have done to help the troops, but we are going to fight over this issue. This is not going away. We are not quitting until we get it right for the Guard and Reserves.

I yield the floor to Senator CLINTON.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I join my colleague from South Carolina. He has been a tireless advocate for this legislation, and his passion about the need to take care of our Guard and Reserve members is unmatched. It has been an honor for me to work with him on this important legislation.

Over 2 years ago, Senator GRAHAM and I went over to the Reserve Officers Association building to announce the first version of this legislation. As he has just pointed out, we made some progress on expanding access to TRICARE in the last Congress, but not nearly enough. So our work is not done and we come, once again, to the floor of the Senate urging our colleagues, on a bipartisan basis, to support giving this important benefit to Guard and Reserve members and their families.

Our amendment allows Guard and Reserve members the option of enrolling full time in TRICARE. They do not have to take this option. It is voluntary. But TRICARE is the family health insurance coverage offered to Active-Duty military personnel. The change would offer health care stability to families who lose coverage under employers' plans when a family member is called to active duty, or to families—and we have so many of them in the Guard and Reserve—who do not have health insurance to begin with.

So, really, this amendment offers basic fairness to Guard and Reserve members and their families. We have seen firsthand, those of us who have been to Iraq and Afghanistan—as I have been with my colleague, the Senator from South Carolina—the heroism and incredible dedication that Guard and Reserve members have when they are called up to serve our country. They are serving with honor and distinction, and we need to reward and recognize that.

Senator GRAHAM and I first started talking about this more than 2 years ago because in our respective States, we heard the same stories. I heard throughout New York about the hardship being imposed on Guard and Reserve members and their families, not because they didn't want to serve their country—indeed, they were eager to go and do whatever they could to protect and defend our interests—but because they didn't have health insurance. Twenty-five percent of our Guard and Reserve members do not, and when they showed up after being activated, 20 percent of them were found not ready to be deployed.

We are talking about the three R's: recruitment, retention, and readiness. Since September 11, our Reserve and National Guard members have been called to duty with increasing frequency. In New York, we have about 35,000 members of the Guard and Reserves. I have seen, in so many different settings, their eagerness to do their job. But I have also heard from them and their family members about the hardship of not having access to health care. I think the broad support that we have engendered for this amendment, from the National Guard Association, the Reserve Officers Association, the Military Officers Association, really speaks for itself.

It is important to note that this amendment is responding to a real need. This is not a theoretical exercise. We know that lacking health insurance has been a tremendous burden for Guard and Reserve members and their families, and we in our armed services have paid a price because of that lack of insurance in the readiness we should expect from our members.

Mr. President, I am honored to join my colleague in this long fight that we have waged. I hope we will be able to make significant progress and have this amendment accepted and send a loud and clear message to Guard and Reserve members and their families that we indeed not only appreciate and honor their work, we are going to do something very tangible to make it easier for them and their families to bear these burdens.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. I would like to acknowledge what Senator CLINTON has done on behalf of this amendment. Without her, I don't think we would be as far as we are. She has been terrific. To Senator WARNER, you and your staff have been terrific to do what we did last year.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 7 minutes left.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have 15 minutes more because, what I would like to do is give Senator COLEMAN 4 minutes, Senator LEAHY wants 4 minutes, and Senator ALLEN wants 4 minutes. I am not good at math—whatever we need to get that done.

Mr. WARNER. Mr. President, clarification: Did 7 go to 15? Which is fine. You have 15 minutes, now, total, under your control.

Mr. GRAHAM. Thank you, Mr. Chairman, for all our assistance. I now recognize Senator COLEMAN and yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, it gives me great pleasure to speak in support of the amendment offered by my good friend, Senator GRAHAM, who has been relentless in his determination to secure a fair deal for our Nation's reservists.

Our Nation's citizen soldiers are an integral part of the military. They have been called upon to make big sacrifices, sacrifices many didn't imagine when they signed up. Yet time and time again, they have answered the call. Today, the National Guard and Reserve are on the front line of the war on terror. They are on the front line in Iraq and Afghanistan. I say proudly that Minnesota's Army National Guard leads the Nation in recruiting and retention. We want to continue with that high honor. It is something in which we take great pride.

But I can tell you that, in my conversations with Guard and Reserve members around my State, the strains of mobilization are beginning to have an effect. With the demands now being placed on the Guard and Reserve, we are going to have to step up our support in order to sustain the manpower we need for the future.

What I hear from reservists in my State consistently is that given the rising cost of health care, the option of enrolling in TRICARE is perhaps the most important thing we can do to help them and their families.

Thanks to the tireless efforts of my good friend, Senator GRAHAM, we have made good progress in opening up access to TRICARE. But this option ought to be available to all reservists. Every member of the Guard and Reserve has signed up for the same risks, and they all made the same commitment to defend our country.

This amendment is fundamentally about two things: The first is fairness—fairness for people facing the same dangers as their Active-Duty counterparts. In today's world, any new reservist can almost count on being called to be there fighting in the war in Iraq and Afghanistan. So in a sense, it is not that much different from signing up for active duty to begin with. If reservists know they are going to be putting themselves on the front lines just like an Active-Duty soldier, we should be giving them the same benefits.

The second is national security. Our country needs a robust National Guard and Reserve. We need them to be relevant, which means part of military engagements overseas. In order to keep this invaluable cadre of citizen soldiers, the least we can do is offer them the same health care as we offer Active-Duty troops.

The poet, John Milton, said: ''They also serve, who only stand and wait.'' There is not a lot of standing around for today's reservists, but their value to the Nation is incredible.

The key to every endeavor, whether it is military, economic, or personal, is using your resources wisely. The fact that the military planners of the United States have a reserve force of such quality, spirit, and readiness is our crucial advantage. As such, they deserve every honor and support we give our active military. By protecting this vital asset, we accelerate the march of freedom around the world.

I am pleased to support my colleague, Senator GRAHAM, once again, and I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. I yield 4 minutes to Senator LEAHY, who has been chairman

of the Guard caucus, and who has championed this legislation. I am honored to have him as a partner.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator for his kind words. I do rise in support of the Graham-Clinton-DeWine-Leahy amendment.

We have said it makes all members of the National Guard and Reserve eligible to participate in the military's TRICARE program on a cost-share basis. Basically, we are saying if the Guard and Reserve is out there doing the work of the regular Army—and they are, as we all know, increasingly, all the time—then they should have some of the same benefits, especially medical benefits.

Our amendment goes to the readiness of our Reserve Forces. It is certainly an important recruiting tool.

Few issues we are going to debate during consideration of this bill—when we talked about readiness—could be as important as this issue. The National Guard is making a spectacular contribution to the Nation's defense. Everybody would acknowledge that it would be impossible to fight the wars in Iraq and Afghanistan without the National Guard. Our military reserves are carrying out all kinds of tasks, from combat support to aerial convoy escort missions. When I talk with the commanders in the field they tell me they don't know which ones are the Guard, which ones are the regular forces. They are all doing the same thing.

One difference is the National Guard has to also continue to provide a ready force in case of natural disasters or another attack here at home. In the war on terrorism, the National Guard and Reserve are a 21st century fighting force. But they are doing it with the last century's health insurance. We want to bring it up to date. We want to make sure that those who are fighting our wars, those who are defending our Nation, are treated alike. That is all it is. We just want to make sure they are treated the same.

Many members of our Guard and Reserve did not have access to affordable health insurance when they were on civilian status, and then in a moment's notice they may be called to answer the time-honored call to duty. The GAO, the Government Accountability Office, reported in 2002 that at least 20 percent of the members of the Guard and Reserve did not have health insurance—20 percent of the members of the Guard and Reserve did not have health insurance. That means that there are members of the Guard and Reserve who potentially are not as healthy as we want them to be when we ask them to deploy.

Last year, we enacted a partial version of this amendment. It became known as the TRICARE Reserve Select Program. The program ties eligibility for gaining access to TRICARE—on a cost-share basis—to service on active duty in a contingency. That was a step forward. TRICARE was an important step forward, but it doesn't address the health insurance needs before deployment. It doesn't address the broader question of readiness of the force.

This amendment opens eligibility to any member of the Select Reserve. As long as a reservist stands ready for deployment, he or she will be able to participate in the program. It offers real, practical, meaningful health to citizen soldiers, sailors, airmen, and marines. It also is going to provide a meaningful recruitment incentive for the Guard and Reserve. As we all know, they are struggling to meet recruiting goals.

I am honored to be the cochair of the Senate National Guard Caucus. As cochair, I believe that few defense personnel reforms are as needed, as demonstrably needed and overdue as this health insurance initiative for Guard and Reserve. It has been a high priority of each of the members of our bipartisan coalition. Republicans and Democrats alike agree the Guard and Reserve deserve to have available health insurance the same as all others.

Mr. President, I yield myself 2 minutes from the time allotted to the Senator from Michigan.

Mr. WARNER. No objection.

Mr. LEAHY. Mr. President, the GAO study commission exposed and confirmed these glaring deficiencies. In this GAO study, I said it appears to me we are sending our Guard and Reserve out to fight alongside our regular forces, but they are doing it without the health insurance protection our regular forces have. Well, the GAO study said exactly what I thought was happening was happening. So it has been heartening to work with my fellow Senators in remedying these problems. I will continue to press forward until a full TRICARE program for the Guard and Reserve is in place.

I will close with this. We are going to ask our Guard and Reserve to do the same duties, face the same dangers, stand in harm's way in the same way as our regular forces, and they ought to be treated the same when it comes to medical care. It is a matter of readiness, it is a matter of honesty, but most importantly it is a matter of simple justice.

I yield the floor.

Mr. WARNER. Mr. President, I am happy to yield to the Senator from South Carolina for the lineup of speakers.

Mr. GRAHAM. I would like to yield 4 minutes to the Senator from Virginia, who was one of the original founders of this whole idea, fighting before this became popular, and he has been a terrific advocate for the Guard and Reserve. I yield 4 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. I thank the Chair. I thank my good friend and colleague, Senator GRAHAM, for his tremendous leadership on Guard and Reserve matters. Of course, he is the only active member of the Guard and Reserve in this body, and so he understands what families and Guard members are facing.

My experience goes back to the days when I was Governor and saw how important our Virginia Guard troops were when there were times of floods and hurricanes and natural disasters. I also remember visiting many of our Guard troops in Bosnia who had been sent over there. I remember welcoming back some of our Virginia Air Guard who were flying in the no-fly zone in Iraq.

As Senator COLEMAN said earlier in this debate, and all of us recognize, the Guard and Reserve are being called up more frequently and for greater duration than ever before. In fact, when I was in Iraq back in mid-February, there were some Guard troops I was meeting with at Balad, and four or five of them actually had been in Bosnia. They said: We remember when you were in Bosnia to visit as Governor. In reality, the Guard and Reserve troops who are being called upon so much in this war on terror are generally, compared to the Active Forces, older and therefore more likely to be married and more likely to have children.

So if we are going to retain and recruit Guard members and reservists, we are going to need to show proper reasonable appreciation. We need to address the pay-gap problem. On average, when they get activated, they loose $368 a month, and Senator LANDRIEU, Senator GRAHAM, and several of us are working on this issue.

This measure on health benefits means a great deal to the Guard members and their families. We did make some progress last year, but nevertheless it wasn't as much—the passage of this measure was 75 to 25—as we thought it would be, and Senator GRAHAM, like the rest of us, is not going to be deterred. We are going to keep fighting, and it is a fight that is worth fighting because it is important to show proper appreciation with fair expansion of health care benefits which are so important for Guard and Reserve families. This, in my view, will help retain and recruit Guard members. I trust my colleagues will again stand strongly with our Guard and Reserve troops and our families and pass this very reasonable, logical legislation to provide health care coverage to all the members of our Guard and Reserve.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. At this time, Mr. Chairman, if I may, I yield to Senator THUNE, one of our newest members, 3 minutes. He has been a strong advocate of this legislation.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I also compliment the Senator from South Carolina for his leadership on this issue, and also the Senator from New

York. I know they have worked together on this, but I will say that one of the first issues that the Senator from South Carolina talked to me about when I first arrived in the Senate was this very issue. It is important for a lot of reasons, important in my State of South Dakota because we have a number of people who have been called up. Over 1,700 of our National Guard men and women have served in the deployments to Iraq and Afghanistan, and as I have traveled my State and attended many of the events as they have been deactivated and come home, I looked into the eyes of their children and their loved ones and assured those people that the job they are doing is important to freedom's cause, that the work they are doing is important in bringing freedom and democracy to places such as Iraq and Afghanistan and thereby also making our country more safe and secure.

It is important that we put in place the appreciation for the good work that our guardsmen and reservists are doing and important that we recognize that by offering them access to affordable health care. This legislation is important because we do have a challenge as we go forward with the continuing duration of the deployments, with the need to call up our Guard and Reserve on a more frequent basis, to ensure that we put the incentives in place so that we can recruit and retain the men and women who continue to fill those very important roles.

And so I am happy to cosponsor this amendment to offer my support to the Senator from South Carolina and to urge our colleagues on the floor of the Senate to support this important legislation, to send a strong, clear message to the men and women who are serving our country in the Guard and Reserve that we support them. This is no longer a 1-weekend-a-month, 2-weeks-a-year deployment. That is a thing of the past. The longer deployments and the heightened responsibilities are taking an unforeseen toll on the families and members of the Guard and Reserve. If Congress is going to call on our Reserves to do more, we have a responsibility to provide them with more. By offering TRICARE to Guard and Reserve, we are helping to mitigate the effects of the burden we are asking Guard and Reserve to shoulder in the war on terror. No soldier should be deployed to fight for his country only to have his thoughts consumed by the welfare of his family.

So I thank Senator GRAHAM for his leadership on this issue. I encourage my colleagues to support this amendment.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

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

The PRESIDING OFFICER. Two minutes 30 seconds.

Mr. GRAHAM. I thank the Chair. Thanks to all Senators, and thanks to the Guard and Reserve because we need them the most.

One of the problems that Guard and Reserve families have to face is the lack of continuity of health care. If you are called back to duty, you have health care. Once you are released from active duty, with its health care program, you go back into the civilian health care network. That means you have to change hospitals and doctors. If you are experiencing a pregnancy, that means your hospitals may change, the doctors may change because you bounce from one health care network to the other.

This bill would provide a health care home for guardsmen and reservists, taking stress off their families if they choose to join. They never have to worry about bouncing from one doctor to one hospital to the next. They would have a continuing network. The Guard and Reserve have to pay a premium, unlike their Active-Duty counterpart. It is not a free benefit. I think this is a fair compromise. At the end of the day, this will help the Guard and Reserve.

I am proud of what we have done. I thank the chairman for his willingness to work with us. Time will tell how we will do this, but I am optimistic Congress is going to rise to the occasion to help these men and women who risk their lives to protect our freedom.

Mr. KERRY. Mr. President, earlier this year I introduced legislation to strengthen our military and enact a ''Military Family Bill of Rights.'' One piece of that bigger agenda is providing TRICARE eligibility to members of the National Guard and Reserve. Today I have the pleasure of cosponsoring an amendment that would expand the eligibility for TRICARE to members of the Selected Reserve. While this amendment is only a start towards better policies for Americans in uniform and their families, it is also an important step in supporting our troops.

''Supporting the troops'' means paying attention to the needs of our troops in the field and at home; understanding their lives both as warriors fighting for the defense of their country and as parents, brothers and sisters, sons, and daughters struggling for the prosperity and happiness of their families.

As many as one in five members of the National Guard and Reserves don't have health insurance. That is bad policy and bad for our national security. When units are mobilized, they count on all their personnel. But when a member of the National Guard or Reserve is mobilized, and unit members fail physicals due to previously undiagnosed or uncorrected health conditions because that servicemember lacked health insurance, it disrupts unit cohesion and affects unit readiness.

Under current practice, members of the National Guard and their families are eligible for TRICARE only when mobilized and, in some cases, upon their return from Active Duty. For some, that means they lack continuity of care, having to switch healthcare providers whenever their loved one is mobilized or returns home. This lack of continuity is particularly difficult for individuals with special health care needs, such as pregnant spouses or young children.

When we think of supporting our troops, we must remember that we also have to support families. Investing in military families isn't just an act of compassion, it is a smart investment in America's military. Good commanders know that while you may recruit an individual soldier or marine, you ''retain'' a family. Nearly 50 percent of America's servicemembers are married today. If we want to retain our most experienced servicemembers, especially the noncommissioned officers that are the backbone of the Army and Marine Corps, we have to keep faith with their families. If we don't, and those experienced, enlisted leaders begin to leave, America will have a broken, ''hollow'' military.

Thus, TRICARE for members of the Select Reserve is not simply a new ''benefit'' but an issue affecting mission readiness. With our military forces stretched as thin as they are due to the conflicts in Iraq and Afghanistan, we need to rely on the Reserves to an even greater extent than in the past. Indeed, at a time when the Guard and Reserve face growing problems in recruiting and retention, extending TRICARE coverage also has the potential to be a great recruiting tool.

We have a sacred obligation to keep faith with the men and women of the American military and their families—whether they are on Active Duty, in the National Guard or Reserves, or veterans. Today's amendment is an important step.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The distinguished ranking member and myself are prepared to accept this amendment. But I want to talk just a bit about the importance of what these two Senators, primarily the Senator from South Carolina and the Senator from New York, have done. This is a very significant piece of legislation. We laid the foundation last year and had some incremental improvement, but this really carries the ball the balance of the field and scores a touchdown in behalf of the men and women in the Armed Forces and Reserve.

As the Senator from South Carolina has pointed out, this is not a free benefit. There is going to be, I say to both of my colleagues, the Senator from New York and the Senator from South Carolina, a reasonable fee.

But if I could bring back a little personal experience, in 1950, I was a member of the Marine Corps Reserve, having come up from the enlisted ranks and gotten my commission. The Korean war sprung on us totally without anticipation. I remember at the time

Truman was in office, and Louie Johnson was basically the Secretary of Defense who disbanded the military. Suddenly we had to do a rapid turnaround, and we had nowhere to go but to call up the Reserves. I was just a young bachelor then. I was happy to go, but when I was in my first training command in the fall of 1950 at Quantico in the first special basic class, why, over half the class was married and had to leave their families and everything and quickly return. Most of us had been in World War II and gotten our commissions.

I simply point out that is another hidden element to this; that is, when you are maintaining voluntarily the status of being in the Select Reserve, you are subject to call at a late hour of the night to pack your bags, leave your family, leave your job, and go. And if you look, there are 1,142,000 members of the total Reserve, and the Select Reserve is only 700,000. I mean, it is a significant number, but it is that group of 700,000 that is subject to call on very short notice. And that is ever present. It sometimes requires a problem with the employer, to maintain that status knowing that valuable employee could leave on less than 30 days' notice and the employer has to seek another to fill the post, and so forth. So there is much to be said about staying in.

I recall when I got back from Korea, I was finished my obligated military service and could have cashiered out, but I stayed in the Reserves another 10 or 11 years, to my recollection—I think it was 12 years. There were certain benefits that were an inducement to stay in and, frankly, I enjoyed it enormously. I don't have a military career of great consequence. I am certainly grateful for the opportunity to serve, and I think this is a marvelous thing.

I would like to be listed as a cosponsor, as my distinguished colleague from Michigan likewise, and we salute the two Senators who pioneered this approach.

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

Mr. WARNER. In the beginning we had to look at the dollars and the figures and balance it out.

As the Senator said, fight on. And we will be there, and each of these Members will be by our side. I hope Members can walk out of that conference some day with a sense of satisfaction and accomplishment.

I urge adoption of the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. I thank our colleagues.

We are open for further amendments. The Boy Scout amendment is being reviewed. The Lautenberg amendment is, likewise, being reviewed on our side. It will take the managers a few moments to advise the Senate as to what the next matter will be.

Therefore, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the Senator from Nevada has consulted with the managers of the bill and desires to address the Senate in the context of several amendments. We thank the Senator very much for his participation.

The PRESIDING OFFICER. The Senator from Nevada.

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

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

AMENDMENT NO. 1374

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1374.

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

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

The amendment is as follows:

(Purpose: To require a report on the use of riot control agents)

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON USE OF RIOT CONTROL AGENTS.

(a) STATEMENT OF POLICY.—It remains the longstanding policy of the United States, as provided in Executive Order 11850 (40 Fed Reg 16187) and affirmed by the Senate in the resolution of ratification of the Chemical Weapons Convention, that riot control agents are not chemical weapons but are legitimate, legal, and non-lethal alternatives to the use of lethal force that may be employed by members of the Armed Forces in combat and in other situations for defensive purposes to save lives, particularly for those illustrative purposes cited specifically in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a report on the use of riot control agents.

(2) CONTENT.—The reports required under paragraph (1) shall include—

(A) a listing of international and multilateral forums that occurred in the preceding 12 months at which—

(i) the United States was represented; and

(ii) the issues of the Chemical Weapons Convention, riot control agents, or non-lethal weapons were raised or discussed;

(B) with regard to the forums described in subparagraph (A), a listing of those events at which the attending United States representatives publicly and fully articulated the United States policy with regard to riot control agents, as outlined and in accordance with Executive Order 11850, the Senate resolution of ratification to the Chemical Weapons Convention, and the statement of policy set forth in subsection (a);

(C) a description of efforts by the United States Government to promote adoption by other states-parties to the Chemical Weapons Convention of the United States policy and position on the use of riot control agents in combat;

(D) the legal interpretation of the Department of Justice with regard to the current legal availability and viability of Executive Order 11850, to include the rationale as to why Executive Order 11850 remains permissible under United States law;

(E) a description of the availability of riot control agents, and the means to deploy them, to members of the Armed Forces deployed in Iraq;

(F) a description of the doctrinal publications, training, and other resources available to members of the Armed Forces on an annual basis with regard to the tactical employment of riot control agents in combat; and

(G) a description of cases in which riot control agents were employed, or requested to be employed, during combat operations in Iraq since March, 2003.

(3) FORM.—The reports required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section—

(1) the term ''Chemical Weapons Convention'' means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21); and

(2) the term ''resolution of ratification of the Chemical Weapons Convention'' means Senate Resolution 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

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

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

AMENDMENT NO. 1375

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 1375.

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

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

The amendment is as follows:

(Purpose: To require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—The Secretary of Defense shall submit, on a quarterly basis, a report to the

congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that sets forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, or humanitarian missions undertaken by the Department of Defense. Each such quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) COSTS FOR TRAINING FOREIGN TROOPS.—The Secretary of Defense shall detail in the quarterly reports all costs (including incremental costs) incurred in training foreign troops for United Nations peacekeeping duties.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

Mr. ENSIGN. Mr. President, I thank both managers of the bill for their indulgence. I look forward to speaking on the amendments later, but I appreciate the ability to lay them down at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, at this time my distinguished colleague has a matter which he would like to bring to the attention of the Senate.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1376

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. KERRY, proposes an amendment numbered 1376.

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

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

The amendment is as follows:

(Purpose: To enhance and extend the increase in the amount of the death gratuity)

On page 159, strike line 20 and all that follows through page 161, line 9, and insert the following:

SEC. 641. ENHANCEMENT OF DEATH GRATUITY AND ENHANCEMENT OF LIFE INSURANCE BENEFITS FOR CERTAIN COMBAT RELATED DEATHS.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking ''$12,000'' and inserting ''$100,000''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) COORDINATION WITH OTHER ENHANCEMENTS.—If the date of the enactment of this Act occurs before October 1, 2005—

(A) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) are repealed; and

(B) effective immediately before the execution of the amendment made by paragraph (1), the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of the Act referred to in subparagraph (A), shall be revived.

Mr. LEVIN. Mr. President, the provisions in the fiscal year 2005 emergency supplemental appropriations bill increase the military death gratuity from $12,400 to $100,000. The bill before us continues that increase in the gratuity. The provisions, however, do not cover all people on active duty. It only covers people who are killed in combat. Our military leaders strongly, and I believe unanimously—our uniformed leaders—believe the death of a military person who is on active duty should be covered equally whether that person was killed in combat or on his way to a training exercise.

They have testified in front of our committee very forcefully that they believe the benefit which we have provided, the so-called military death gratuity of $100,000—now as we provide in the bill to be made permanent—should be applied equally to all persons on active duty.

The case of Marine LTC Richard Wersel, Jr., who had a fatal heart attack while exercising 1 week after returning from his second tour of duty in Iraq, perhaps says it all. This was an active-duty marine. He had just come back from an extremely difficult and stressful deployment. He had multiple deployments over 30 months. He had been training indigenous troops to fight drug traffickers. As well, he had two tours of duty in Iraq. But as his wife put it: Those multiple deployments were the silent bullet that took her husband's life.

Under current law, the death gratuity which would go to the wife and family would only be $12,400. Had the heart attack occurred while in Iraq, the death gratuity would have been $100,000. In either case, Colonel Wersel was serving his Nation, as he did very well throughout his life. He was on active duty. The fact that he died a week after returning from a second, stressful tour in Iraq should not cause his surviving spouse to receive such a significantly smaller death gratuity.

This is what the Assistant Commandant of the Marine Corps told the Armed Services Committee at a hearing on military death benefits. He said:

I think we need to understand before we put any distinctions on the great service of these wonderful young men and women who wear this cloth forward into combat, training to go to combat or in tsunami relief, they are all performing magnificently. I think we have to be very cautious in drawing distinctions.

At another hearing, I asked General Myers, the Chairman of the Joint Chiefs, for his views on whether the military death gratuity should be the same for all members who die on active duty. His answer was:

I think a death gratuity that applies to all servicemembers is preferable to one that's targeted just to those that might be in a combat zone.

He said:

When you join the military, you join the military. You go where they send you. And it's happenstance that you're in a combat zone or you're at home. And I think we have in the past held to treating people universally, for the most part, and consistently. And that's how I come down on that.

That is what General Myers said.

The Presiding Officer well knows this because he has to deal with these losses regularly back home in Minnesota. He pointed out earlier today how many Reserve folks he has in Minnesota whom he supports.

No benefit—no benefit—can replace the loss of life of a soldier, sailor, airman, or marine who gives his or her life in service to our country. Every survivor would choose to have the servicemember alive and healthy rather than any compensation our Government could provide. But that does not mean our benefits should not be full and generous and consistent; it is just a recognition that we cannot place a monetary value on a life given in service to our Nation.

There is much more to be said about this issue. But, again, the testimony of our senior uniformed military leaders, it seems to me, is the most compelling testimony, in addition to the actual, tragic situations we have, such as the one I read about a moment ago.

So I offer this amendment. Many of us have supported this amendment. There have been many members of our committee and many Members of the Senate who are not on the committee who I know very strongly support a $100,000 death gratuity for all active-duty military deaths, not just those who die in combat-related activity.

Mr. KERRY. Mr. President, I am happy to join the Senator from Michigan in sponsoring this amendment. Earlier this year, we offered an identical amendment to the fiscal year 2005 Emergency Supplemental Appropriation Act, which passed the Senate with 75 votes but was inexcusably dropped in conference. We need to rectify that wrong because the death gratuity system created last spring, despite good intentions, sells short people who deserve better: our soldiers and military.

The issue is simple: when it comes to our men and women in uniform, how do you draw the line between one death in one circumstance and another death in another circumstance? I don't believe you can. The existing law relies on the combat related special compensation legislation to determine which personnel who die outside of combat zones receive the increased death gratuity. It may seem sufficient, but it is not.

Consider the case of Vivianne Wersel. Her husband, LTC Richard M. Wersel,

U.S. Marine Corps, served 20 years and 6 months in the Marine Corps. His last overseas assignment was with the Multinational Forces Iraq in Baghdad. He served there as the plans chief for the Civil Military Operations Directorate. In February of this year, just a week after returning home, Lieutenant Colonel Wersel suffered a fatal heart attack lifting weights in the gym at Camp Lejeune, NC.

If he had died 1 week earlier lifting weights in Iraq, his family would have been eligible for the increased benefits. Because he died in the United States, his sacrifice isn't properly honored, and his family is left to a greater struggle.

This is what the uniformed leaders of the American military were talking about when they testified before the Senate Armed Services Committee earlier this year. It is time we listened to them. Let me remind my colleagues what they said:

GEN Michael T. Moseley, U.S. Air Force, said:

> I believe a death is a death and our servicemen and women should be represented that way.

GEN Richard A. Cody, U.S. Army, said:

> It is about service to this country and I think we need to be very, very careful about making this $100,000 decision based upon what type of action. I would rather err on the side of covering all deaths than try to make the distinction.

And ADM John B. Nathman, U.S. Navy, said:

> This has been about . . . how do we take care of the survivors, the families, and the children. They can't make a distinction; I don't believe we should either.

Vivianne Wersel certainly doesn't make that distinction. She and her husband have two wonderful children. They have lived on 10 bases in the last 15 years living the proud but challenging life of a Marine family. They have made sacrifices for this country throughout Colonel Wersel's career—supporting him in his missions wherever that took him. They have missed their father for a long time not simply since his death. They deserve better from us, who they sacrificed to protect.

For the survivors of our Nation's fallen heroes, much of life remains, and though no one can ever put a price on a lost loved one, we must be generous in helping them put their lives back together. Current law doesn't work. We can change it. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to be made a cosponsor of this amendment.

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

Mr. WARNER. Mr. President, I recall very vividly the testimony we received from the whole group of the Joint Chiefs of Staff led by General Myers. General Myers was very strong on this point. You mentioned General Pace. Indeed, he was a leader on it. But, across the board, our chiefs stepped up.

I say to the Senator, it is important this be done. We accept the amendment and are ready to move when you are ready to move.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 1376) 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. WARNER. Mr. President, momentarily we will have another matter to be brought to the floor. We are making progress. At the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. I thank our distinguished colleague from Maine, who is going to address a very important subject.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 1377 TO AMENDMENT NO. 1351

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Ms. COLLINS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 1377 to amendment No. 1351.

Ms. COLLINS. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

> (Purpose: To ensure that certain persons do not evade or avoid the prohibitions imposed under the International Emergency Economic Powers Act, and for other purposes)

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROHIBITION ON ENGAGING IN CERTAIN TRANSACTIONS.

(a) APPLICATION OF IEEPA PROHIBITIONS TO THOSE ATTEMPTING TO EVADE OR AVOID THE PROHIBITIONS.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

''PENALTIES

''SEC. 206. (a) It shall be unlawful for—

''(1) a person to violate or attempt to violate any license, order, regulation, or prohibition issued under this title;

''(2) a person subject to the jurisdiction of the United States to take any action to evade or avoid, or attempt to evade or avoid, a license, order, regulation, or prohibition issued this title; or

''(3) a person subject to the jurisdiction of the United States to approve, facilitate, or provide financing for any action, regardless of who initiates or completes the action, if it would be unlawful for such person to initiate or complete the action.

''(b) A civil penalty of not to exceed $250,000 may be imposed on any person who commits an unlawful act described in paragraph (1), (2), or (3) of subsection (a).

''(c) A person who willfully commits, or willfully attempts to commit, an unlawful act described in paragraph (1), (2), or (3) of subsection (a) shall, upon conviction, be fined not more than $500,000, or a natural person, may be imprisoned not more than 10 years, or both; and any officer, director, or agent of any person who knowingly participates, or attempts to participate, in such unlawful act may be punished by a like fine, imprisonment, or both.''.

(b) PRODUCTION OF RECORDS.—Section 203(a)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)(2)) is amended to read as follows:

''(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports, testimony, answers to questions, or otherwise, complete information relative to any act or transaction referred to in paragraph (1), either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. The President may require by subpoena or otherwise the production under oath by any person of all such information, reports, testimony, or answers to questions, as well as the production of any required books of accounts, records, contracts, letters, memoranda, or other papers, in the custody or control of any person. The subpoena or other requirement, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.''.

(c) CLARIFICATION OF JURISDICTION TO ADDRESS IEEPA VIOLATIONS.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is further amended by adding at the end the following:

''(d) The district courts of the United States shall have jurisdiction to issue such process described in subsection (a)(2) as may be necessary and proper in the premises to enforce the provisions of this title.''.

Ms. COLLINS. Mr. President, I rise to offer a second-degree amendment to the amendment offered by the distinguished Senator from New Jersey, Mr. LAUTENBERG. While I take a slightly different approach than my colleague from New Jersey, I wish to be clear that my intent is very similar to his; that is, to close loopholes in current U.S. law that allow U.S. firms to do business in terrorist nations or nations that are known to sponsor terrorism and are under U.S. sanctions.

Denying business investment to states that finance or otherwise support terrorist activities, such as Syria, Iran, or Sudan, is critical to the war on terrorism. The United States has had sanctions in place on the Iranian Government for a long time and for good reasons. These sanctions prohibit U.S. citizens and U.S. corporations from

doing business in Iran, a nation known as a state sponsor of terrorism. I fully support the use of these sanctions to deny terrorist states funding and investment from American companies.

Currently, U.S. sanctions provisions in the International Emergency Economic Powers Act prohibit U.S. companies from conducting business with nations that are listed on the terrorist sponsor list. The law does not specifically bar foreign subsidiaries of American companies from doing business with terrorist-supporting nations, as long as these subsidiaries are considered truly independent of the parent company.

There have, however, been reports that some U.S. companies have exploited this exception in the law by creating foreign subsidiaries of U.S. companies in order to do business with such nations. The allegations are that these foreign subsidiaries are formed and incorporated overseas for the specific purpose of bypassing U.S. sanctions laws that prohibit American corporations from doing business with terrorist-sponsoring nations such as Syria and Iran. There is no doubt that this practice cannot be allowed to continue.

I supported Senator LAUTENBERG's amendment last year because it was the only proposal before us to deal with this very real problem. The Senator from New Jersey has been very eloquent in speaking about this exploitation of the exceptions in the current sanctions laws. The examples that we have heard, where American firms simply create new shell corporations to execute transactions that they themselves are prohibited from engaging in, are truly outrageous. Clearly, the law does need to be tightened. But we need to be careful about how we go about addressing this problem. I have long felt that while the Senator from New Jersey is correct in his intentions, the specific language of his amendment needs improvement.

We have worked very closely—my staff and I—during the past 6 months, with the administration to draft a proposal that closes the loophole without overreaching. We must draft this measure in a manner that gets at these egregious cases that are so outrageous without overstepping the traditional legal notions of jurisdiction. Otherwise, we may find ourselves harming the war on terror rather than helping.

Some truly independent foreign subsidiaries are incorporated under the laws of the country in which they do business and are subject to that country's laws, to that legal jurisdiction. There is a great deal of difference between a corporation set up in a day, without any real employees or assets, and one that has been in existence for many years and that gets purchased, in part, by a U.S. firm. That foreign company may even be an American firm with a controlling interest in that foreign company, but under the law, it is still considered to be a foreign corporation.

Senator LAUTENBERG's proposal requires foreign subsidiaries and their parents to obey both U.S. and applicable foreign law at the same time, even if they are in conflict. Not only does this complicate our relations with other countries, it also puts U.S. subsidiaries of foreign parent companies in danger of being subjected to other nations' laws in retaliation. It also raises all sorts of questions when there are conflicts in the two sets of laws. At a time when we are seeking the maximum active foreign cooperation possible in the global war against terrorism, exerting U.S. law over all foreign companies owned or controlled by U.S. firms and their foreign operations seems to be an imprudent and excessive move. The administration agrees.

Rather than simply declaring many foreign entities subject to U.S. law regardless of their particular situation, my amendment would take four strong steps to improve U.S. sanctions laws—specifically, the International Emergency Economic Powers Act—without raising the concerns that come forth if we take the approach recommended by Senator LAUTENBERG.

First, my amendment would prohibit any action by a U.S. firm that would avoid or evade U.S. sanctions. This would clearly prohibit the creation of a new shell company for the purposes of evading U.S. sanctions, a situation that has occurred and that we need to prevent.

Second, my amendment would prohibit American firms from ''approving, facilitating or financing'' actions that would violate U.S. sanctions laws if undertaken by a U.S. firm. This would prohibit any involvement by a U.S. parent firm with an existing subsidiary that was engaged in a transaction that violated the International Emergency Economic Powers Act. In order to comply with the law, the U.S. parent firm would need to be totally passive in any transaction. But if the American firm is, in fact, approving the actions of that foreign subsidiary that is doing business in a prohibited country or facilitating it in any way—that is a pretty broad word—or financing those prohibited actions, that would be a violation of our law.

Third, my amendment would increase the maximum penalties per violation under the act from $10,000 to $250,000 for a civil violation and from $50,000 to $500,000. For companies who think that the risk of getting caught is worth it, they will need to think again because now the penalties are sufficient that they have real bite.

Finally, our amendment would provide explicit subpoena authority to obtain records related to transactions covered by the act. Right now, there has been a difficulty in enforcing the sanctions in terms of getting the information that is needed. This would provide subpoena power.

Specifically, by increasing penalties and providing for explicit subpoena authority, I believe my amendment results in a much stronger sanctions regime but without invoking many of the concerns that have been voiced with regard to Senator LAUTENBERG's amendment.

Again, I want to make clear that I think the goals of the Senator from New Jersey and myself are very similar. The question is how to craft a solution that addresses the problem without overreaching and without causing the possibility of a foreign country retaliating against the American subsidiaries of that country's firm.

I believe that my amendment is the right approach to this critical problem. It will make clear that U.S. corporations cannot circumvent U.S. law. They cannot set up phony shell corporations for the purpose of evading the law. They can't direct a foreign subsidiary to do what they are prohibited from doing under our laws. It will also greatly strengthen and improve the enforcement of the law through the increase in penalties and by vesting subpoena power. At the same time, my approach is carefully crafted to avoid unintended consequences that will harm our relations with our international allies.

I encourage my colleagues to support this balanced approach.

I ask for the yeas and nays on the Collins amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

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

I ask unanimous consent to withdraw the amendment I have just sent to the desk.

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

The assistant Democratic leader.

Mr. DURBIN. Mr. President, if I might, through the Chair, address the chairman of the committee. I have an amendment which I would like to offer, but I don't want to step into a process or a queue that is already established. I am not going to call up the amendment at this moment. I merely want to speak to it and offer it and put it on the list of amendments to be considered at a later time.

Mr. WARNER. Mr. President, we would like to accommodate the Senator. My only inquiry is, we now have on the floor the two principals on this important measure. If you wish, for a few minutes, to lay down an amendment, I am sure we could do that. I would like to have this important debate resumed.

Mr. DURBIN. I would say to the chairman, that is exactly what I would like to do.

I ask unanimous consent that these two pending amendments be set aside strictly for the purpose of introducing an amendment and speaking no more than, say, 10 minutes and then, at that

point, I ask that we return to the pending order of business, the Lautenberg amendment and the Collins amendment.

Mr. WARNER. I have no objection.

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

AMENDMENT NO. 1379

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1379.

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

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

The amendment is as follows:

(Purpose: To require certain dietary supplement manufacturers to report certain serious adverse events)

At the end of subtitle C of title III, add the following:

SEC. 330. REPORTING OF SERIOUS ADVERSE HEALTH EVENTS.

(a) IN GENERAL.—The Secretary of Defense may not permit a dietary supplement containing a stimulant to be sold on a military installation or in a commissary store, exchange store, or other store under chapter 147 of title 10, United States Code, unless the manufacturer of such dietary supplement submits any report of a serious adverse health event associated with such dietary supplement to the Secretary of Health and Human Services, who shall make such reports available to the Surgeon Generals of the Armed Forces.

(b) EFFECT OF SECTION.—Notwithstanding section 201(ff)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(2)) and subsection (c)(3) of this section, this section shall not apply to a dietary supplement that is intended to be consumed in liquid form if the only stimulant contained in such supplement is caffeine.

(c) DEFINITIONS.—In this section:

(1) DIETARY SUPPLEMENT.—The term ''dietary supplement'' has the same meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(2) SERIOUS ADVERSE HEALTH EVENT.—The term ''serious adverse health event'' means an adverse event that may reasonably be suspected to be associated with the use of a dietary supplement in a human, without regard to whether the event is known to be causally related to the dietary supplement, that—

(A) results in—

(i) death;

(ii) a life-threatening experience;

(iii) inpatient hospitalization or prolongation of an existing hospitalization;

(iv) a persistent or significant disability or incapacity; or

(v) a congenital anomaly or birth defect; or

(B) requires, based on reasonable medical judgment, medical or surgical intervention to prevent an outcome described in subparagraph (A).

(3) STIMULANT.—The term ''stimulant'' means a dietary ingredient that has a stimulant effect on the cardiovascular system or the central nervous system of a human by any means, including—

(A) speeding metabolism;

(B) increasing heart rate;

(C) constricting blood vessels; or

(D) causing the body to release adrenaline.

Mr. DURBIN. Mr. President, this is the Department of Defense authorization bill, and included in here are funds for those base exchanges where members of the Armed Forces and their families go to buy the necessities of life. They turn there for groceries, pharmaceuticals, and other needs for their families. The purpose of this amendment is to make sure that the products sold at these base exchanges across the United States and around the world are safe for the military and the families who use the base exchanges.

I am particularly concerned about dietary supplements. Military personnel are under tremendous pressure to be physically fit. The conditions under which they work and train are harsh and demanding. A supplement product can be attractive because it is marketed for performance enhancement and weight loss. My amendment seeks to ensure that these so-called health products sold at military stores are monitored for safety.

At the outset, I want to say I have no quarrel with dietary supplements like vitamins. I woke up this morning and, like millions of Americans, took my vitamins in the hope that I will live forever. I think that should be my right and my choice. I don't believe I should need a prescription for vitamin C or multivitamins.

What is at issue are the dietary supplements that cross the line. Instead of providing nutritional assistance, many of them make health claims that, frankly, they cannot live up to. Finding many of these products on a military base is easy. A 2004 report on dietary supplements notes that a newly deployed U.S. Air Force base had eight different dietary supplements stocked on the shelves that were marketed for weightlifting and energy enhancements 5 months after it opened. Six of these products contain the stimulant ephedra.

Most dietary supplements are safe and healthy, but there is a growing concern about categories of dietary supplements that are being taken by innocent people who think they are good and, in fact, they are not.

The Navy released a list of serious problems related to dietary supplements recently. They included health events such as death, rapid heart rate, shortness of breath, severe chest pain, and becoming increasingly delusional. These are from over-the-counter dietary supplements.

Unfortunately, most of the time these events are never reported. In other words, the laws that govern prescription drugs and many over-the-counter drugs do not apply to dietary supplements.

Let me show you a chart that I think illustrates that quite well. Here are different categories of things you might buy at your drugstore. You might buy prescription drugs through your doctor or over-the-counter medications, such as cough medicine, or you might buy dietary supplements. Metabolife is a popular version. The question is: Are they all safe? The obvious answer is: Not by a long shot. Prescription drugs are safety tested before being sold. Over-the-counter medications are safety tested. Dietary supplements are not. Does anybody test them to make sure that the claims on some of them—for example, the claims that this is going to help with my cough or that this is going to give me energy—has anybody tested these to make sure they are effective for what they claim? Yes, when it comes to prescription drugs, they are tested for efficacy before they are sold; yes, for over-the-counter medications; but no, for dietary supplements, the claims are not tested ahead of time. How about individual doses? If a doctor tells you to take four tablets during the course of a day, how well can you trust the dosage on the package to reflect what the doctor recommended? Well, when it comes to prescription drugs, the FDA says, yes, we test the dosage. It is the same with over-the-counter medications. When it comes to these dietary supplements, vitamins, nutritional supplements, there is no individual dosage control.

They have been fighting over this for almost 10 years. Finally, if something goes wrong with a prescription drug—if you take it and you get sick and you report it to the company that made the drug, do they have to tell the Federal Government? Absolutely, when it comes to prescription drugs. How about in the case of over-the-counter drugs? You bet. If you get sick and call the maker of one of the drugs, they are required by law to tell the FDA, and if it reaches a certain point, they can be taken from the market. How about dietary supplements? What if you take one, such as yellow jackets that contains ephedra and you call the company and tell them you got sick, do they have a legal requirement to report that to the Government? No. There is no legal requirement, even if you are dealing with a situation where a dietary supplement has killed a person.

That troubles me. I don't believe we should have any dietary supplements being sold across America—certainly not at our military base exchanges—that is sold in a situation where, if there is adverse health consequence—death, stroke, heart attack, serious health consequences—the manufacturer doesn't have to report it to the Government.

That is basically what this amendment says: If you want to sell a supplement containing a stimulant on a military base, be prepared to report adverse events to the Federal Government. If you will not tell us, the Federal Government, when people are dying or are seriously ill because of your dietary supplement, you should not be selling them at the exchanges.

Let me say a word about ephedra. It received a lot of headlines.

Mr. President, for the purpose of those who were following my statement ever so closely and might have been interrupted and lost their train of thought, let me return to that for a moment and tell you what I am doing.

This amendment says you cannot sell dietary supplements containing stimulants at military stores and base exchanges, unless the maker of the dietary supplement agrees, under law, to notify the Government if there are adverse events when somebody takes the supplement. In other words, if you take a nutritional or dietary supplement and suffer a heart attack or a stroke or someone dies and it is reported to the manufacturer, this would require that the manufacturer notify the Government.

Has that ever happened? Sadly, it has. The military bases took ephedra off the shelves at the end of 2002 because, between 1997 and 2001, at least 30 active American military duty personnel died after taking ephedra. After 7 years of effort, the FDA banned ephedra in 2004. The industry went to court and fought it—even though 150 Americans had died from this dietary supplement—and they won. In a court in Utah, they determined that the Federal law, the Dietary Supplement Health Education Act, DSHEA, didn't have the teeth to stop the sale of ephedra as a dietary nutritional supplement. So today this tells the story.

Nutrition centers, such as this one in the photo, in Cincinnati, OH, are proclaiming ''ephedra is back.'' It certainly is. A member of my staff decided to order 30 pills containing 200 milligrams each of ephedra over the Internet from a post office box in Boonville, MO. You can pick it up everywhere, even though it continues to be dangerous.

Why should we expose the men and women in our military to supplements that have already taken the lives of at least 30 of our military personnel and threatened scores of others? This amendment says we will not. Unless you, as a manufacturer, are prepared to report adverse events to the Federal Government, you cannot sell these products on military bases.

In case people are wondering whether this little effort against ephedra is my personal idea, ephedra, such as I am holding it here, has already been banned for sale in Canada. As I am holding it here, it has been banned for sale in many local jurisdictions. The American Medical Association has said it is a dangerous supplement. We have seen sports activities—one after the other—ban the use of ephedra. A Baltimore Orioles pitcher died last year after taking it in an attempt to lose weight. In my area of Lincoln, IL, in central Illinois, a great young man, 16 years old, went to the local gas station—Sean Riggins was his name—to buy some dietary supplement pills to get ready for a high school football game. By the next morning, he was dead from a heart attack.

I do not want to see that happen again. I certainly want to spare our military personnel from having to face that.

I tried to move this amendment last year. Others came to the floor and said: We can work this out. It never happened. The industry did nothing. We have achieved nothing. We have to put this protection in the law for our military personnel.

I close by asking unanimous consent that Senator FEINSTEIN's name be added as a cosponsor.

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

Mr. DURBIN. Mr. President, I also ask unanimous consent that letters of support be printed in the RECORD.

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

LETTERS OF SUPPORT

My name is Kevin Riggins from Lincoln, IL. and I would like to tell you my story. On Sep. 3, 2002, my wife and I lost our son, 16 year old, Sean Riggins to a heart attack brought on by the use of ephedra. Sean was a healthy, active student athlete with no health problems overt or latent. Sean played football, wrestled, and was a ''Black Belt'' in Tae Kwon Do, and while he excelled in each sport, he and his teammates strived for more. To ''enhance'' their performance in football they began taking dietary supplements containing ephedra. Because of the current FDA rules concerning dietary supplements, or more precisely the lack thereof, my son lost his life.

As you may or may not know, dietary supplement companies fall under the Dietary Supplement Health and Education Act (DSHEA) and NOT under the Food, Drug and Cosmetics Act. Under DSHEA, supplement companies do not need a license to manufacture these products, nor do they require a medical or science professional to formulate and create said products. As a result, there are numerous companies that are owned and run by persons with no more than a high school diploma, in fact, I know of at least 3 owners that have State and Federal convictions for a variety of offenses including drug possession and distribution. Imagine a high school graduate convicted felon formulating the mixtures and dosages for these products.

There are no good manufacturing processes set in place for these companies, which means that dosage requirements and contents are irrelevant due to the lack of standardization.

There are no requirements for adverse event reporting to the FDA. If a supplement company receives a report that their product injured someone, the company can and in certain cases has thrown the AER away.

These are but a small sample of the problems with this industry and that is why I support any and all efforts to reign in these lawless companies.

As an honorably discharged decorated veteran, I applaud requiring adverse event reports turned in by military members to be reported to the FDA. Our soldiers, sailors and airmen deserve this protection. They put themselves on the line and tell our enemies ''you will not pass'', and for that we must accord them every protection.

If I sound somewhat bitter, I am. If I sound driven and committed to reigning in these types of corporations, I am. I lost my son. You cannot know that pain, that emptiness, that hole in your soul when you lose a child unless you have been there, and I pray that none of you ever have to experience that. Please, help our service men and women, my brothers and sisters in arms. Pass this amendment. Let them know that somebody gives a damn. Let me know somebody gives a damn. Let Sean know.

Thank you.

KEVIN S. RIGGINS.

My name is Debbie Riggins. My son, Sean, died of a heart attack almost 3 years ago at age 16 due to ephedra. That day changed my life forever. I still struggle with the memory of that day; the moment I saw the life drift from the eyes of my only child. As Sean started high school, he thought of what he might want to do with his life. He considered a life in the armed services. He never got that chance. He was robbed of the chance to do many things.

Now it's time for the military to set an example to the private sector; a chance to show the Nation that it truly cares about the health and welfare of its troops. We are asking the military to track and report adverse event reports of their troops. Since the pharmaceutical companies have been so lax and unprofessional in their reporting practices, many events are either being diagnosed incorrectly or being swept under the rug. The military should be an example for the rest of the Nation. The armed services is a more controlled environment and would thus be a more consistent reporting base reflecting truer figures and facts.

It's already a tragedy when a family is informed that their loved one has been killed in action but to later discover that it was from an uncontrolled herbal supplement while they were deployed is even worse. It's ''chemical warfare meets friendly fire''.

Protect the service men and women as they protect us.

DEBBIE RIGGINS.

From: Hilary Spitz
Sent: Tuesday, July 19, 2005, 10:02 p.m.

On March 16, 2000, our lives forever changed. My daughter, Hilary Spitz had worked midnights as a deputy sheriff for Coles County. When she got home, we went shopping. I dropped her off at home and left to go sign documents at the school board office. My husband worked midnights also. They both closed their respective doors. Soon after I arrived, Dr. Berg received a call for me. I was told my daughter was in trouble at home and an ambulance had been called. My husband had heard our dogs barking and went to check on them. They were scratching at Hilary's door and he could hear a horrible wailing sound coming from her room. He burst in and found her lying on the floor in a very violent seizure. He could not get her to respond and quickly dialed 911. He physically had to lay across her to keep her from hurting herself. Her feet were bleeding from kicking the bed and dresser. When I arrived home, I could hear her from the doorway. No one knew what was wrong. When I arrived at the hospital, I was met at the door by a nurse and told they were doing everything they could for her and I could not go in. Soon after my family arrived, we convinced them to let me in, maybe I could talk to her. By that time, she was still unresponsive and uncontrollable. No amount of medicine would calm her down. They did all kinds of tests and eventually transferred her to Carle Clinic. Her seizure lasted 13½ hours. It was eventually determined that this was caused by an herbal diet supplement that contained ephredra. She had taken 5 pills in 10 days. That wasn't even the amount that was suggested to take. She was in a coma for 7 days. When she woke up, she had no idea what had happened. Since that time, she has

had other health issues that have come up, but cannot be linked directly to the ephedra seizure, but it seems strange that they happened after that. But, since the seizure and the hypoxic aftereffects, she is unable to work. She suffers from depression, anxiety, sleeplessness, agitation, and sever memory dysfunction. I am so grateful that she is here with me. I wish she did not have the symptoms, but I am content that she is alive. We continually live with her problems and continually have to be with her. She was afraid to go to sleep for a long time and had the light on in the bedroom closet. Hilary lives with us and we help raise her 7 year old daughter. If there is anything that we can do to keep this horrible product off the market, we would be happy to discuss this with you. We want to prevent anyone else from going through this. Unfortunately, most people do not survive this. Hilary is one of the lucky ones. It is just too bad that she had to go through this.

Thank You, Michelle Skinlo.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,
July 21, 2005.

Hon. RICHARD J. DURBIN,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: The Center for Science in the Public Interest (CSPI) wishes to commend you for introducing an amendment to S. 1042 that would require manufacturers who sell on military bases dietary supplements containing stimulants to submit to the Food and Drug Administration (FDA) reports of serious adverse health reactions relating to such products. Serious reactions include death, life-threatening conditions, hospitalization, persistent disability or incapacity, and pregnancy-related effects.

Members of the armed forces are particularly at risk from potentially harmful stimulants that are promoted for weight loss and performance enhancement. Such claims ''are enticing to soldiers [and other members of the armed forces] who are trying to meet or maintain weight standards, improve physical fitness test scores, or be competitive in specialized unit requirements.''

Between 1997 and 2001, 30 active duty personnel died after taking ephedra, the most widely used stimulant at that time. As a result, the Marine Corps banned the sale of dietary supplements containing ephedrine alkaloids at its commissaries more than two years before FDA's nationwide ban became effective on April 12, 2004. The other members of the Armed Forces implemented their own bans soon thereafter. Although replacements for ephedra, such as bitter orange, usnic acid and aristolochic acid appear to present similar risks, it may take years before FDA has amassed the data necessary to ban or otherwise restrict the sale of these and other stimulants. We, therefore, believe that, in the interim, military personnel should be protected.

Passage of this amendment will also provide FDA with sorely needed data to support restrictions on the sale of harmful supplements. In July 2000, the General Accounting Office concluded that:

''Once products reach consumers, FDA lacks an effective system to track and analyze instances of adverse effects. Until it has one, consumers face increased risks because the nature, magnitude and significance of safety problems related to consuming dietary supplements and functional foods will remain unknown.''

Similarly, a report by the Office of Inspector General (IG) of the Department of Health and Human Services, Adverse Event Reporting for Dietary Supplements: An Inadequate Safety Valve, concludes that ''FDA receives less than 1 percent of all adverse events associated with dietary supplements'' under its voluntary reporting system. This under-reporting is particularly problematic because, as the IG explained, dietary supplements do not undergo premarket approval for safety and efficacy, and the adverse event reporting system is the FDA's primary means for identifying safety problems. The IG, therefore, recommended that manufacturers be required to report serious adverse health reactions to the FDA.

The most recent report by the National Academy of Sciences Institute of Medicine underscores the necessity of passing such legislation. As the report explained, ''[e]ven though they are natural products, herbs contain biological and chemical properties that may lead to rare, acute or chronic adverse effects.'' Therefore, the IOM recommended that Congress strengthen ''consumer protection against all potential hazards'' and called for legislation to require that a manufacturer or distributor report to the FDA in a timely manner any serious event associated with the use of its marketed product of which the manufacturer or distributor is aware. Adverse event reports are an essential source of ''signals'' that there may be a safety concern warranting further examination.

While we believe the FDA should be given new authority to ensure that all supplements are safe before they are sold regardless of whether they are sold at military installations, and to promptly remove unsafe products from the market, the measures in this bill are an important first step towards evaluating the safety of dietary supplements now on the market. We, therefore, believe that the legislation should be enacted.

Sincerely,

BRUCE SILVERGLADE,
Director of Legal Affairs.
ILENE RINGEL HELLER,
Senior Staff Attorney.

AMERICAN OSTEOPATHIC ASSOCIATION,
Washington, DC, July 20, 2005.

Hon. RICHARD DURBIN,
Democratic Whip, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DURBIN: As President of the American Osteopathic Association (AOA), I am pleased to inform you of our support for the ''Make Our Armed Forces Safe and Healthy (MASH) Act.'' We appreciate your willingness to offer this provision as an amendment to the ''Fiscal Year 2006 Department of Defense Appropriations Act'' (H.R. 2863). The AOA and the 54,000 osteopathic physicians it represents, extends its gratitude to you for introducing this important amendment.

The AOA continues to evaluate the impact of increased use of dietary supplements and other ''natural'' products upon the patients we serve. Over the past ten years we have seen a steady increase in utilization of dietary supplements by consumers. As a result, we are increasingly concerned about the unregulated manner in which many of these products are produced, marketed, and sold.

As evidenced by a 1999 study conducted by the U.S. Army Research Institute for Environmental Medicine, the use of dietary supplements is a significant health care issue for American soldiers. A similar study conducted by the Department of the Navy found that overall seventy-three percent of personnel reported a history of supplement use, with the number as high as eighty nine percent of Marines reported using supplements. These studies demonstrate the prevalence of these products among our men and women in uniform.

The AOA believes that it would be beneficial for consumers and physicians to have an increased understanding of the potential serious side effects of dietary supplements. All too often patients fail to inform their physician when they use one or more of these products. This leads to potential interactions with prescribed medications and may obscure an accurate diagnosis of an underlying condition or disease. The physical rigors of the military place soldiers at an even greater risk of harm caused by dietary supplements that have not been properly monitored.

The AOA supports the ability of the Food and Drug Administration (FDA) to monitor dietary supplements. Your amendment would take a significant step in ensuring the FDA, and ultimately military personnel, physicians, and the general public, become more knowledgeable with regard to possible serious side effects of certain dietary supplements. By requiring that the FDA receive serious adverse event reports for dietary supplements sold on military installations, a significant gap in knowledge about these products and their effect on a person's health would be closed.

On behalf of my fellow osteopathic physicians, I pledge our support for your efforts to promote the health of American soldiers by confronting the issue of dietary supplements and the health of our armed services. Please do not hesitate to call upon the AOA or our members for assistance on this or other health care issues.

Sincerely,

PHILIP SHETTLE, D.O.,
President.

CONSUMERS UNION,
July 21, 2005.

Hon. RICHARD DURBIN,
U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: Consumers Union, publisher of Consumer Reports magazine supports your ''Make our Armed Forces Healthy (''MASH'') amendment to the FY 2006 Department of Defense Authorization bill. Your amendment would require manufacturers that sell dietary supplements containing stimulants on military installations to file reports of all serious adverse events relating to the products (including death, a life-threatening condition, hospitalization, persistent disability or incapacity, or birth defects) with the FDA.

Many members of the military invest a lot of time and attention in their physical fitness. In addition to physical training, some have turned to dietary supplements—including those containing stimulants—believing they may increase their performance. Unfortunately, use of such stimulants too often results in harm. Prior to its action banning this ingredient from herbal supplements on February 11, 2004, the FDA had received at least 16,961 adverse event reports relating to ephedra supplements, including reports of heart attacks, strokes, seizures and fatalities. Consumer Reports, however, continues to strongly urge people to avoid all weight-loss and energy-boosting supplements, including those that are now touted as ''ephedra-free.''

As reported in the January 2004 issue of Consumer Reports, herbal supplements that are labeled 'ephedra-free' are not necessarily safer than ephedra. Many include similar central nervous stimulants, such as synephrine-containing bitter orange (citrus aurantium) that not only are structurally similar to ephedrine, but also affect the body in similar ways. Because there is no required pre-market safety evaluation for those products, consumers have no assurance that the problems experienced by ephedra users will not continue with a switch to ephedra-free products.

We therefore commend you for crafting this amendment that will better ensure that the military—and the broader public—is informed about the potential harms that can

result from the use of these products. Thank you again for your sponsorship.

Sincerely,

JANELL MAYO DUNCAN,
Legislative and Regulatory Counsel.

Mr. DURBIN. Mr. President, I report to my colleagues that my amendment has been endorsed by the American Medical Association, the American Dietetic Association, the American Osteopathic Association, Consumers Union, Center for Science in the Public Interest, the American Society for Clinical Pharmacology & Therapeutics, as well as two individuals, Michelle Skinlo of Mattoon, IL, mother of 31-year-old Hillary Spitz, who had a seizure in 2000 and continues to suffer long-term debilitation because of ephedra, and Kevin Riggins of Lincoln, IL, father of 16-year-old Sean Riggins, a high school football player who died after taking ephedra. The tragedy of these families does not need to be replicated, certainly on the military bases, across America.

I urge my colleagues support my amendment.

Pursuant to my earlier request, I ask the amendment be set aside and we return to the regular business.

The PRESIDING OFFICER. That is the regular order.

Mr. WARNER. Mr. President, I very much need to accommodate Senators on both sides of the aisle with a short unanimous consent request.

Mr. DURBIN. I am happy to yield for that purpose.

Mr. WARNER. This is a matter the ranking member and I have worked on.

I ask unanimous consent that between the hours of 4:30 and 6:30 tonight the amendment by Mr. LUGAR be brought up with 1 hour on each side, with the hour in opposition under the control of Mr. KYL, with a rollcall vote immediately following.

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

Mr. LEVIN. Mr. President, to clarify that, regardless of what is pending, at 4:30, we will move to the Lugar amendment, and we will vote on that amendment at 6:30, and then return to whatever the pending matters are.

Mr. WARNER. I thank the Senator. There are no second degrees.

Mr. LEVIN. Right.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry:

I wanted to make time for the Hutchison-Nelson amendment to come after Senator DURBIN and before the 4:30 amendment.

Mr. WARNER. Mr. President, I want to engage the Senator from Maine and the Senator from New Jersey. We have a unanimous consent request from our colleague from Texas. Would the Senator from Texas repeat that for the Senator from Maine.

Mrs. HUTCHISON. Mr. President, I was under the impression that Senator NELSON and I would be able to offer our sense-of-the-Senate amendment following Senator DURBIN.

Mr. WARNER. Would the Senator from Maine advise the chairman as to when you would resume your debate with the Senator from New Jersey?

Ms. COLLINS. Mr. President, I have offered a second-degree amendment. I have asked for the yeas and nays on it. I believe that the floor staff is trying to set up the vote on the alternative approaches. It may well be appropriate for the Senator from Texas to go ahead while we are considering those things.

Mr. WARNER. I thank our colleague.

Mr. LEVIN. Reserving the right to object, we have a lot of amendments now that have been set aside. If the Senator from Texas is asking that she could introduce a sense-of-the-Senate amendment and put it in order and then it be set aside immediately and taken up at a later time, I will have no objection. Because other amendments are waiting to be disposed of, I could not agree that her amendment come ahead of other amendments.

Mrs. HUTCHISON. Whatever is the pleasure of the chairman and ranking member.

Mr. WARNER. I ask the Chair to restate the unanimous consent request which we are ready to accede to on both sides.

The PRESIDING OFFICER. Consent has been granted for 2 hours of debate on the Lugar amendment.

Mr. WARNER. Yes. The Senator from Texas can state her request.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator NELSON and I be able to offer our amendment following Senator DURBIN and before Senator LUGAR's amendment is considered.

Mr. LEVIN. Reserving the right to object, my understanding of the request is that immediately following Senator DURBIN, the Senators from Texas and Florida will be recognized simply to introduce a sense-of-the-Senate amendment, which would then be set aside, and then we would move at 4:30 as previously authorized, and any time remaining between the time they offer and set aside that amendment would then go to the Senator from Maine and the Senator from New Jersey to continue their debate.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The Senator from Texas.

AMENDMENT NO. 1357

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mr. NELSON of Florida, proposes an amendment numbered 1357.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate with regard to manned space flight)

At the appropriate place, insert the following:

SEC. ——. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

Mrs. HUTCHISON. Mr. President, I rise today with my colleague, Senator NELSON of Florida, to offer an amendment expressing the sense of the Senate regarding the critical nature of human spaceflight to America's national security.

The day after the scheduled space shuttle launch was canceled last week, there were two news items that were largely overlooked by many who were focused on what might have caused the sensor failure which was the basis for stopping the countdown to launch.

One of these was an announcement by the Chinese space agency that they planned to launch their second manned spaceflight in October aboard their Shenzhou spacecraft. The other was the announcement by the Russian space agency that they were initiating full-scale development of their clipper space vehicle, a small shuttle-like space vehicle capable of taking several people into orbit, a sort of winged supplement to their existing Soyuz launch vehicles.

Whether these announcements were calculated to remind the world that the space shuttle and the United States do not represent the only avenue by which humans can fly to space is debatable. My purpose in mentioning them, however, is to remind my colleagues that space is not the exclusive province of the United States, that there is increasing interest among technically advanced nations of the world in developing and maintaining the ability to conduct human spaceflight missions. Not all of those nations share the same values and

principles as our country, and they may not have the same motivations for advancing their independent capability for human spaceflight.

Space represents the new modern definition of the high ground that has historically been a significant factor in defense strategy. Virtually all of our military actions in recent years have made dramatic use of space-based assets in conducting those important operations in the course of pursuing national security and foreign policy. Satellite targeting, surveillance and intelligence gathering, use of radio frequencies and communications all result from our ability to explore in space.

In recent years, we have witnessed a growing entrepreneurial interest in developing access to space for humans and cargo. We recently passed out of the Commerce Committee a NASA reauthorization bill which will provide guidance for our space program at a critical time, a time when we have multiple demands on limited resources.

During our consideration of this bill and during hearings, it became clear that we must think of manned spaceflight in terms of national security, as well as science and exploration. For these reasons, I believe it is important that in the context of this Defense authorization bill, we express the sense of the Senate that we recognize the important and vital role of human spaceflight in the furtherance of our national security interests, and that we reaffirm our commitment to retaining our Nation's leadership role in the growing international human spaceflight community of nations.

Great nations discover and explore. Great nations cross oceans, settle frontiers, renew their heritage and spirits, and create greater freedom and opportunity for the world. Great nations must also remain on the front edge of technologically advanced programs to maintain their security edge.

Today we recognize one such program. We have an international outpost in space. We are on a path to establish a permanent presence on the Moon. Let us stand united to recognize the inexorable link and importance of human spaceflight in our national security.

I hope my colleagues will support this important statement that says keeping our dominance in space is a matter of national security for our country.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I join with my colleague, the distinguished Senator from Texas, who serves as the Chair of our Science and Space Subcommittee and of which I have the privilege of being the ranking member. The timing of this amendment is propitious because the problem on the shuttle has been found and the count will start shortly. Next Tuesday morning at 10:39 a.m., if all goes as well as we certainly hope, we will see the space shuttle launch into the Florida sky after having been down for 2½ years after the mistakes that should not have been made that took down *Columbia*, and that 18 years earlier had taken down *Challenger*.

We have a new leader, Michael Griffith, and he is doing a good job. I can tell you that the team is ready and they have scrubbed this orbiter and this stack as it has never been scrubbed before. Even though spaceflight is risky business, they are ready to go. It is an acceptable risk because of the benefits we gather from it.

What this amendment does—and I want to say a word about our two colleagues who lead our Armed Services Committee who I think will accept this amendment—it simply says: It is the sense of the Senate that it is in the national interest of the United States to maintain uninterrupted preeminence in human spaceflight.

Why? Why are we saying that? Because we could be in a posture that if the space shuttle is shut down in 2010, which is the timeline, and if we did not soon thereafter come with a new vehicle to have human access to space, the new what is called the crew exploration vehicle, which will be a follow-on—it may be in part a derivative of the shuttle stack vehicle, but it will be more like a capsule harkening back to the old days where you have a blunt end that has an ablative heat shield that will burn off in the fiery heat of reentry—that if we don't watch out and we have a hiatus between when we shut down the space shuttle and when the new vehicle flies, one originally that was planned by NASA to be 4 years, which meant it was going to be 6, 7, or 8 years, then we don't have an American vehicle to get into space.

If that is not bad enough, who knows what the geopolitics of planet Earth is going to be in the years 2011 to 2018. We may find that those vehicles we rely on to get today, for example, to the space station, when we are down with the American vehicle, may be aligned with somebody else. That is why we want to make sure we have that other vehicle ready about the time we shut down the space shuttle so we will have human access to this international space station and reap the benefits, once it is fully constructed, of all the experimentation and the processing of materials we can uniquely do in the microgravity of Earth's orbit.

That is the importance, in this Senator's mind, of this resolution.

Before I turn back to my colleague, I want to say a word about our leadership on the Armed Services Committee, and I want the Senator from Virginia to hear this. I want him to know what a great example he and the Senator from Michigan set for the rest of us in the way these two Senators work together so problems that could be so thorny are usually ironed out, especially in dealing with such matters of great importance to our country, such as the defense interests of our country.

The way they have worked this is nothing short of miraculous. I would call them Merlin the Magicians. I thank them for the leadership they have shown us.

I associate myself with remarks made earlier on the TRICARE amendment for the Guard and Reserves. So often my colleagues have heard me speak with such great pride about the Florida National Guard. They were first into Iraq. They were in Iraq before the war started because they were in there with the special operations troops. For us to give them the health care through TRICARE is exceptionally important.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I thank the distinguished Senator from Florida. I am the Chair and he the ranking member on the Commerce Subcommittee on Space and Science. I so appreciate the opportunity to express this sense-of-the-Senate amendment. I hope my colleagues will support it because I do believe that human spaceflight is as much a part of our national security as anything we do. We see the preeminence we have in our military because of precision-guided missiles, because of the ability to execute surveillance and intelligence gathering to an extent we never have been able to before we explored space and were able to put satellites there.

The idea that we would consider a hiatus in our opportunities to put humans in space is one that is unacceptable to me and to my ranking member. We hope the sense-of-the-Senate amendment will be adopted to acknowledge and assure that space exploration is shown to be a part of our national security interests. It is essential that we not, in any way, ever let our eye get off that ball, that we must have dominance in space if we are going to keep our preeminence in national defense.

I thank the Chair.

Mr. NELSON of Florida. Mr. President, may I just make one further comment? It is interesting at the very time we are talking about space, we have America's true national hero on the Senate floor, a former colleague of the Senate, John Glenn, who blazed the trail for everybody. When he climbed on that Atlas rocket, he knew there was a 20-percent chance that it was going to blow up. Yet that is the kind of risk that he took so that all of us in America that followed could have these wonderful benefits.

I want to note the presence on the floor of former Senator Glenn.

(Applause.)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me say how delighted that I know I am—I know every Member who is on the floor now is, and every Member would be if they were on the floor—just taking a look at a dear friend and a former colleague of ours who just walked on the floor. When John Glenn

is in our presence, it lifts all of us. The way he lifted up this Nation, he still provides a great lift to each and every one of us. And his beloved wife and our beloved friend, Annie, does the same when she is at his side. So it is great to see former Senator Glenn again.

I also want to thank Senator NELSON for his remarks. I must say we are blessed—and I know Senator WARNER feels the same way I do—that the members of our committee work so well together, but we are particularly blessed when we have members such as BILL NELSON of Florida who fight for so many issues not just for Florida but for the Nation.

He mentioned TRICARE. He has been on that issue as long as anybody I can remember. As it happened, we passed that perhaps when he was not even on the Senate floor today, but I know he has been a strong supporter and his advocacy has made all the difference.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join my colleague in thanking former Senator Glenn for coming back and joining the longstanding tradition of the Senate, and a proper one. A former Senator is always welcome back on the floor. There is the desk at which he sat these many years, and as a member of the Senate Armed Services Committee.

I never heard about the blowup thing before, but I can say I have seen the Senator sit in that chair and blow up this place many times in his long distinguished career and fight for the things in which he believed. We send the best to you, dear friend, and your lovely wife Annie, and wish you well. Return many times.

Mr. LEVIN. If the chairman would yield, there is an issue on the floor today, in addition to the pending sense-of-the-Senate resolution about keeping men in space. We have a pending amendment that is going to be offered by Senator LUGAR that has to do with nonproliferation, Nunn-Lugar, trying to make it possible for us to see if we cannot reduce the threat of proliferation of weapons of mass destruction. I think the Member of the Senate who probably pioneered in the effort to prevent proliferation of weapons of mass destruction was John Glenn, who happens to be on the Senate floor at this particular moment. Senator LUGAR is now here. Under our UC, he will be offering his amendment. But the effort of Senator LUGAR to try to control weapons of mass destruction, to lock them up, to make sure that there are no loose nukes, that Senator Nunn and so many others joined in, was actually a subject which was very close to the heart and very much on the lips of John Glenn when he was here as a Senator.

Mr. WARNER. Mr. President, at this point in time under the UC, there is 2 hours equally divided between the distinguished Senator from Indiana, Mr. LUGAR, and Mr. KYL, who will soon be on the floor, and myself.

I would say to Senator LUGAR, I find myself in a bit of an awkward position at this time in opposition because I remember the breakfast that Sam Nunn had in the Armed Services Committee office when the first concept of Nunn-Lugar was adopted and how grateful all of us are for the Senator's continued service in these many years ensuing to make this very important program effective not only for this country, the citizens of Russia, and the former Soviet Union but also the world. I thank the Senator from Indiana.

AMENDMENT NO. 1380

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

Mr. LUGAR. Mr. President, I thank my distinguished friend, JOHN WARNER, for his very thoughtful comments about the origin of the program and the initial bipartisan breakfast of Senators that in the latter stages of the 1991 session made possible the cooperative threat reduction legislation.

I am honored that Senator John Glenn and Annie are likewise witnessing the program today, along with our distinguished colleagues, Senator WARNER and Senator LEVIN, who have meant so much to all of us in formulating the defense policy.

I send an amendment to the desk on behalf of myself, Senators LEVIN, OBAMA, LOTT, JEFFORDS, NELSON of Florida, VOINOVICH, DODD, LEAHY, NELSON of Nebraska, MURKOWSKI, KENNEDY, CHAFEE, COLLINS, ALEXANDER, ALLEN, SALAZAR, HAGEL, DEWINE, REED, DORGAN, MIKULSKI, BIDEN, STABENOW, BINGAMAN, AKAKA, and LAUTENBERG, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. LEVIN, Mr. DOMENICI, Mr. OBAMA, Mr. JEFFORDS, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. DODD, Mr. LEAHY, Mr. NELSON of Nebraska, Ms. MURKOWSKI, Mr. KENNEDY, Mr. CHAFEE, Ms. COLLINS, Mr. ALEXANDER, Mr. ALLEN, Mr. SALAZAR, Mr. HAGEL, Mr. DEWINE, Mr. REED, Mr. DORGAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. BIDEN, Ms. STABENOW, Mr. BINGAMAN, Mr. AKAKA, Mr. LAUTENBERG, Mrs. FEINSTEIN, and Mr. ENZI, proposes an amendment numbered 1380.

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

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

The amendment is as follows:

(Purpose: To improve authorities to address urgent nonproliferation crises and United States nonproliferation operations)

On page 302, between lines 2 and 3, insert the following:

SEC. 1306. REMOVAL OF CERTAIN RESTRICTIONS ON PROVISION OF COOPERATIVE THREAT REDUCTION ASSISTANCE.

(a) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(b) INAPPLICABILITY OF OTHER RESTRICTIONS.—

Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

Mr. LUGAR. Mr. President, I likewise would like to ask that Senator FEINSTEIN and Senator ENZI be added as cosponsors of the amendment.

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

Mr. LUGAR. Mr. President, my amendment is based upon S. 313, the Nunn-Lugar Cooperative Threat Reduction Act of 2005, which I first offered in November 2004 and reintroduced this January. It is focused on facilitating implementation of the program and removing some of the self-imposed restrictions that complicate or delay the destruction of weapons of mass destruction. By self-imposed, I mean restrictions imposed by our Government on our programs which bring about delay, sometimes very severe delay, at a time that we take seriously the war on terrorism, and the need, as a matter of fact, to bring under control materials and weapons of mass destruction as rapidly and as certainly as possible.

In essence, I am going to argue in various forms during the next few minutes that the United States of America, contrary to almost all common sense, imposes upon itself the need to examine year by year specifically Russian cooperation, Russian money, whether moneys are fungible; that is, moneys that are spent by the United States to work with Russians to destroy weapons of mass destruction in Russia and elsewhere, whether we are, in fact, serious about this.

If we came to a conclusion that for some reason the Russians had not spent precisely the amount of money that we think they ought to spend, does any Senator believe we at that point should stop taking warheads off of missiles, should stop trying to get control of weapons of mass destruction in the chemical and biological areas? Of course not. We have constructed for 14 years an extraordinary situation in which from time to time Senators, some of whom had come new to the floor, were not here during the end of the Cold War or any of the Cold War for that matter, and said simply: We are suspicious of Russians. We are not sure we ought to be helping them at all. Why should they not destroy 40,000 metric tons of chemical weapons? Why should they not pay for it? They made their bed. Let them sleep in it. In essence, if they do not destroy it, that is their problem.

Long ago, as Senator WARNER pointed out, we found it was our problem. The 13,300 nuclear warheads were aimed at us, sometimes 10 warheads to a missile—multiple reentry vehicles they were called. That is the problem. We thought, as a matter of fact, for our safety, after a half century, it was useful to work with Russians who came to visit with Senator Nunn and with me and who asked for our help. They said: We have a problem in Russia, but you have a problem, too. Those warheads are aimed at your cities and they are still up there on the missiles, and the tactical warheads are still out there, and privateers as the Red Army breaks up could cart them off on flat bed trucks to Iran, Iraq, Libya, wherever there is a market for them.

As a matter of fact, the Wall Street Journal helpfully published an article about how one could take a missile out on a flat bed truck. So this was not rocket science. Even at that time people were still putting on stipulations.

Why does that matter? It matters because at the beginning of each new budget year the President of the United States and various agencies involved have to go through thousands of bureaucratic hours examining all of the stipulations that have been added by some Member of the House or Senate over the years to try to divine whether there has been proper compliance.

At the end of the day, the law now states—and in fairness, the Senate Armed Services Committee has provided—that there will be a permanent waiver authority.

After all of these thousands of hours of bureaucratic hassling, the President can finally say: Listen, we are in a war on terror. Let's get on with it. But, apparently, the President would be hard-pressed to do that before going through all the machinations.

I am just saying, it is time to take seriously weapons of mass destruction, materials of mass destruction. It is time to get over the thought that somehow or another the Russians may or may not be cooperative because the fact is, it is our program, cooperation with the Russians, that has brought about at this point some remarkable results.

Let me recite some of those results. During the last 14 years, the Nunn-Lugar program has deactivated or destroyed 6,624 nuclear warheads; 580 ICBMs; 477 ICBM silos; 21 ICBM mobile missile launchers; 147 bombers—these were the transcontinental bombers that could have carried nuclear weapons across the oceans to us, and they have been destroyed—789 nuclear air-to-surface missiles; 420 submarine missile launchers; 546 submarine launched missiles; 28 nuclear submarines; 194 nuclear test tunnels.

Perhaps most importantly, Ukraine, Belarus, and Kazakhstan, who emerged from the former Soviet Union situation as the third, fourth, and eighth largest nuclear weapons powers in the world, all three are now free as a result of the cooperative threat reduction program, the so-called Nunn-Lugar program, of nuclear weapons.

This did not happen easily. In each of the years in which these destructive efforts with regard to the former Soviet ICBMs and cruise missiles and what have you came about, there had to be competitive bidding conducted by the Department of Defense. In every year, this was delayed because, once again, each of the stipulations added by a Senator or Member of the House had to be examined and had to be met.

In some years, in the early parts of the program, waivers were not available; waivers never occurred. The fiscal year ran out and nothing happened in many programs. I find it incomprehensible why, at this particular point in history, after 14 years of this experience, there are still Members who would argue we still should go through the thousands of hours of bureaucratic hassles every year, even if there is a Presidential waiver at the end of the trail that says: Call it off. Let's get on with the war on terror.

It seems to be almost a theological bent of some Members, who I suspect have a feeling that anything involving Russians or recipients of weapons of mass destruction or materials requires a whole lot of examination before we take the active steps to work with them to destroy the material.

In any event, I commend the chairman of the Armed Services Committee, my friend, Senator WARNER, and the ranking member, Senator LEVIN, for the important legislative efforts they have made. They have been steadfast in their support of the program throughout the years. They played critical roles in the success of the program. This year they have brought to the floor a bill that contains full funding for Nunn-Lugar programs, some $415 million. They also embraced one of the most important elements of my earlier bill, S. 313, namely the transfer of authority from the President to the Secretary of Defense for approval of Nunn-Lugar projects outside the former Soviet Union.

In 2003, Congress authorized the President to use up to $50 million in Nunn-Lugar funds for operations outside the former Soviet Union. The legislation requires the President to certify that the utilization of the Nunn-Lugar funds outside the former Soviet Union will address a dangerous proliferation threat or achieve a long-standing nonproliferation opportunity in a short period of time.

President Bush used this authority to authorize the destruction of 16 tons of chemical weapons in Albania. Let me say the Albanian experience is instructive, not only because good results occurred, but the very circumstances require the Senate, it seems to me, to focus on the world in which we live. Word came to officers in the Pentagon, in the Cooperative Threat Reduction Program, from authorities in Albania last year, 2004, that weapons of mass destruction were in Albania, specifically chemical weapons of mass destruction. This was a surprise to our authorities, quite apart from Members of this body. I was privileged to accompany members of our Armed Forces and members of the Albanian Armed Forces on a trip into the mountains outside of Tirana, the capital city of Albania. Up in the mountains we came upon canisters. We saw a number of them. As a matter of fact, by the time the compilation was completed, 16 tons of chemical weapons, nerve gas, were discovered in Albania.

We had a program, because we had adopted it a short time before, in which we knew that $50 million might be allocated outside the former Soviet Union. Obviously we were going to need that program. But the dilemma immediately was that a number of signoffs was required. Members will recall we were in an election year in 2004. We were able to get signatures ultimately from the Secretary of State. It was very difficult for people at the White House to accumulate the papers and requirements for President Bush to sign off, but eventually he did. But nevertheless, it was roughly a 60-day period from time of discovery.

In this particular instance, a $20 million program of neutralization will eventually take care of that risk, and it is a very substantial one. But my point is it will not be the last one.

I commend the Armed Services Committee for recognizing the need for expedited review and decisionmaking when it comes to these emergency situations. This may be an instance in the war against terror in which we had success, and we had success beyond that. While we were up in the mountains, the Albanian soldiers took us by sheds in which there were 79 Manpad missiles. As part of the good will of that expedition, they agreed to destroy those in September of 2004, and they did so.

Furthermore, as another feature, the next day when we were out of the mountains, in the office of the Minister of Defense of Albania, he talked about his plans for a military academy, a modest beginning at least of training of young officers, with one of the skills to be required a facility in the English language. In essence, they wanted to continue talking to us and continue working with us so there would be fewer and fewer surprises.

I would contend in the war against terror we are going to have many surprises and we better have very rapid responses. I thank the drafters of the legislation we are considering today for their consideration of this.

Let me say the problem of the overall situation in Russia remains as confounding as before. It is a peculiar thought that some of the programs of the Cooperative Reduction Program that occur in the Department of State and Department of Energy do not have these stipulations. They are literally a hangover from the first Nunn-Lugar

debates in 1981—people suspicious of Russia, still suspicious of Russia, and believing, because they are exercising their suspicions of the Russians, that somehow this has something to do with destruction of weapons of mass destruction. We have to get over that and that is the purpose of this debate today, to try to get on and try to understand the world in which we live, including Russia.

The question finally is, what national security benefit do these so-called certification requirements provide the American people? Do these conditions I would advocate terminating make it easier or harder to eliminate weapons of mass destruction in Russia—or elsewhere, for that matter? Do the conditions make it more likely or less likely that weapons are going to be eliminated? It would be hard to argue logically that putting more and more conditions upon action help us in destroying weapons and materials of mass destruction. They obviously hinder us. In some years they stopped us for months. We did this to ourselves. We continue to do it to ourselves, year after year.

Congress imposed an additional six conditions on construction of the chemical weapons destruction program at Shchuch'ye, after imposing all of the other conditions with regard to nuclear weapons in Russia. These conditions include, No. 1, full and accurate Russian declaration on the size of its chemical weapons stockpile. Experts have argued for 14 years over whether Russia has specifically 40,000 metric tons of chemical weapons or something more or less, and we will be arguing about it every year so long as we have a stipulation that we have to have this argument. Some will claim that Russia has never made a full declaration of all of it. But, nevertheless, it is not a good reason for stopping the program, because we are dissatisfied with whether the Russians have come clean on every pound—or ton, for that matter—when there are 40,000 metric tons we know of that need to be destroyed.

No. 2, every year we have to talk about allocation by Russia of at least $25 million—its equivalent in Russian currency—to chemical weapons elimination. We also argue about whether Russia has developed a practical plan for destroying the stockpile of nerve agents and whether enactment of a law by Russia that provides for elimination of all nerve agents at a single site is valid.

We have been arguing about the single site problem for quite a while. We have at this point, I suspect, a general summation that probably chemical weapons will be destroyed at three sites. I simply point these things out because in order each year to start up the program, all of these arguments must go back through the bureaucracy. Somebody must certify that the Russians have, in fact, appropriated $25 million, that they have made a full declaration—40,000 metric tons or more; that we wish they would do it all in one place, and we are still arguing with them over that.

In essence, what is the alternative? Let us say that for some reason someone contends at the time Russians have 41,000 tons. Is this a good reason to delay any destruction, any further security in our benefit? Not at all. That is the essence of what we are talking about today—stipulations that long ago were obsolete, were, if not a figment of someone's imagination on the floor of the Senate, a deliberate, provocative act to get an argument going with the Russians that could never in fact be consummated. I suggest that some have said, well, at worst the certification process is simply an annoyance; that by this time in history we go through the process every year and the predictable arguments are made, the thousands of hours are spent, reports are filed, they are bumped up from one desk to the next, and then ultimately at the end of the trail the President waives the whole business and we get on with the program.

While well-intentioned, these conditions, in my judgment, seriously delay and complicate constructive efforts to destroy weapons of mass destruction.

I get back to this again. If the No. 1 security threat facing our country is weapons of mass destruction, the security of those weapons, the destruction of those weapons, we cannot permit delays in our response.

I was interested last year, as I know you were, Mr. President, in a very vigorous debate between President George Bush and our colleague, Senator JOHN KERRY of Massachusetts. But one thing on which the President and Senator KERRY agreed was that the No. 1 national threat was what we are talking about today: weapons of mass destruction, proliferation of those into the hands of terrorists. They agreed this is the essence of what all of our defense business is about, ultimately. All I am suggesting is, given the urgency of this, the illogic of delaying, deliberately delaying on our part, bureaucratically, year after year, even if finally, as I say, at the end of the day we give the President the right to waive the whole thing and say, enough of this, get on with it—we must finally come to grips, and this amendment does, and that is what the argument is about today—to eliminate these barriers that are self-imposed and that I believe are destructive to our national security.

Let me make a point. In 2002—to get the facts—the Bush administration withheld certification for Russia because of the concerns about chemical and biological weapons arenas. President Bush recognized the predicament. The President said, How can we get out of this predicament? And he requested waiver authority for the congressionally imposed conditions. While awaiting a temporary waiver to be authorized in law, the new Nunn-Lugar projects were stalled, and no new contracts could be finalized from April 16, 2002, to August 9, 2002. This delay—and this is just 3 years ago—caused numerous disarmament projects in Russia to be put on hold, including, specifically, installation of security enhancements at 10 nuclear weapons storage sites, initiation of the dismantlement of two strategic missile submarines, 30 submarine launched ballistic missiles, and initiation of the dismantlement of the SS–24 rail mobile and the SS–25 road mobile ICBMs and launchers—all of these deliberately delayed by us. We did this ourselves. This is what these restrictions are about. Clearly, these projects were in our national security interest at the beginning of April and August when we finally got on with it. But they were delayed because of self-imposed conditions and the bureaucratic redtape that we have continually perpetrated year after year after year.

The second period of delays began when the fiscal year started, October 1, 2002—back into it all over again—with the expiration of the temporary waiver that lasted only until September 30, 2002. Again, U.S. national security suffered with the postponement of critical dismantlement of security activities for some 6 additional weeks until the Congress acted.

Unfortunately, the events of 2002, although they are fairly recent, are reminiscent of what occurred in the years prior to that. They are the rule. In some years, as a matter of fact, Nunn-Lugar funds were not available for expenditure until more than half of the fiscal year had passed and weapons of mass destruction slated for dismantlement awaited the U.S. bureaucratic process. This means the program during those times was denied funds for large portions of the year. The bureaucracy continued to generate reams of paper and yet ultimately produced an outcome that was never in doubt; namely, that it is in the national security interest of our country to destroy weapons of mass destruction in Russia and elsewhere.

Let me say, finally, Mr. President, this certification consumes not only hundreds of man-hours in the Defense Department but in the State Department, in the intelligence community, and the energy community. Obviously the time could better be spent tackling the problems of proliferation where, in fact, the materials are—where are the Albanias of the future; identifying the next A.Q. Kahn in Pakistan and that network, locating hidden stocks of chemical and biological weapons, as many of us have attempted to do.

Mr. President, let me add as a personal thought, it is apparent, I suspect, with the urgency with which I approach this that I take it seriously, and I do, and I think a majority of Senators do. I plan to visit Russia again in August, as I have each year for the last 14. I plan to visit Ukraine. I hope to go to Azerbaijan. I hope to go to other countries that I think might develop

during those trips. It has been my experience that while in Russia, Russians came to me and asked would I like to visit Sevmash, Sevmash being where the Typhoon submarines are. No American has been invited to Sevmash. There have been no invitations to anyone to destroy six Typhoon submarines. I said: Of course, I would like to go to Sevmash. And I did go to Sevmash. Russians took pictures of submarines, including one of me standing in front of a large Typhoon, and in due course they sent the pictures to me. I must say, this was the best view that our authorities had had of a Typhoon in some time.

Now, the fact is, it is cooperative threat reduction. There was no particular reason for the Typhoons to come into play at that particular moment, nor for other submarine programs on other occasions. But the nature of the dialog, in fact, if there is engagement, has been to bring about revelations and finally additional cooperation.

I make that point because the gist of all these controls is a supposition that the Russians will be uncooperative, that they will hide what they have, and in some cases they have. On another occasion, I tried to get into a bioweapons situation and was denied that access. They told us the Air Force plane could take off, but it would not be able to land. In due course they changed their minds but not totally, and I took this up with the Defense Minister in Moscow. He admitted bureaucracy in Russia sometimes creates problems for him and for Russians who want to be cooperative.

I mention these situations anecdotally because as far as I am concerned there is a hands-on operation. This is something personal. I have been there, I have seen, I have worked, and this is why, perhaps, I become so infuriated with people who are determined, bureaucratically, to block it, year after year to delay it, until finally out of exasperation, we have adopted waivers so that somehow we can get on with our own national security.

But this is the debate today. Those who want to get rid of the bureaucracy and the stipulations will vote in favor of the Lugar amendment, and those who want to keep all of this can vote against it, and we will have an up-or-down vote because this is a critical national security objective. I cannot put it more directly or more simply.

The delays have given on occasion, if there were those in Russia who wished to hide whatever they have, an opportunity simply to blame the United States for slow program implementation as we took the spotlight off of failure on the other side with our friends in Russia. Therefore, Mr. President, I am hopeful that this amendment will have very strong support. I am grateful for Senators who have, in fact, cosponsored the amendment as well as the original bill.

I would conclude by indicating that during my talk today, Senators ROCKEFELLER, MCCAIN, BENNETT, LAUTENBERG, MURRAY, and SCHUMER have all asked to be added as cosponsors. I thank each of these Senators for their cosponsorship.

I ask unanimous consent to have printed in the RECORD a letter from Secretary Rice, and this follows direct questioning of the Secretary during her confirmation about her support of this very objective we are talking about today. And she does support what I want to do.

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

THE SECRETARY OF STATE,
Washington, June 3, 2005.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations, U.S. Senate.

MR. CHAIRMAN: I am writing in response to your March 28 letter urging support for legislation that would repeal the Cooperative Threat Reduction (CTR) certification requirements.

During my confirmation hearings, I stated that flexibility in administering these extremely important programs would be most welcome, and that the Administration supports legislation to remove the certification requirements for provision of CTR assistance. The Administration believes that these programs are extremely important to U.S. national security and to building a cooperative security relationship with Russia and the other states in Eurasia.

As a former student of the Soviet Union and of the Soviet military, I can think of nothing more important than proceeding with the safe dismantlement of the Soviet arsenal, securing nuclear weapons facilities, and destroying their chemical weapons. We will continue to press the Russians to provide greater accountability for their chemical weapons and for increased transparency of their biological weapons program.

The Administration is also willing to consider other alternatives to achieve flexibility in administering these programs. One possible alternative is included in the April 7, 2005, Defense Department transmittal to Congress of its national defense authorization bill and would renew permanently the authority under which existing certification requirements may be waived.

I greatly appreciate the leadership you have shown on these important issues and look forward to working with you on these programs.

Sincerely,

CONDOLEEZZA RICE.

Mr. LUGAR. Finally, I will submit additional letters that have come from other officials of our Government, from the National Security Council and the Department of Defense.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Virginia.

Mr. WARNER. I wish to commend my very dear and longtime friend, Senator LUGAR—as I said, I was here when this program was initiated—and our esteemed former colleague, Sam Nunn, for their vision and work in this very valuable program.

Through the Cooperative Threat Reduction Program the United States has, since 1991, been providing assistance to states of the former Soviet Union to help them eliminate and safeguard weapons of mass destruction and related infrastructure materials. These programs helped to eliminate large Cold War stockpiles and dangerous weapons that were no longer needed. Today, this program is an important element in the continuance of our strategy to keep weapons of mass destruction and the know-how from falling into hands antithetical to the interests of those who are trying to fight terrorism and preserve freedom.

When Congress first authorized the Cooperative Threat Reduction Program, an important element of the authorizing legislation was the inclusion of certain conditions that must be met before a country could receive CTR assistance from the United States.

I was a key author of the Cooperative Threat Reduction Act of 1993, which reauthorized the original Nunn-Lugar program. I was a strong advocate of including the requirement that, for each recipient nation of CTR funds, the President certify that the recipient nation is committed to:

making substantial investment of its resources for dismantling or destroying its WMD;

foregoing any military modernization program that exceeds legitimate defense requirements and foregoing the replacement of destroyed WMD;

foregoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

facilitating U.S. verification of any weapons destruction carried out through the CTR program;

complying with all relevant arms control agreements; and

observing internationally recognized human rights, including the protection of minorities.

I believe these conditions remain as relevant and important today as they were in 1993. They provide the Congress and the public relevant information about the countries that are to receive taxpayer-funded assistance for eliminating and safeguarding weapons of mass destruction. The conditions help provide us confidence that U.S. tax dollars will be well spent in countries that are committed to right-sizing their militaries, complying with arms control agreements, providing transparency regarding how CTR assistance is used, and respecting human rights.

These certification requirements do not impede the provision of CTR assistance. For several years now, Congress has provided the President with waiver authority so that even if one or more of the certifications cannot be made for a particular country, the President may provide CTR assistance to that country if he certifies it is in the national interest to do so.

The current waiver authority will expire in September 2005. That is why in this bill we have included a provision that would make permanent the President's authority to waive, on an annual basis, the conditions on provision of CTR assistance when he judges it is in the national security interest to do so.

This provision for permanent waiver authority for the CTR programs that is

in our bill is what was submitted in the President's budget request to Congress. Only subsequently, on June 3, 2005, Secretary Rice wrote to Senator LUGAR stating that the Administration supports legislation to remove the certification requirements for provision of CTR assistance. Her letter went on to state that the administration is also willing to consider alternatives including the OMB-cleared legislative request from the Department of Defense for a provision to renew permanently the authority under which existing certification requirements may be waived. So the administration does not oppose the existing congressionally-mandated certification requirements, so long as there remains a waiver provision.

Senator LUGAR's amendment would also repeal the conditions Congress placed on the provision of CTR assistance to Russia for chemical demilitarization activities. Those conditions were established in the FY 2000 National Defense Authorization Act. They required the Secretary of Defense to certify that Russia has:

provided a full and accurate accounting of its chemical weapons stockpile;

demonstrated a commitment to commit $25 million annually to chemical weapons elimination;

developed a practical plan for destroying its stockpile of nerve agents;

agreed to destroy or convert two existing chemical weapons production facilities; and

demonstrated a commitment from the international community to fund and build infrastructure needed to support and operate the chemical weapons destruction facility in Russia.

For several years the Congress decided not to support the provision of CTR assistance for chemical weapons destruction in Russia. It was precisely the inclusion of these conditions in the authorizing language that persuaded the Congress to resume U.S. CTR assistance for this important endeavor. These conditions relevant to the chemical weapons destruction program in Russia also have a waiver provision, so that the assistance can continue in the absence of certification if the President deems it in the national interest.

I feel strongly that the eligibility requirements and conditions for CTR assistance are entirely appropriate and should not be repealed. They remain an important element in assuring the American taxpayer that CTR dollars are being expended wisely and that the underlying aims of the CTR program are in fact being embraced by the recipient countries. This is essential to maintaining strong public support for CTR.

The waiver authority ensures that even in cases where a country does not meet all the eligibility requirements, the President has the authority to provide CTR assistance if it is in the national security interest to do so.

I urge my colleagues not to support Senator LUGAR's amendment to repeal the conditions and eligibility requirements for the CTR program. We all share the goal of supporting programs like CTR that can help keep dangerous WMD, and technology and know how, from slipping out of the countries of the former Soviet Union. I continue to believe that the certification requirements are useful in helping to maintain public confidence in the CTR program.

I say to my good friend, when we initiated these criteria, it was done because the American public never fully quite understood how we could require their tax dollars, which were so badly needed for schools and medical needs and innumerable requirements in this country, be given to countries which ostensibly, if they wanted to squeeze their own budgets, might well obtain the funds to do it by themselves. But I think it was right for this country to step forward. In the history of this country beginning, really, with the Marshall Plan, we have gone to the aid of other nations, and we have been the beneficiaries, as I stated in my opening remarks, of the success to date of the Nunn-Lugar program. But still it seems to me that we have an obligation on behalf of the American taxpayers who continue to willingly give their dollars to this important program to have in place certain criteria that must be met in order for those dollars to leave our shores and go abroad.

Now, this year, in consultation with Senator LUGAR and the Department of State, we put in this bill the permanent waiver authority for the President. And that was important. I think that cuts down on some of the administrative problems and the time delays. But the fundamental and compelling reason to have these criteria remain is for this institution, the Congress of the United States, together with the executive branch, to monitor expenditure of these funds and to have that leverage to get reciprocal actions and assurances from those countries to which our taxpayers' dollars go.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, the time I put under the control of the Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it is with reluctance that I urge that Senator LUGAR's amendment be defeated. I say with reluctance because the spirit with which he offers this amendment is in keeping with his original concept, along with Senator Nunn, for providing assistance from the United States to countries with weapons we want to see eliminated, dismantled; primarily at that time the Soviet Union, now Russia. Through the program which was adopted which bears his name, Senator LUGAR has helped not only to ensure the continued support for the program, but on a personal basis I am aware he has traveled frequently to these countries and personally participated in what he calls the hands-on implementation of the program, and in his case it has literally been hands on. So not only has he helped to sponsor the legislation, seen to it it is implemented every year, expressed frustration when delays have occurred—I have heard him do that—but he has also gone to these countries and helped to see to it that it is carried out in the proper way.

It is therefore understandable when he expresses frustration at the fact that in the past the bureaucracy of the United States—and I am sure there are other reasons for this, too—has resulted in delays in making available funding for the program to be carried out in an expeditious way. We have all seen that in different kinds of programs, but it must be especially frustrating in this particular case.

It was at least partially in response to that that the committee has offered a solution which is embodied in the bill which grants a permanent waiver authority for the President so that this problem of the past need no longer be a problem. In other words, the conditions that have been established that Senator WARNER referred to, conditions for making the funds available for the dismantling of these weapons, can and have been waived. They can be waived and they have been waived. There is that authority in the law. But we go a step further in this bill by granting that permanent waiver authority for the President so that he doesn't have to rely anymore upon this slow-working bureaucracy to get the reports prepared, to answer the questions of whether the Russians have been cooperating fully, and all the other requirements which I will allude to in a minute. That is no longer a requirement.

To some extent, I say with all due respect, this amendment is a solution in search of a problem. Whatever problem existed in the past, it should not exist in the future. In fact, the letter referred to from Secretary Rice notes that one alternative to the solution, and the problem that was discussed by Senator LUGAR, is included in the April 7, 2005 defense transportation transmittal to Congress of the National Defense authorization bill and would renew permanently the authority under which existing certification requirements may be waived. That is precisely what was included in the bill. I suspect all Members support that.

The question is, Why do we need to go the step further and remove what have been very important conditions to the granting of this money? There are two reasons for these conditions, but before I discuss them, let me state what they are so everyone knows what we are talking about. The first set of these were actually instituted at least partially as a result of Senator WARNER's work in the authorizing legislation to make sure that the American taxpayers knew that the money we would be spending on this dismantlement would, in fact, be spent wisely. It

is, in fact, a justification for the expenditure of taxpayer funds.

But the conditions go further than that. What they do is tell a country such as Russia, for example, that we care about what they are doing; that, for example, we would not want to use our money to dismantle one of their weapons if they are going to turn right around and use their money and build a replacement. No one would want that to occur. That would not make any sense. That is one of the conditions, and it lets the Russians and others know that if they expect U.S. taxpayer assistance, they have to do their part as well. That is only reasonable.

Here are the conditions: that the President certify that the recipient nation is committed to making substantial investment of its resources for dismantling or destroying WMD. It should not be a one-way street. It should not be just the obligation of the United States to help other countries dismantle their weapons.

Second, forgoing any military modernization program that exceeds legitimate defense requirements and forgoing a replacement of destroyed WMD. That is what I referred to before. We would not want to be using taxpayer dollars to help Russia, for example, dismantle an aged weapons system, for example, only to see it use its money to replace that system with one that is even more robust and more threatening. That, obviously, is simply aiding the Russians in modernizing their forces. Obviously, that is not what this program is about.

Three, forgoing any use of nuclear weapons of fissionable or other components of destroyed nuclear weapons. This is a key component in what Senator LUGAR intended, and I am sure he agrees with this concept that we do not want them taking fissionable material out of the weapons we are destroying and putting them into a new weapon. That defeats the entire purpose of the destruction program.

Four, facilitating U.S. verification of any weapons destruction carried out in the CTR Program. Obviously, if we are spending our money on dismantling these weapons, we have a right to at least do some checking to see whether it was done. When we set out to do the job, did it in fact get accomplished?

I know from stories I have heard or reports I have read that the Russians—the Soviets before them—had an entirely different concept of how this might work. They have whole cities devoted to their weapons complex. One of their ideas was that U.S. money should be used to provide assistance to the people in those cities who were dismantling their primary means of making a living; we should provide them other ways of making a living and relieve the suffering they might occasion as a result of not having a job building these weapons anymore. That represented the difference of opinion about how our taxpayer dollars should be used and how the Russians saw it at the time.

Another condition: complying with all relevant arms control agreements. Now, that ought to be a pretty minimal and bottom-line requirement. If we are going to be doing business with a country and providing taxpayer dollars to dismantle weapons, we want to make sure they comply with the agreements they have signed on arms control.

Finally, observing internationally recognized human rights, including the protection of minorities. This is not directly related to the subject of the CTR, but it is something we have all agreed is an important goal that the United States has and a way for us to remind these countries that they need to be paying attention to this kind of issue as well as the dismantlement issue.

These conditions are useful to continue to apply pressure to a country such as Russia to do the right thing, to provide assurance to the American taxpayer that our money is being spent appropriately, and also to provide Congress with the kind of information we need to ensure our continued support for the program. And they do, in fact, provide us that confidence.

There has always been a waiver authority, and the President has exercised that waiver authority because, as Senator LUGAR noted in the past, there have been delays in getting the certifications—that the Russians have met these requirements, for example—delays which have created problems in getting the resources to the country in time to do the dismantlement that was planned. So the President exercised that waiver authority.

The current problem is that the waiver authority will expire in September of this year. That is one of the reasons we need to get this bill passed, so the waiver authority that is granted in the bill—now permanent authority that does not expire—will be the President's to exercise in the future. That will largely obviate the problem that has been discussed.

The problem is not the conditions. The conditions are perfectly appropriate. Every Member would agree that there is nothing wrong with the goals of these conditions. The problem is in the implementation of the statute. That has apparently taken longer than it should have in certain cases. It has resulted in people being able to delay the program and perhaps not intentionally but at least unintentionally delaying the program because the conditions have to be certified. That is why the waiver has had to be used in order to get around the problem.

As I said, when Secretary Rice responded to Senator LUGAR's letter, she noted that one of the alternative solutions to the one proposed by Senator LUGAR was this permanent waiver authority, which is what we have included in this bill.

There is also a second very important aspect of this. We were having a hard time in using the CTR assistance for chemical weapons destruction in Russia. It was precisely because of that that conditions were specifically inserted into the law, and I will get the citation in a moment. But specifically, we added requirements for the CTR assistance to the elimination of the chemical weapons, and this program added conditions, and I will note for the record what those conditions are; it added these conditions so that we could actually begin providing assistance to add to the nuclear assistance the elimination or destruction of the chemical weapons so that program could go forward in Russia as well.

The eligibility requirements, the conditions for CTR assistance, certainly no one would argue are inappropriate or should be repealed. It simply is a question of whether they have been administered in a way that has facilitated the implementation of the statute.

From my point, I think they do remain an important element in assuring the American taxpayer that our dollars are being expended wisely here as well. They are also important to maintain strong public support for the program.

Again, I said that it is with reluctance I oppose the amendment because of all the work Senator LUGAR has done. No one is more keen to ensure that this program can work in the future than Senator LUGAR. However, I also think we would probably all have to agree that the conditions themselves are totally appropriate conditions; that with the exception of human rights, they all pertain to the effectuation of the program itself; that they do serve the purpose of ensuring that countries such as Russia understand they have some obligations, and also providing information to Congress that permit us from year to year to continue to support the program. It is not the conditions themselves that are the problem; it has been the implementation of the program. And in the past, apparently, this has been a problem.

The waiver authority has solved these problems but on a temporary basis. From now on, the President will have permanent waiver authority if we pass this bill. I believe that should be a solution to the problem that would be agreeable to all.

Now, there may be some who want to go further and eliminate these conditions as well. I don't think that is necessary to make it work, and I do think there would be a downside for the reasons I have articulated.

That is why I oppose the amendment, and I hope that the committee's mark, the bill we have before us, will be sustained when there is a vote on this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond directly. I do oppose the conditions. The purpose of my amendment is to eliminate the conditions. The reason I want to eliminate the conditions, and the Senator from Arizona has simply

illustrated that in his recitation of them—for example, No. 5, complying with all relevant arms control agreements. That is a work of art every year for people to fathom whether the Russians have complied with every one of those agreements. The question is, What if we decide they have not? Is this, then, the reason we stop destroying Russian warheads, missiles, submarines? Just stop cold because we say the Russians, in our judgment—and there is usually a debate among those in the Pentagon about this—have not got it quite right?

Even more, No. 6, observing internationally recognized human rights, including the protection of minorities, I am not certain that almost any Senate or administration official has ever come to a conclusion that the Russians have been observing all internationally recognized human rights for 14 years. Yet someone is still arguing we ought to leave that on the statute books as a reason the bureaucrats in our country ponder about the human rights conditions in Russia for as many weeks and so forth until the President says: We have had enough, I waive it, let's get on.

To suggest that it is extreme to leave these situations on the books, it seems to me, is not at all logical given our own activity and the fact that we are fighting a war on terror. This is not simply a grant of inconsequential effort with regard to our security, it is the whole ball game.

Or condition No. 4, facilitating U.S. verification of weapons destruction carried out under the program. As a rule, we have had pretty good fortune with the CTR people following through precisely what has occurred but not in all instances. If you go to Russia and you visit with our people on the ground, they will give you instances immediately in which they are having trouble with Russian friends who do not want to let them see what has occurred. Then we all argue, as military and civilians, with our Russian friends that we really do need to see these situations. We are on the ground and we have tried to work it out. But back here, to make an evaluation that we have not seen all of it and therefore we stop the music makes no sense at all at this point in history.

On the conditions on the chemical business, they were not at all helpful, to say the least. It is an ongoing process of getting something done still, trying to get the international community's money into it, trying to get the Russians over the threshold as the Duma. This is hard work but back here not so hard to say we want to evaluate, Are the Russians making a substantial investment? Well, what is substantial? Sometimes people have put a figure on it—$25 million, I mentioned in my speech. That was another stipulation. An allocation of $25 million, someone came up with here. I am not sure how we know; we are not able to audit the books.

We can make some judgments as to whether a substantial effort is being made, but let's take the other case: The Russians make no attempt. They say, We are bankrupt, and they were in the early years of the program. Is that a reason why we do nothing, then? Do we just stop the music and say, You are not making a reasonable allocation?

The old argument used to be called fungibility, the thought that somehow if U.S. taxpayer money got into Russia and we worked to destroy nuclear warheads, take them off the missile and so forth, the Russians would not have to spend money doing that and therefore they would spend it on something else of a nefarious nature. I am not sure that many persons in the Russian military ever were excited about taking the warheads off of the missiles, about destroying the missiles, about destroying all the submarines, destroying the transcontinental bombers. I don't think there was a wave of enthusiasm, people in the streets demanding that their government do these things.

The fact is that cooperative threat reduction, as the Russian generals told Sam Nunn, is something that is our problem, but it is your problem because you folks in the United States have the contractors, you have the money, you have the organization. These are not funds donated in a United Way project to Russia. They are funds largely spent with American contractors, American experts, American people who take their time and at some risk to themselves have gone to Russia, and now to other places, to dismantle dangerous weapons and try to corral dangerous material in the benefit of all of us.

Because in another forum we would be having the speech: What happens if al-Qaida gets their hands on even a few pounds of fissionable material? What would have happened if even a small weapon had been on a plane that went into the World Trade Center? Then we have briefings from experts that show concentric circles of death and destruction, of hundreds of thousands of Americans losing their lives. That is the issue.

Anyone who is delaying this has to give some better reason for it than at some point a Member of the House or Senate thought it might be a good idea to ask the Russians what they are doing. Of course, that is a good idea. Those of us who have been visiting with the Russians ask it all the time and, as a matter of fact, have a very tough-minded attitude, which they appreciate because they have the same feeling for us.

But I am saying we have come to a time in which we have to understand it is not useful to require that before Nunn-Lugar funds are spent each year there be a symposium on how human rights are going in Russia and, therefore, at the end of the day the President waives it and says: OK, not so good, but, after all, American security is still what I am after as Commander in Chief.

Let me reiterate. I think it is important to clean the books, to get on with a program in which we understand, as Americans, we want to work with Russians to destroy weapons of mass destruction every year without delay. If the $415 million that is in this bill is appropriated, ultimately—and I hope it will be—we want to be able to spend that from October 1 onward. As has been pointed out, the waiver authority, even as it is, dies September 30. What happens if for some reason there is a conference hassle on the Department of Defense appropriations bill apart from the authorization bill? Certainly that happens in the body, and with the other body, from time to time. And when it has happened before, the music stopped. We did it to ourselves. We cannot afford to continue doing that.

Mr. President, I yield time to my distinguished colleague, the ranking member of the Armed Services Committee, Senator LEVIN.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the Senator from Indiana for his intrepid, persistent, and determined, bulldogged leadership to try to address the greatest threat this country faces which is the presence of a weapon of mass destruction in the hands of a terrorist or terrorist state. We are told over and over again—one commission after another tells us—the greatest threat this Nation faces would be a chemical, biological, or nuclear weapon in the hands of a terrorist or terrorist state—''loose nukes,'' as they are sometimes called.

Yet, in the wonderful program we have called Nunn-Lugar, we have impediments to the prompt spending of our money in order to secure or destroy the weapons that threaten us. Why, in Heaven's name, we would put any impediment in the way of addressing the greatest threat that faces this country absolutely mystifies me.

We have six conditions that have to be certified to annually by the President before this money can be spent to protect our Nation. Let me take one of them. One of the conditions that has to be addressed and met in a report is the President certify annually that each country is meeting the following condition—one of the six—that the country is foregoing any military modernization program that exceeds the legitimate defense requirements of that country.

Now, why, in Heaven's name, we want to have some agency's employee spending time looking at whether Kazakhstan or Uzbekistan or, yes, Russia, in their entire military budget is spending any money on any weapons system that, in our judgment, they do not need—and if we cannot certify that, we cannot protect ourselves against destroying the weapon of mass destruction that exists in Kazakhstan or Uzbekistan—why would we want to tie our hands that way in order to address the greatest threat that faces us? It is absolutely mysterious to me.

The great Senator from Indiana—I do not know if he went through each one of these conditions. I know he went through some of them. And I am not even sure how we could certify that Russia has forgone every single military modernization program that exceeds their legitimate defense needs. How could anyone certify that? Go through the entire Russian defense budget and look at every single modernization program? I am not even sure it is public. I am not sure ours are. I know ours are not all public, by the way. We have classified programs. But the way the law reads, we have to get the Presidential certification that there is no Russian modernization program that exceeds their legitimate defense needs.

We have to do that with every country—Uzbekistan, Kazakhstan, Ukraine, Georgia, Azerbaijan, Albania—before we can secure or destroy weapons, material, weapons of mass destruction, biological weapons, chemical weapons, nuclear material that threatens us? We have to write these endless reports, trying to certify that those conditions are met?

We are cutting off our nose to spite our face. What we are doing here is, instead of trying to secure material or destroy material, we end up securing reports, producing reports. How many of us have read those reports, by the way? I am not sure how many have been filed because they have to be waived every year if they are not written. But how many of us would look through a report on every modernization program—if we could figure it out—that Kazakhstan has before we destroy material that threatens us that might exist in that country?

Now, these impediments to protecting our people against the greatest threat we face actually make no sense anymore. We ought to get rid of them instead of requiring an annual certification, involving people writing these certifications, writing these reports rather than effectively spending our resources in order to protect the American people.

We say we have to be able to certify that Russia has accurately declared the size of its chemical weapons stockpile. We cannot certify that, verify it, because there is a great dispute over verification between ourselves and Russia. They want to come in to certain places we do not want them to come in, so they cannot verify certain things, because we are not giving them access. We are not perfectly transparent in terms of our own chemical production facility, for legitimate reasons. But there is a dispute on transparency between us and Russia.

So that dispute, which is a legitimate dispute, which has not been resolved yet—despite, let's assume, good-faith efforts on both sides—the presence of that dispute means we cannot or the President cannot make a certification that Russia has accurately declared the size of a chemical weapons stockpile because we cannot get the verification agreed to, again, because we will not provide access to our own facility. That stops us from defending our people against chemical weapons.

What is the goal here? Reports or security? If we can get our hands on chemical weapons or biological weapons or nuclear material or missiles and destroy them, why wouldn't we want to grab that opportunity? Why would we want to put impediments in the way and require reports or certifications to be made?

By the way, I think it is great if the reports can be made. I have no problem with it, either. Senator LUGAR mentioned, we raise these issues all the time. But we should not attach these as conditions to our taking action which is in our own interest. Churning away at reports when it is in our national security to eliminate weapons of mass destruction does not make sense to me. We have this process requiring hundreds of man-hours of work by the State Department, the intelligence community, the Pentagon, as well as other departments and agencies. That time could be better spent tackling the proliferation threats that face our country.

We should be spending all of our energies on interdicting WMD shipments, all of our energies at identifying the next A.Q. Khan, all of our energies on locating hidden stocks of chemical and biological weapons. Instead, we have nonproliferation experts spending time compiling reports and assembling certifications and waiver determinations.

By the way, the majority of those reports is repetitive. They have already filed reports in other formats. Yet we continue to require that.

The President does not have to spend any of this money. If the Executive decides they have questions and they are not going to spend money, for whatever legitimate reason, fine. But we should not add to their burdens. And we should not jeopardize the security of this Nation by putting barriers in the way of taking action to secure or destroy the most threatening material we face—chemical, biological, or nuclear material.

I very strongly support the efforts of our good friend from Indiana, who has been such a leader here. When Sam Nunn was here, it was Nunn-Lugar. No one could take Sam Nunn's place. Senator LUGAR, with the support of many of us, including, may I say, our chairman, the Presiding Officer—who has supported the amount of money for Nunn-Lugar—without the support of the chairman of the committee, who is now presiding over the Senate, we would not be able to get that amount of money we have in this authorization. By the way, we are going to try to increase that somewhat during the debate on this bill.

But that amount of money, which is requested, I believe, by the administration, would not be there but for the Senator from Indiana, but for the chairman of our committee, and but for the support many of us on the Armed Services Committee have to address this absolutely most dangerous threat this Nation faces.

I commend the Senator from Indiana, and I am proud to be a cosponsor of his amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Indiana.

Mr. LUGAR. Mr. President, may I inquire how much time is on either side to be utilized?

The PRESIDING OFFICER. The Senator from Indiana has 5½ minutes remaining.

Mr. LUGAR. Mr. President, let me take a moment to thank the distinguished Senator from Michigan for his very strong words and, likewise, to echo his commendation of you, as I do at this moment in this debate.

Very clearly, each one of us has attempted to do our best in this area. I am proud to have pictures of all of us in my office, standing in front of missiles and explosives and all the elements that have marked 14 remarkable years.

This entire program is counterintuitive. Those who looked at the half century that preceded 1991, the breakup of the former Soviet Union, would say: Here we are, two superpowers. A number of estimates were wrong on all sides about the economy of Russia, maybe the economy of our country or the relative strengths we had at that time. It was not until several years later that we knew there were 13,300 warheads on those missiles. We had estimates of that, but we now know that. We know exactly how many have been taken off and how many are still to be taken off, and how many missiles remain as vehicles, and how many submarines remain. This is remarkable. This is a degree of cooperation that is very substantial.

There are some elements that we still do not know. I would claim that our Russian friends have been in denial on a good number of the biological programs, while they would say they were not weapons programs. They were something else dealing with livestock or other elements. We have had differences, and I would say there are still four situations in Russia in which none of us have had access. Therefore, those who argue that there is no good reason to raise questions of the Russians argue well. But my logic at the end of the day, even if the Russians have not been forthcoming on these four biological situations on which I have sought access, physically asked to go and may some day be admitted, if for some reason they may find it useful to admit me, that is not a good reason to delay for one week or one month or any time the movement of the moneys, the programs, the contractors, the American spirit that is working with a number of Russians in this window of history that was miraculously opened.

I hope it will be open for a long time. I hope the cooperation with Russia will continue so that we do have, together, access, and so do other partners in the G8, in the so-called ''10 plus 10 over 10'' program. It is because we will need more time. We need to make certain that we do not make mistakes, certainly the ones we can avoid. I am suggesting today that we can avoid mistakes—and by eliminating these conditions, we will at least remove one of them—and that we have then an opportunity to continue to be forthcoming with the Russians in asking them to work with us in their own interest.

Finally, when I was in vaults in which there are nuclear warheads lying almost akin to bodies in a morgue, I noted little tablets at the top of these which had Russian inscriptions. I asked: What is on those? They said: This tells when the weapon was built. It gives a service record. These weapons are not inert sporting guns' ammunition sitting on a shelf. They require servicing. There is a chemical mixture going on there that, without proper care, can lead to dire results. We don't know, nor do the Russians, what the results are.

Therefore, down on the tab there is an estimate of the efficacy of the weapon; that is, how long the warhead probably would work if it were taken out of the vault and put back on a missile. Then you have even a stranger estimate, and that is when it might become dangerous; that is an event, a nuclear event in Russia with dastardly results for Russians.

This is one reason why this is not totally counterintuitive. If you still have thousands of these weapons in warhead form, you want to make certain you have a partner who has some money and some expertise, and you try to make sure you use that money on the oldest ones first before you work out what is going to happen historically, something none of us have thus far had the horror to find out.

This is serious business. We all take it that way. I appreciate the spirit of the debate.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN. Mr. President, I think Senator LUGAR controls all of the time on his side. I wonder if he might yield 4 minutes to the Senator from Rhode Island. I don't know how long the Senator from Texas was going to speak.

The PRESIDING OFFICER. The time in opposition is under the control of the Senator from Arizona. But in his absence, the Senator from Texas is in control of the time and has the authority to grant the time.

Mr. CORNYN. Mr. President, I have no objection to the Senator from Rhode Island addressing the Senate.

Mr. LEVIN. This would be on Senator LUGAR's time.

The PRESIDING OFFICER. The Chair understands the allocation of the time.

GUN INDUSTRY IMMUNITY

Mr. REED. Mr. President, let me thank Senator LUGAR for his commendable amendment and thank Senator CORNYN for allowing me to proceed. I would like to speak to the possible procedural posture we will be in next week.

We are now on the Defense authorization bill, which is critical to providing resources to our service men and women who are engaged today, as we speak, in a global war on terror. But tomorrow the majority leader intends to file a cloture petition on the motion to proceed to the gun industry immunity bill. That means on Tuesday morning we will have a cloture vote, and the vote will present a stark choice for all Senators. We can stay on the Defense bill and finish our work on behalf of our soldiers, sailors, air men and women, or we can leave the Defense bill for an undetermined period of time and move to a special interest bill to give legal immunity to the gun industry.

If the Senate invokes cloture on the motion to proceed to the gun industry bill next Tuesday, we will be on that motion for the next 30 hours. On Wednesday, when that time runs out, the majority leader would then file another cloture petition on the bill itself. The Senate would then spend the next 2 days on the immunity bill, and we would have another cloture vote Friday. If the Senate invoked cloture on the bill next Friday, we could face another 30 hours on the gun immunity bill, pushing final passage until at least next Saturday and potentially delaying passage of the Defense authorization bill until after the August recess.

We face a situation where the majority is asking Senators to delay consideration of a bill to support our troops, possibly for up to a month, so that we can take up a bill to give a special interest gift to the gun industry.

Senator FRIST said this morning that lawsuits against gun manufacturers like Beretta are the reason to take up this measure because they provide small arms to the U.S. Army and the Department of Defense. First, Beretta is a privately held corporation owned by an Italian parent. There is no obligation for them to disclose their finances. But their competitors, Sturm Ruger and Smith & Wesson, continue to assure their shareholders in SEC filings that this litigation is not having an adverse material effect on their financial position. So I don't know how much credence we can give to that.

I believe we should stay on this bill, finish our obligation to our service men and women, and then at some other time, take up this bill because such a bill about immunity requires extensive debate. That is a requirement that many Senators will not forgo.

I urge the majority leader to reconsider his proposal. I thank the Senator from Texas and yield the floor.

The PRESIDING OFFICER (Mr. LUGAR). The Senator from Texas.

Mr. CORNYN. Mr. President, with some reluctance, I rise to oppose the amendment of the distinguished occupant of the chair, the senior Senator from Indiana. But I feel a certain obligation, as the chairman of the Emerging Threats and Capabilities Subcommittee, out of which this particular portion of the bill emanated, to explain the reasons why the bill contains these conditions that I believe are important and which I will explain and which have existed in the bill as it has been passed by the Congress since its inception.

The question that I would pose is, what has changed? What has changed that now would lead this body to eliminate these important criteria that have existed in the bill for lo these many years? I think it is important, as a general matter, that there be some sort of reciprocal obligation on the part of Russia for receiving more than $400 million in American taxpayer money, potentially. I know there has been discretion added to make sure that WMD located in other countries can now be addressed by this Cooperative Threat Reduction Program. That is a good thing. But certainly, while I appreciate the argument that regardless of whether or not Russia complies with the conditions that are required to be monitored under this Cooperative Threat Reduction Program, I still do not believe that it is the best stewardship of the American taxpayers' moneys for us to say: We don't care whether Russia complies with their reciprocal obligations or not, and we are going to give the money away anyway, albeit for a good purpose.

On balance, I am not persuaded that the burden to change the system, as it has been since 1991, has been met, and I believe that we should retain some way to monitor the progress of Russia, the recipient of these funds, on these important criteria that have been set out in the bill.

Of course, the Cooperative Threat Reduction Program has long been providing assistance to states of the former Soviet Union to help eliminate and safeguard weapons of mass destruction and related infrastructure materials. These programs helped to eliminate large Cold War stockpiles of dangerous weapons that are no longer needed. Today, of course, this is an important element of our strategy to keep weapons of mass destruction and know-how from falling into the hands of terrorists. That is the reason why I applaud the senior Senator from Indiana for his leadership in this important effort.

When Congress first authorized the Cooperative Threat Reduction Program, an important element of the authorizing legislation was the inclusion of the conditions which now this amendment seeks to eliminate. These conditions must be met before a country can receive Cooperative Threat Reduction assistance from the United States. These conditions were retained

in the Cooperative Threat Reduction Act of 1993 which reauthorized the original Nunn-Lugar program. That act included the requirement that for each recipient nation of Cooperative Threat Reduction funds, the President certify that the recipient nation is committed to the following goals:

One, to making substantial investment of its resources for dismantling or destroying its weapons of mass destruction; two, forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction; three, forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; facilitating U.S. verification of any weapons destruction carried out under the Cooperative Threat Reduction Program; complying with all relevant arms control agreements; and observing internationally recognized human rights, including the protection of minorities.

I would certainly agree with the distinguished senior Senator from Indiana that some of these are vague standards. For example, as he pointed out, complying with all relevant arms control agreements or observing internationally recognized human rights, including the protection of minorities. But the fact that they are somewhat general—some might say somewhat vague—does not mean that they are unimportant. One of the important roles played by these criteria is that there be some effort on the part of the Government to ascertain whether, in fact, the old Soviet Union is, in fact, exercising good faith as part of the Cooperative Threat Reduction Program. If, in fact, ultimately the President decides, as authorized by this bill, to ultimately waive the noncompliance of those criteria in the interest of our national security, at least Congress and the Nation know that some assessment has been made of the old Soviet Union's compliance with these criteria.

I think we would all agree that the information that is collected and scrutinized is important in the interest of our national security and in the interest of knowing that we have met our responsibility to see that American tax dollars are spent as wisely and efficiently as possible.

These conditions remain as relevant and as important today as they were in 1993. They provide Congress and the public relevant information about the countries that have received taxpayer-funded assistance for this program. The conditions also help provide us confidence that U.S. tax dollars will be well spent in countries that are committed to right-sizing their militaries, complying with arms control agreements, providing transparency with regard to Cooperative Threat Reduction assistance, and respecting human rights. I do not understand how one could argue that these conditions are unimportant or irrelevant to our national security or that we ought to simply blind ourselves to the recipient nation's compliance with these criteria in the interest of pursuing our ultimate goal.

The truth is, we all agree in the ultimate goal of this important program. But this provides us additional checks and balances and information that is relevant, significant, and which I think demonstrates that we are being good stewards of the American taxpayer dollar while we pursue a safer and more secure world.

These certification requirements do not impede the provision of cooperative threat reduction assistance. For years now, the Congress provided the President with waiver authority, so that even if one or more of the certifications cannot be made for a particular country, the President may provide these funds if it is in our national interest to do so, and that is appropriate.

One of the things this bill does is to make that temporary waiver authority that had been conferred upon the President permanent, to provide the kinds of flexibility that Secretary Rice said the President and the administration wanted when it came to this program in her letter of June 3, 2005, which has been previously referenced.

This provision for permanent waiver authority for cooperative threat reduction programs in the bill provides the flexibility needed. It also provides us the way to deal in a responsible fashion with the countries that compose the former Soviet Union. I remember, of course, the famous words of President Reagan when talking about negotiating with the Soviet Union, where he said, ''trust, but verify.'' What these criteria do in this cooperative threat reduction program is allow us to not just trust but also to verify that these countries that were once the old Soviet Union are worthy of our trust by allowing us to verify their good faith compliance with this program.

The amendment of the senior Senator from Indiana would also repeal conditions Congress placed on the provision of financial assistance to Russia for chemical demilitarization activity. These conditions were established in the fiscal year 2000 National Defense Authorization Act. They required the Secretary of Defense to certify that Russia has provided a full and accurate accounting of its chemical weapons stockpile; demonstrated a commitment of $25 million annually to chemical weapons elimination; developed a practical plan for destroying its stockpile of nerve agents; agree to destroy or convert two existing chemical weapons production facilities; finally, a commitment from the international community to fund and build infrastructure needed to support and operate the chemicals weapons destruction facility in Russia.

Here again, these provisions would be effectively repealed by this amendment which is proposed today by the distinguished Senator from Indiana. They do not represent an impediment to the accomplishment of the chemical demilitarization program because they may be likewise waived in the end if the President deems that waiver in our national interest. But no one, it seems to me, could in good faith argue that these criteria are unimportant or irrelevant.

Indeed, each of these criteria demonstrate the reciprocal good faith and responsibility of the recipient nations in accomplishing chemical demilitarization, a goal that is the subject of an international treaty that this country is a party to and one that is certainly in our national interest to see accomplished.

For several years, Congress decided not to support the provision of cooperative threat reduction assistance for chemical weapons destruction in Russia. It was precisely the inclusion of these conditions in the authorizing language that persuaded Congress to resume assistance under the chemical threat—the Cooperative Threat Reduction Program for this important effort of chemical demilitarization.

These conditions relevant to the chemical weapons destruction program in Russia also have a waiver provision, so that the assistance, as I mentioned a moment ago, can continue in the absence of certification if, in the end, the President deems it in the national interest. The eligibility requirements and conditions for assistance are entirely appropriate.

Mr. President, I believe the burden of proof on those who would repeal it has not been met. They remain an important element in assuring that the American taxpayer is being well served and that the money is being spent appropriately and wisely on the underlying aims of the Cooperative Threat Reduction Program that we all agree are a good thing. This assurance to the American taxpayer and to the American people that their money is being well spent is essential to maintaining strong public support for this important program.

The waiver authority ensures that even in cases where a country doesn't meet all eligibility requirements, the President has the flexibility to provide this assistance if it is in the national security interest to do so. This is all, in the end, that the administration, through Secretary Rice's letter, has requested. So we have accomplished that goal already, even before this amendment has been proposed.

Mr. President, I urge my colleagues not to support this amendment that would repeal the conditions and the eligibility requirements under the Cooperative Threat Reduction Program. We all share the goal of supporting programs like this that can help keep dangerous weapons of mass destruction and technology and know-how from slipping out of the countries that used to be the old Soviet Union.

I continue to believe that certification requirements are useful in helping to maintain public confidence in

this important program, and I urge my colleagues to vote against the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, the distinguished Senator from Texas has yielded to me a minute of time, and I deeply appreciate that, so that I have an opportunity to add as cosponsors to my amendment Senators CONRAD, BOXER, and DURBIN.

Earlier, I mentioned the letters from Secretary Rice and, likewise, one from the 9/11 Commission, in which the Commission summarized that we believe that S. 313—the genesis of my amendment—is an important step forward in protecting the United States in catastrophic circumstances.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, I ask unanimous consent that Senator SARBANES be added as a cosponsor to the amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I ask the indulgence of all Senators. We are about to vote, but I ask that we give consideration, at this point in time, to an amendment that will be offered by the Senator from South Dakota.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is.

Mr. THUNE. I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1389

Mr. THUNE. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. LAUTENBERG, Mr. JOHNSON, Mr. DODD, Ms. COLLINS, Mr. CORZINE, Mr. BINGAMAN, and Mr. DOMENICI, proposes amendment numbered 1389.

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

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

The amendment is as follows:

(Purpose: To postpone the 2005 round of defense base closure and realignment)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

''(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

''(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

''(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

''(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

''(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

''(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

''(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

''(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

''(ii) the return of the major combat units and assets described in subparagraph (B);

''(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

''(iv) the National Maritime Security Strategy; and

''(v) the Homeland Defense and Civil Support directive.

''(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

''(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.''; and

(2) in section 2904(b)(1)—

(A) in subparagraph (A), by striking ''the date on which the President transmits such report'' and inserting ''the date by which the President is required to transmit such report''; and

(B) in subparagraph (B), by striking ''such report is transmitted'' and inserting ''such report is required to be transmitted''.

Mr. THUNE. Mr. President, I ask that the amendment be set aside.

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

Mr. THUNE. Mr. President, this amendment to S. 1042 that would delay implementation of the 2005 round of the Defense Base Closure and Realignment. This amendment does not seek to nullify the Department of Defense recommendations, nor does it seek to halt the work of the BRAC Commission now well underway. Nor do I seek to block the presentation of the BRAC Commission's final recommendations to the President. To the contrary, I believe the BRAC commission to be an integral and indispensable check on this process and I value their analysis and demonstrated independence.

The amendment would essentially extend the congressional review period for any final recommendations approved by the President until certain conditions are first met. This proposed suspension of the ''45 day'' review period would thus delay ''implementation'' by the Department of Defense until one year following the last condition is met. These conditions center on certain events that are anticipated to occur and which have potentially large or unforeseen implications for our military force structure. Therefore, implementation of any final BRAC recommendations should not occur until both the DoD and Congress have had a chance to fully study the effects such events will have on our basing requirements. I will say more about those conditions in a moment.

But first, I want to make my position perfectly clear. I do not oppose the BRAC process. The underlying purpose of BRAC, as written by this body, is not only good for our armed forces, it is good for the American taxpayer. We all want to eliminate waste and reduce redundancy in the government. But when Congress modified the Base Realignment and Closure law in December 2001, to make way for the 2005 round of base closings, it failed to envision this country involved in a protracted war involving stretched manpower resources, ever-evolving threats and the burden of large overseas rotational deployments of both troops and

equipment. I do, therefore, question the timing of this round of BRAC.

The amendment identifies several principal actions that must occur before final implementation of the 2005 BRAC recommendations. First, there must be a complete analysis and consideration of the recommendations of the Commission on Review of Overseas Military Structures. The overseas base commission has itself called upon the Department of Defense to ''slow down and take a breath.'' It cautions that we should not move forward on basing decisions without knowing exactly where units will be returned, and if those installations are prepared or equipped to support units returning from garrisons in Europe, consisting of approximately 70,000 personnel.

Second, BRAC should not occur while this country is engaged in a major war and rotational deployments are still ongoing. We have seen enough disruption of both military and civilian institutions due to the logistical strain brought about by these constant rotations of units and personnel to Iraq and Afghanistan without, at the same time, initiating numerous base closures and the multiple transfer of units and missions from base to base. This is simply too much to ask of our military, our communities and the families of our servicemen and women, who are already stretched and overtaxed. Frankly, our efforts right now must be devoted to winning the global war on terrorism, not packing up and moving units around the country.

Our amendment would delay implementation of BRAC until the Secretary of Defense determines that substantially all major combat units and assets have been returned from deployment in the Iraq theater of operations, whenever that might occur.

Third, it seems counterintuitive and completely out of logical sequence to attempt to review or implement the BRAC recommendations without having the benefit of studying the Quadrennial Defense Review, due in 2006, and its long-term planning recommendations. Therefore, the amendment requires that Congress receive the QDR and have an opportunity to study its planning recommendations as one of the conditions before implementing BRAC 2005.

Fourth and Fifth: BRAC should not go forward until the implementation and development by the Secretaries of Defense and Homeland Security of the National Maritime Security Strategy; and the completion and implementation of the Secretary of Defense's Homeland Defense and Civil Support Directive—only now being drafted. These two planning strategies should be key considerations before beginning any BRAC process.

Finally, once all these conditions have been met, the Secretary of Defense must submit to Congress, not later than one year after the occurrence of the last of these conditions, a report that assesses the relevant factors and recommendations identified by the Commission on Review of Overseas Base Structure; the return of our thousands of troops deployed in overseas garrisons that will return to domestic bases because of either overseas base reduction or the end of our deployments in the war; and, any relevant factors identified by the QDR that would impact, modify, negate or open to reconsideration any of the recommendations submitted by the Secretary of Defense for BRAC 2005.

This proposed delay only seems logical and fair. There is no need to rush into decisions, that in a few years from now, could turn out to be colossal mistakes. We can't afford to go back and rebuild installations or relocate high-cost support infrastructure at various points in this country once those installations have been closed or stripped of their valuable capacity to support critical missions.

Frankly, some of the recommendations made by the Department of Defense seem more driven by internal zeal to cut costs, than by sound military judgment. Several recommendations involving the consolidation of high value military air and naval assets at single locations seem to violate one of the most basic tenets of national security—that of ensuring strategic redundancy. Yes, the Cold War may no longer be a factor in military basing requirements, but after 9/11 is there any question in anybody's mind whether the threat to our country or our military installations has diminished—particularly as rogue countries and terrorist groups continue their quest for weapons of mass destruction?

The GAO, in its report of July 1, 2005, has even questioned whether this BRAC will achieve the savings that DoD contends it can achieve. GAO calculates the upfront investment costs of implementing this BRAC to be $24 billion and reveals that DoD's estimated savings of $50 billion NPV over 20 years is largely illusory—incorrectly claiming 47 percent of the savings from military personnel that are not eliminated at all from the services, but only transferred to different installations.

There are many questions I and many of my colleagues have about the wisdom of the timing of this BRAC round and the prudence of some of its recommendations and I will return to the floor to speak to many of these as this amendment is considered. Again, I am not opposed to the BRAC process. But I do question whether this is the right time to begin a new round of domestic base closures and massive relocations of manpower and equipment.

I, therefore, offer this amendment today and call upon my colleagues to join us in this debate and support its passage.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for bringing this amendment. There are some very distinguished cosponsors. It would be my expectation to reply to the Senator in brief tonight following this vote because I think some record should be made today. The Senator made his statement on the side of the proponents, and I need time within which to evaluate since I have just received this document, but I will be prepared, following this vote, to make some reply, and I hope that my colleague would likewise.

Mr. LEVIN. Would the chairman yield?

Mr. WARNER. Yes.

Mr. LEVIN. Now, I assume this amendment will be laid aside similar to other pending amendments.

Mr. THUNE. That is correct.

Mr. LEVIN. I assume that in addition to the debate taking place tonight on this amendment, it could also take place tomorrow, along with a number of other amendments which at least will be debated tomorrow. I hope this might be one of those amendments that could be debated tomorrow, in addition to the comments that the chairman would make.

Mr. WARNER. The Senator is correct. Given the importance of this amendment and the interest in this amendment, I wish to lay down some parameters tonight about my concerns.

Mr. LEVIN. I join in those concerns, and I agree that there should be some response tonight.

Mr. WARNER. Would the Senator be available for further debate tomorrow?

Mr. THUNE. If that is the chairman's wish, we could make that arrangement.

Mr. WARNER. Perhaps we can discuss it.

AMENDMENTS NOS. 1390 THROUGH 1400, EN BLOC

Mr. WARNER. I ask unanimous consent that the vote be delayed for a few minutes because we have a series of amendments at the desk which have been cleared by myself and the distinguished Senator from Michigan. I ask unanimous consent that the Senate consider these amendments en bloc, that the amendments be agreed to and the motions to reconsider be laid upon the table.

I ask that any statements relating to any of these individual amendments be printed in the RECORD.

Mr. LEVIN. We have no objection and support that.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 1390

(Purpose: To increase the authorized number of Defense Intelligence Senior Executive Service employees)

At the end of title XI, add the following:

SEC. 1106. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking ''544'' and inserting ''the following:

''(1) In fiscal year 2005, 544.

''(2) In fiscal year 2006, 619.

''(3) In fiscal years after fiscal year 2006, 694.''.

AMENDMENT NO. 1391

(Purpose: To provide for cooperative agreements with tribal organizations relating to the disposal of lethal chemical agents and munitions)

On page 378, between lines 10 and 11, insert the following:

SEC. 3___. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) IN GENERAL.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting ''(A)'' after ''(4)'';

(2) in the first sentence—

(A) by inserting ''and tribal organizations'' after ''State and local governments''; and

(B) by inserting ''and tribal organizations'' after ''those governments'';

(3) in the third sentence—

(A) by striking ''Additionally, the Secretary'' and inserting the following:

''(B) Additionally, the Secretary''; and

(B) by inserting ''and tribal organizations'' after ''State and local governments''; and

(4) by adding at the end the following:

''(C) In this paragraph, the term 'tribal organization' has the meaning given the term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect on December 5, 1991; and

(2) apply to any cooperative agreement entered into on or after that date.

AMENDMENT NO. 1392

(Purpose: To provide for the provision by the White House Communications Agency of audiovisual support services on a nonreimbursable basis)

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

SEC. 903. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY THE WHITE HOUSE COMMUNICATIONS AGENCY.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2623; 10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection caption, by inserting ''AND AUDIOVISUAL SUPPORT SERVICES'' after ''TELECOMMUNICATIONS SUPPORT''; and

(B) by inserting ''and audiovisual support services'' after ''provision of telecommunications support''; and

(2) in subsection (b), by inserting ''and audiovisual'' after ''other than telecommunications''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to the provision of audiovisual support services by the White House Communications Agency in fiscal years beginning on or after that date.

AMENDMENT NO. 1393

(Purpose: To establish the United States Military Cancer Institute)

At the end of subtitle C of title IX, add the following:

SEC. 924. UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2117. United States Military Cancer Institute

''(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

''(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

''(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

''(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

''(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

''(B) The prevention and early detection of cancer.

''(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

''(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

''(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

''(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

''(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.''.

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

''2117. United States Military Cancer Institute.''.

AMENDMENT NO. 1394

(Purpose: To make available, with an offset, an additional $1,000,000 for research, development, test, and evaluation, Army, for the Telemedicine and Advanced Technology Research Center)

At the end of subtitle B of title II, add the following:

SEC. 213. TELEMEDICINE AND ADVANCED TECHNOLOGY RESEARCH CENTER.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Medical Advanced Technology (PE #603002A) for the Telemedicine and Advanced Technology Research Center.

(c) OFFSET.—The amount authorized to be appropriated by section 101(4) for procurement of ammunition for the Army is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Ammunition Production Base Support, Production Base Support for the Missile Recycling Center (MRC).

AMENDMENT NO. 1395

(Purpose: To make available, with an offset, $5,000,000 for research, development, test, and evaluation, Navy, for the design, development, and test of improvements to the towed array handler)

At the end of subtitle B of title II, add the following:

SEC. 213. TOWED ARRAY HANDLER.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604503N for the design, development, and test of improvements to the towed array handler is hereby increased by $5,000,000 in order to increase the reliability of the towed array and the towed array handler by capitalizing on ongoing testing and evaluation of such systems.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604558N for new design for the Virginia Class submarine for the large aperture bow array is hereby reduced by $5,000,000.

AMENDMENT NO. 1396

(Purpose: To authorize $5,500,000 for military construction for the Army for the construction of a rotary wing landing pad at Fort Wainwright, Alaska, and to provide an offset of $8,000,000 by canceling a military construction project for the construction of an F-15E flight simulator facility at Elmendorf Air Force Base, Alaska)

On page 310, in the table following line 16, strike ''$39,160,000'' in the amount column of the item relating to Fort Wainwright, Alaska, and insert ''$44,660,000''.

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert ''$2,000,622,000''.

On page 313, line 4, strike ''$2,966,642,000'' and insert ''$2,972,142,000''.

On page 313, line 7, strike ''$1,007,222,000'' and insert ''$1,012,722,000''.

On page 326, in the table following line 4, strike ''$92,820,000'' in the amount column of the item relating to Elmendorf Air Force Base, Alaska, and insert ''$84,820,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,040,106,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,008,982,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$915,106,000''.

AMENDMENT NO. 1397

(Purpose: To reduce funds for an Army Aviation Support Facility for the Army National Guard at New Castle, Delaware, and to modify other military construction authorizations)

On page 326, in the table following line 4, strike the item relating to Los Angeles Air Force Base, California.

On page 326, in the table following line 4, strike ''$6,800,000'' in the amount column of the item relating to Fairchild Air Force Base, Washington, and insert ''$8,200,000''.

On page 326, in the table following line 4, strike the amount identified as the total in the amount column and insert ''$1,047,006,000''.

On page 329, line 8, strike ''$3,116,982,000'' and insert ''$3,115,882,000''.

On page 329, line 11, strike ''$923,106,000'' and insert ''$922,006,000''.

On page 336, line 22, strike ''$464,680,000'' and insert ''$445,100,000''.

On page 337, line 2, strike ''$245,861,000'' and insert ''$264,061,000''.

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. SPECIFIC AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION PROJECTS.

(a) CAMP ROBERTS, CALIFORNIA.—Of the amount authorized to be appropriated for the Department of the Army for the Army National Guard of the United States under section 2601(1)(A)—

(1) $1,500,000 is available for the construction of an urban combat course at Camp Roberts, California; and

(2) $1,500,000 is available for the addition or alteration of a field maintenance shop at Fort Dodge, Iowa.

SEC. 2603. CONSTRUCTION OF FACILITIES, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

Of the amount authorized to be appropriated for the Department of the Air Force for the Air National Guard of the United States under section 2601(3)(A)—

(1) $1,400,000 is available for the construction of a security forces facility at New Castle County Airport Air Guard Base, Delaware; and

(2) $1,500,000 is available for the construction of a medical training facility at New Castle County Airport Air Guard Base, Delaware.

AMENDMENT NO. 1398

(Purpose: Relating to the LHA Replacement Ship)

On page 18, beginning on line 20, strike ''and advance construction'' and insert ''advance construction, detail design, and construction''.

On page 19, beginning on line 10, strike ''fiscal year 2007'' and insert ''fiscal year 2006''

On page 19, between lines 18 and 19, insert the following:

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

AMENDMENT NO. 1399

(Purpose: To provide for the transfer of the Battleship U.S.S. Iowa (BB–61))

Strike section 1021 and insert the following:

SEC. 1021. TRANSFER OF BATTLESHIPS.

(a) TRANSFER OF BATTLESHIP WISCONSIN.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) TRANSFER OF BATTLESHIP IOWA.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the State of California.

(c) INAPPLICABILITY OF NOTICE AND WAIT REQUIREMENT.—Notwithstanding any provision of subsection (a) or (b), section 7306(d) of title 10, United States Code, shall not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITIES.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

AMENDMENT NO. 1400

(Purpose: To improve the management of the Armed Forces Retirement Home)

At the end of subtitle D of title VI, add the following:

SEC. 642. IMPROVEMENT OF MANAGEMENT OF ARMED FORCES RETIREMENT HOME.

(a) REDESIGNATION OF CHIEF OPERATING OFFICER AS CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended—

(A) by striking ''Chief Operating Officer'' each place it appears and inserting ''Chief Executive Officer''; and

(B) in subsection (e)(1), by striking ''Chief Operating Officer's'' and inserting ''Chief Executive Officer's''.

(2) CONFORMING AMENDMENTS.—Such Act is further amended by striking ''Chief Operating Officer'' each place it appears in a provision as follows and inserting ''Chief Executive Officer'':

(A) In section 1511 (24 U.S.C. 411).
(B) In section 1512 (24 U.S.C. 412).
(C) In section 1513(a) (24 U.S.C. 413(a)).
(D) In section 1514(c)(1) (24 U.S.C. 414(c)(1)).
(E) In section 1516(b) (24 U.S.C. 416(b)).
(F) In section 1517 (24 U.S.C. 417).
(G) In section 1518(c) (24 U.S.C. 418(c)).
(H) In section 1519(c) (24 U.S.C. 419(c)).
(I) In section 1521(a) (24 U.S.C. 421(a)).
(J) In section 1522 (24 U.S.C. 422).
(K) In section 1523(b) (24 U.S.C. 423(b)).
(L) In section 1531 (24 U.S.C. 431).

(3) CLERICAL AMENDMENTS.—(A) The heading of section 1515 of such Act is amended to read as follows:

''SEC. 1515. CHIEF EXECUTIVE OFFICER.''.

(B) The table of contents for such Act is amended by striking the item relating to section 1515 and inserting the following new item:

''Sec. 1515. Chief Executive Officer.''.

(4) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Chief Operating Officer of the Armed Forces Retirement Home shall be considered to be a reference to the Chief Executive Officer of the Armed Forces Retirement Home.

(b) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—Section 1513 of such Act (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b), (c), and (d)''; and

(2) by adding at the end the following new subsection:

''(c) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—(1) In providing for the health care needs of residents under subsection (c), the Retirement Home shall have in attendance at each facility of the Retirement Home, during the daily business hours of such facility, a physician and a dentist, each of whom shall have skills and experience suited to residents of such facility.

''(2) In providing for the health care needs of residents, the Retirement shall also have available to residents of each facility of the Retirement Home, on an on-call basis during hours other than the daily business hours of such facility, a physician and a dentist each of whom have skills and experience suited to residents of such facility.

''(3) In this subsection, the term 'daily business hours' means the hours between 9 o'clock ante meridian and 5 o'clock post meridian, local time, on each of Monday through Friday.''.

(c) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—Section 1513 of such Act is further amended—

(1) in the third sentence of subsection (b), by inserting '', except as provided in subsection (d),'' after ''shall not''; and

(2) by adding at the end the following new subsection:

''(d) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—The Retirement Home shall provide to any resident of a facility of the Retirement Home, upon request of such resident, transportation to any medical facility located not more than 30 miles from such facility for the provision of medical care to such resident. The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.''.

(d) MILITARY DIRECTOR FOR EACH RETIREMENT HOME.—Section 1517(b)(1) of such Act (24 U.S.C. 417(b)(1)) is amended by striking ''a civilian with experience as a continuing care retirement community professional or''.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for over 3 years, we have heard that our most important national security priority is to ''keep the world's deadliest weapons out of the hands of the world's most dangerous people.'' One of the best ways to do that is to secure the world's stocks of fissile material and to destroy such material that is no longer needed for the nuclear weapons programs of the five accepted nuclear weapons states.

The Cooperative Threat Reduction program, also known as the Nunn-Lugar program, is an important mechanism for achieving this vital objective.

For over a dozen years, Nunn-Lugar has funded the destruction of Russian long-range ballistic missiles, nuclear warheads, and chemical weapons, as well as improved security for Russia's nuclear and chemical weapons. This program has furthered Russian compliance with bilateral and multilateral arms control treaties, and it has done so with great transparency. In short, Nunn-Lugar has been a consistent contributor to our national security.

Experts report, however, that since 9/11, the pace of Nunn-Lugar activities has fallen off. Fewer arms are being destroyed and there has been a major delay in activities due to disagreements with Russia over access to activities and liability protection for contractors associated with the program.

Another major impediment to Nunn-Lugar activities has been the need either to meet onerous certification requirements or to prepare an annual report justifying Presidential waivers of those certification requirements. This is a needless waste of resources.

Worse yet, the certification and waiver requirements often lead to gaps of several months in the flow of funds to Nunn-Lugar projects. Those projects are not undertaken out of the goodness of our hearts; rather, they are designed

to improve our national security by lessening the risk that rogues or terrorists will acquire weapons of mass destruction.

So, what is the point of requiring onerous certifications or waiver reports? The only effect of those requirements is to slow the process of improving our national security.

The truth is that the certification requirements were imposed by people who questioned the wisdom of Nunn-Lugar in the first place. And I cannot believe that anybody could doubt the usefulness of Nunn-Lugar today, given its proven record of achieving U.S. objectives.

If we are serious, then, about ''keeping the world's deadliest weapons out of the hands of the world's most dangerous people,'' the time has come to pursue that goal more efficiently.

In particular, the time has come to stop putting roadblocks in the way of the Nunn-Lugar program, as we use that program to secure and destroy weapons of mass destruction that might otherwise fall into ''most dangerous'' hands.

The Lugar-Levin amendment will clear a major roadblock from the path to national security. I urge all my colleagues to support it.

Mr. WARNER. Mr. President, at this time, I yield to the Senator from Indiana.

Mr. LUGAR. I ask unanimous consent that Senators LANDRIEU, SUNUNU, BAYH, SMITH, and CARPER be added as cosponsors to my amendment.

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

The question is on agreeing to the Lugar amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Tennessee (Mr. FRIST).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER), would vote ''yea.''

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

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—78

Akaka	Bingaman	Chafee
Alexander	Bond	Clinton
Allen	Brownback	Coburn
Baucus	Burns	Coleman
Bayh	Byrd	Collins
Bennett	Cantwell	Conrad
Biden	Carper	Corzine
Craig	Johnson	Nelson (NE)
Crapo	Kennedy	Obama
Dayton	Kerry	Pryor
DeWine	Kohl	Reed
Dodd	Landrieu	Reid
Domenici	Lautenberg	Rockefeller
Dorgan	Leahy	Salazar
Durbin	Levin	Sarbanes
Enzi	Lieberman	Schumer
Feingold	Lincoln	Smith
Feinstein	Lott	Snowe
Graham	Lugar	Specter
Gregg	Martinez	Stabenow
Hagel	McCain	Stevens
Harkin	McConnell	Sununu
Hatch	Mikulski	Thomas
Hutchison	Murkowski	Thune
Inouye	Murray	Voinovich
Jeffords	Nelson (FL)	Wyden

NAYS—19

Allard	Ensign	Sessions
Bunning	Grassley	Shelby
Burr	Inhofe	Talent
Chambliss	Isakson	Vitter
Cornyn	Kyl	Warner
DeMint	Roberts	
Dole	Santorum	

NOT VOTING—3

Boxer	Cochran	Frist

The amendment (No. 1380) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Now, Mr. President, while we will not have further rollcall votes tonight, it is the intention of the managers to continue tonight to first clear package of amendments that we have, and then there may well be a lot of other Senators who want to discuss their amendments.

The Senate will come in tomorrow at such hour as specified by the leadership and there will be filed a cloture motion. Following that, the managers will entertain further amendments and have debate on those amendments. So we have made some progress. We still have a goal to complete this bill as early as we can next week, working with our leadership. But we will need the cooperation of Senators.

I again thank the Senator from South Dakota for bringing forth this very important amendment on BRAC. There remains a very important amendment by the distinguished Senator from Michigan and Mr. ROCKEFELLER and others. Perhaps the Senator from Michigan could give us some timetable as to when the Senate could expect to have an opportunity to debate that amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we are attempting to find a time for that amendment which fits not just the Senate schedule but a very important personal need, which I think the Senator from Virginia is aware of, of one of the cosponsors. We do have many amendments that we are going to be offered tomorrow. Apparently there is no plan for votes tomorrow; is that the Senator's understanding?

Mr. WARNER. Mr. President, my understanding is there will not be votes tomorrow.

Mr. LEVIN. Although there will be no votes tomorrow, we nonetheless are making an effort on this side, and I hope the chairman will do the same on his side, to have people debate amendments, lay down amendments, set them aside so we can vote on them next week. We are doing that on this side.

The idea that a cloture motion is filed on this bill, to me, is inappropriate. There is no filibuster of this bill. Everybody wants to handle amendments as quickly as possible to this bill, and the idea that there is a cloture motion filed on a bill where we are making progress, where people are offering amendments, and we are disposing of them, to me is inconsistent with what we have done as a body and should be doing as a body.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, to the two managers of this bill, I have said before and I say again, we could not have better managers. They do things on a bipartisan basis. This is an important bill. I have from this floor on other occasions this year talked about the need to go to this bill. I still believe that. I think it is important that we do this bill before we go home for the August recess. To think that yesterday was opening statements—I think it was yesterday, was is not? Yes. Today is Thursday. No votes tonight, no votes tomorrow, vote at 5 o'clock on Monday night—that is no way to legislate. To think that cloture will be invoked on this bill, we are here working with substantive amendments. We are not trying to slow things down, to stall things. I am a supporter of the legislation that the leader wants to bring up—not to jeopardize this bill. It is simply not fair.

I went to Walter Reed Monday. I saw lying in those beds men who are disfigured; their lives have changed forever. It is hard to get out of my mind's eye a young man there just turned 21 years old, blind in one eye, can't hear except a little bit out of one ear. I talked to another man lying there in bed; he was blown through the top of a Striker headfirst, which indicates how his head was injured. He is going to lose a leg.

We have to finish this bill. That is what we need to do. We have spent as much as 5 weeks on this bill. Should we not be able to spend 5 days on it? We have had 1 day to legislate on it. As the distinguished ranking member of the committee had indicated, we have lined up amendments for tomorrow, substantive amendments that relate to the subject matter of this legislation. We are ready to vote on them. Monday we will have people here ready to offer amendments. I think it is so unfair to people whom I visited at Walter Reed to not finish this bill and to invoke cloture on it.

So we are faced with this proposition. We have basically had 1 day. Cloture,

we will have a vote on it Monday. We have 1 day where we have votes. And the votes we had today, we didn't need to have most of them. Two of them were 100 to zero, or however many Senators we have here today. They passed unanimously. We agreed not to have votes. ''Yes, we want to have rollcall votes on them.'' Is it just to eat up time? My Democratic Senators are going to be asked Tuesday morning to vote for invocation of cloture on the Defense bill after they have had 1 day of debate, so the hue and cry will be from the majority, the Democrats are holding up the Defense bill. I want the RECORD to be spread with the fact that the Democrats are not holding up anything on this bill. We wanted to move to it months ago. It has been more than 2 months reported out of committee.

Everyone knows here how I like the trains to run on time. I like this place to be an orderly body to try to get things done. But this is not the way to get things done. I am terribly disappointed. I have expressed this personally to the majority leader. I told him what I was going to come to the floor and say. But he is also going to have criticism from others.

Moving off this, we have other things he has already indicated he would do: No. 1, the Native Hawaiian bill that the Senators from Hawaii have been waiting on for years to do. He has agreed, he has given us his word that we would move to that this time. When is that going to take place?

So I am terribly disappointed. I am terribly disappointed that we are in a situation where we are going to move off this bill. I don't know what legislation we could do that would be more important than the safety and security and to give proper resources to the men and women fighting all over this world in addition to giving them a pay raise.

Mr. President, I hope people will reconsider.

Mr. DORGAN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to respond to our distinguished minority leader. I accept full responsibility for the timing and the management of this bill and making the decision that there would be no more votes tonight. My leader has entrusted me with that power, and I have so exercised it. I regret that it appears to the minority leader, a very valued and dear colleague in this Chamber, that it is not a proper course of action, but I accept that. We have a difference of opinion.

The fact that we will not have votes tonight will not deter my distinguished colleague and me as managers from continuing to work through amendments. We will both be here throughout tomorrow. We could stack a number of amendments which could be addressed on the afternoon of Monday at such time as the two leaders determine it would be appropriate.

As to the matter of cloture, again I accept full responsibility. This is the 27th Armed Services bill I have been privileged to be involved in. I believe that historically cloture is needed, particularly in the last week when colleagues, understandably, on both sides of the aisle have many matters of great interest to them and they desire to exercise their rights to amend this bill and otherwise to get a decision by the Senate as a body.

So I accept the responsibility. Whether we go ahead and as the cloture ripens we go forward, that is a matter I will work on with my leader in consultation. And if there is such progress made on a list of amendments that remain, I would wish to take into consideration the possibility we might not vote on it. But I feel I have to have that in place to efficiently work and manage this bill in the interim period between now and Tuesday morning.

But bottom line, I accept the responsibility. It is not that of the distinguished majority leader.

THE PRESIDING OFFICER. The Democratic leader.

Mr. REID. Through the Chair to the distinguished southern gentleman—he really is—the mere fact that we don't have votes tonight is the least of my worries. I do say that we do more than 1 day. I would say to the two managers of the bill, based on what the distinguished chairman of the committee has said, from what I have heard, if we all lay down a number of amendments, the Senator would be satisfied that we have done enough on the bill that he would not have to seek the invocation of cloture. I don't like that. I think this is one of the bills where people should be able to offer amendments that they want to, not only on this subject but others.

But I hope by tomorrow when the majority leader returns, we can have a better understanding of what is expected of the minority. We understand we are the minority, but we are a powerful minority and we have rights, as the distinguished Senator from Virginia knows.

So again, I hope the two managers of the bill would follow the suggestion of the distinguished Senator from Virginia as to what we need to do to make you feel late in the session that we have done what needs to be done where cloture does not have to be filed.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DORGAN. Mr. President, I am curious; my sense is that in years past, we have on occasion had the Defense authorization bill on the Senate floor for some significant length of time. The reason for that is this bill is a very large bill, it has significant policy questions engrained in it, and some are very controversial.

I observe, as did my colleague from Nevada, I have great admiration for the Senator from Virginia. He provides real leadership, as does the Senator from Michigan. I do hope we will not have cloture filed on this bill.

I am going to debate an amendment that will be offered in the morning. I will offer an amendment around lunchtime tomorrow, a separate amendment. I am sure many of our colleagues have amendments they wish to offer. I hope the opportunity for full debate will be available because this area is so critically important.

If I might take another moment, the amendment tomorrow deals with, as I understand it, the earth-penetrating bunker buster nuclear weapon, the amendment I will offer with respect to the development of a Truman-type commission to deal with contracting abuses—waste, fraud, and abuse, massive abuses which I will describe tomorrow. These are important issues. These are not small issues. They are big issues that require and demand significant debate and consideration.

I hope we will take the time we need as a Senate to sink our teeth into this bill, to improve on the wonderful work that has been done by the chairman and the ranking member. I hope we can avoid cloture. I do not believe it is necessary. I hope we will work through next week and finish a Defense authorization bill that we can all be proud of, that will strengthen and advance this country's efforts.

Mr. REID. I appreciate very much the statement of the Senator from North Dakota.

Let me say one additional thing. If a cloture motion is filed on this tomorrow, I have tentatively called a Democrat caucus for 5:45 Monday night. I personally am going to ask my members to not invoke cloture. We are doing a disservice to the people of this country and the men and women in the military to not have the opportunity to try to improve this bill. There are so many things that are left undone, some of which have been named this evening, that I believe we would be remiss if we did not fully debate this bill.

I say to my friend from Virginia—again, we are friends, and I say this in the most underlined and underscored fashion—it is not fair. We basically have spent today on the bill. We know what has happened around here in recent years. Fridays and Mondays, not much happens. We will try to change that. We just have not had an opportunity to spend any time on this bill. I have not been here 27 years, but I have been here 23 years. These Defense bills take a long time—certainly more than 2 or 3 days. It is so unfair.

As I have indicated to those within the sound of my voice, I understand the distinguished majority leader has a lot to do. The Senator from Virginia is the wrong person to direct this to. We wasted so much time on these five judges—I don't know how many weeks, but we have been in session 94 days, and we have spent 31 days on judges. That pretty much says it all.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I remember, we spent 2 weeks of the Senate's time on the bankruptcy legislation, which is basically special interest for the credit card companies, and we spent 2 weeks on class action, which is special interest legislation. That is 4 weeks. We are asked now to spend less than a week debating the authorization for the fighting men and women after we spent 2 weeks for the credit card companies and 2 weeks for class action that will benefit special interests. And now we will be asked in less than 2 or 3 days to snuff off and silence debate on the issues affecting the men and women of this country on the first line of defense?

Mr. REID. I respond to my friend, add to that the 2 weeks and 2 weeks, add 31 legislative days on judges, and understand that wound up being five people, three of whom are now judges, two of whom are not. As I understand it, we have more than 400,000 men and women in the military, not counting Guard and Reserve. They are entitled to as much time as we spent on bankruptcy, as much time as we spent on class action, and certainly as much as we spent on five people, every one of whom had a job. They were not jobless.

There are more than 400,000 men and women, some of whom are out here in a hospital, in a bed because they cannot walk—at that hospital alone, there are more than 300 men and women who have lost limbs—and they deserve more than 2 or 3 days of Senate time.

Mr. DURBIN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. DURBIN. It is my understanding if we go through this with the motion for cloture, it is the hope that we would spend the rest of next week finishing this bill? Is that the game plan?

Mr. REID. If cloture is invoked on the underlying bill—certainly people know the procedure around here better than I, but if cloture is invoked Tuesday morning, say 11 o'clock, add 30 hours to that, and that is when we would be finished.

Mr. DURBIN. And there would still be amendments? I ask through the Chair, Members could still offer amendments?

Mr. REID. During the 30 hours. Technically, you can.

Mr. DURBIN. Germane amendments.

Mr. REID. Make sure that people understand this: The mere fact that there are amendments that are valid postcloture does not mean they will allow a vote on them.

Mr. DURBIN. We have all learned that bitter lesson.

Let me ask the Senator. It is not a carefully guarded secret that part of the reason they want to move this bill off the Senate is so they can bring to the floor the National Rifle Association bill on gun manufacturers' liability before we leave for the August recess. So it is not just a matter of cloture to move the DOD bill, the Department of Defense bill, it is to make room and time for the National Rifle Association, another special interest group, so that they have more days to deliberate their bill than we may spend on this bill.

Mr. REID. Let me say to the distinguished Senator from Illinois in response to the question, the majority leader has the right to pull this bill. He can do that. He does not need to get cloture. Even though I would not be happy with doing that, he could go ahead anytime he wants to move off this bill and move to anything he wants to do because they have more votes than we have. He could do that. But at least if he did that, we could have an opportunity to complete this bill in an orderly fashion, not cut off debate willy-nilly.

So the answer to my distinguished friend's question is yes, but what it appears the majority wants to do is blame the minority for not allowing the Defense bill to go forward, and it has nothing to do with us. He has the right, today, to move off this and move on to gun liability, native Hawaiians, estate tax, flag burning, and all the other threats we have had around here.

Mr. DURBIN. Another question to the Senator from Nevada, and I think I know the answer: Is there anything more important than finishing the Department of Defense authorization bill in an orderly fashion when a nation is at war and men and women are risking their lives, as the Senator from Nevada noted?

Mr. REID. I say to my distinguished friend, we completed the Homeland Security appropriations bill last week. That was a pretty important bill because it protects our Nation. If we are not so inclined to help the men and women who have signed up to represent us and defend this country, this is not a good sign for this Senate. Therefore, I truly believe there is nothing more important that we could be doing in this Senate than finishing this bill in an orderly fashion. To think we will have one normal voting day on this—that is what it will amount to—before cloture is invoked. One day. Thursday. That is it because we do not work around here on Mondays and Fridays.

Mr. DURBIN. I ask one last question of the Senator from Nevada. It is my understanding today we have had two votes on this bill.

Mr. REID. We had one unanimous consent vote today on DOD and a vote on the Lugar amendment. I thought there would be something on Boy Scouts, but that never came to be, on an amendment offered by the majority leader.

Mr. DURBIN. I might ask the Senator, it is my understanding there are many amendments pending right now that we could debate.

Mr. REID. I believe there are six—I could be wrong, but something like that.

Mr. DURBIN. I have one pending.

Mr. LEVIN. Thirteen amendments pending.

Mr. WARNER. I say to my colleagues, I accept the responsibility. I listened carefully to these points. I suggest we all do our very best between now and Tuesday morning to put together a record of accomplishments to have the votes—they can be set up quite easily tomorrow, tonight, Monday—and we will reassess this situation.

Clearly, with the representations that underlie your statements that we need to move forward, with that momentum on that side, I would be very happy to match it on this side. I assure you it will be forthcoming. But I am not going to sit here and recount the number of instances today I have worked with Senators on both sides of the aisle—of which my distinguished colleague is aware—who, for various reasons, could not do this or that. And I respect that. But we have had a reasonable amount of work achieved today. So might I suggest at this point in time that we have made our case with all points. I accept responsibility. Let's go forward and see what we can achieve.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there is nobody in this body I would rather work with than Senator WARNER. We have had this relationship, which is a very warm one, for as long as we have both been here, and we have been here the same length of time.

I want to tell Senator WARNER we are doing something unusual tomorrow and Monday in an effort to address the amendments which people want to offer. We are lining up people to speak on amendments, although they cannot get votes. Traditionally around here, there has been great resistance—and understandably—to offering amendments on one day if you cannot get a vote on that day because people want votes to come shortly after the debate so it will be fresh in people's mind.

We are making every effort to move this bill. We are having people lined up. We have them for tomorrow. We have them for Monday. We are willing, just in order to expedite consideration of this bill, to debate the bill on a Friday, although the votes cannot occur until a Tuesday. We are moving heaven and Earth. We are going out of our way to bring up amendments. But it is utterly unfair that a cloture motion be adopted which will cut off the opportunity of other Members to offer amendments under this circumstance. We are not delaying it. We are expediting this bill in every single way we know.

In terms of the question asked by a number of my colleagues, I cannot remember a Defense bill that just had 1 day for votes. Typically, we spend a good week on debate, maybe more—2 weeks, 3 weeks—on a Defense authorization bill. The idea that the cloture is filed on the second day to cut off debate on amendments seems to me unthinkable.

These are amendments aimed at improving this bill, strengthening this bill. That is the motive. We all have the same goal. We may differ when it comes to votes, but the motive is to strengthen this bill, to offer greater support for the men and women in the military. The idea that any one of those amendments might be cut off because technically they are not germane—although they are relevant—seems to me unthinkable.

I hope, No. 1, we will make progress; No. 2, that the majority would think about filing a cloture motion under these circumstances which would deny an opportunity to strengthen a bill which is so important to the men and women in the military.

Mr. WARNER. Now, Mr. President, the distinguished Senator from Michigan and I have cleared amendments. I would like to do them. Then I wish to entertain a colloquy with my colleague from South Dakota. Perhaps I will undergo that colloquy at this time.

AMENDMENT NO. 1389

Again, the Senator has very cooperative in bringing this amendment to the attention of the Senate. I have had a few minutes to go over it. Let's see if we can, as best we are able, define certain parameters with regard to the goals of this amendment and its impact on the existing law. I ask unanimous consent to have printed in the RECORD a detailed listing of the BRAC timeline.

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

2005 BRAC TIMELINE

SECDEF sends initial selection criteria to defense committees.	December 31, 2003
President submits proposed force structure.[a]	February 1, 2004
Sec/Def sends final selection criteria to defense committees; publishes criteria in Federal Register.	February 16, 2004
Criteria final, unless disapproved by Act of Congress	March 15, 2004
Congress receives interim report of Overseas Basing Commission.[b].	March 31, 2005
President transmits nine nominees for BRAC Commission to Senate for advice, consent and confirmation.[c].	NLT March 15, 2005
SECDEF sends closure/realignment list to Commission and defense committees; publishes in Federal Register.	NLT May 16, 2005
GAO reviews DOD's list; reports findings to President/defense committees.	July 1, 2005
Commission sends its recommendations to President	NLT September 8, 2005
President reviews Sec/Def's and Commission's list of recommendations and reports to Congress.[d].	NLT September 23, 2005
Commission may submit revised list in response to President's request for reconsideration.	NLT October 20, 2005
Final date for the President to approve and submit BRAC list to Congress (or process is terminated)[e].	November 7, 2005
Work of the closure/realignment Commission is terminated.	April 15, 2006

[a] SECDEF has option to submit revised force structure to Congress by Mar 15, 2005.
[b] Established by Congress in P.L. 108–132. Report date extended in PL 108–324.
[c] If President does not send nominations by required date, process is terminated.
[d] President prepares report containing approval or disapproval.
[e] Congress has 45 days to pass disapproving motion, or list becomes law.

Mr. WARNER. We have completed the GAO reviews of the DOD list and reported findings to the President and defense committees. That was done July 1. We are in the process and the Commission is having a series of hearings all across the country. The Commission sends its recommendations to the President on September 8. Thereafter, the President reviews the recommendations of the Secretary of Defense and the Commission's list of recommendations and reports to the Congress. That is September 23. Then the Commission may submit a revised list in response to the President's request no later than October 20. And the final date for the President to approve and submit the BRAC list to the Congress, or the process is terminated, is November 7. So that frames the current timetable.

Now, as I look over the Senator's—and I will go first to page 2, the section entitled: ''Actions Required Before Base Closure Round.''

The actions referred to in subsection (a)—

And that is essentially the timetable I have recounted here—

are the following actions:

(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

I draw your attention to the word ''implementation.'' Now, this report, if finished, will be released August 15. But the implementation—I certainly have no facts before me at this time by which I could even conjecture how long it would take the Secretary of Defense to implement the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States. So there is no determinate date at which time the provisions in (A) can be estimated; is that correct?

Mr. THUNE. Mr. President, the first criteria that deals with the Overseas BRAC Commission's findings and report would suggest that until those recommendations, until the analysis is complete, until that report has been carefully analyzed, and then ultimately it says implemented, ''where appropriate,'' by the Secretary of Defense is the condition to be met. It does not specify a specific date when that happens.

I think the answer, through the Chair, to the chairman's question is that the notion of having a domestic round of closures occur before decisions are made with respect to the basing needs overseas and some of the recommendations that have been brought forward by the Overseas BRAC Commission—that process would be completed prior to the implementation of the domestic BRAC recommendations.

Mr. WARNER. Mr. President, our colloquy is addressed through the Chair. It is the word ''implementation.'' It could be that analysis could be completed—consideration. But the ''implementation'' leaves an indeterminate date for (A). I think we both agree on that point.

Going to the next point:

The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

Now, our President, I think quite wisely, and the Secretary of Defense have avoided any reference to a timetable with respect to the achieving of our goals in Iraq; namely, allowing that country to form its government, to provide for itself that measure of security to protect the sovereignty and, hopefully, law and order in that country, at which time it is expected that our President and the coalition leaders will make a determination as to the redeployment from the theater in Iraq of substantially all of the major combat units. So that clearly is a very difficult condition to meet in terms of when that could be completed, that with even conjecture, we cannot anticipate when that will be completed—unless you have facts that I am not aware of.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Thank you, Mr. President. I appreciate the Chair giving me an opportunity to respond to the question. I think what the Senator from Virginia is asking is if there is a definitive timetable in the amendment. The answer is no, there is not. This does not involve a timetable. We are not suggesting in this amendment that there be any timetable. All we are simply saying is that the Secretary of Defense can determine at what point the return from deployment of personnel who are stationed in Iraq as a result of some drawdown of the operation there is substantial. That is a determination which, as you can see, we leave to the Secretary of Defense.

Mr. WARNER. Well, it is the words ''return from deployment.'' That, clearly, in the mind of this Senator, means all the major, as determined by the Secretary of Defense, combat units. It is not difficult for me to define what are major combat units. What I cannot estimate in any way reasonably, and nor should I, because it would impinge upon the President's decision—a correct one—not to try to set a timetable. So anyway, I will move on. But that is a very indeterminate condition, to me.

We then go to (C). Now, I am told that report is likely to be finished by March of next year.

Then let's go now to (D):

The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

Now, I can possibly conjecture or maybe even estimate when the development would be completed by the two Secretaries, but I certainly would not be able to determine, nor can anyone else, in my judgment, when there would be implementation. So there is another open-ended criteria. Am I incorrect?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. I thank you, Mr. President.

I say to the Senator from Virginia, if you are looking for, again, a specific timeline on this, I think these were probably condition (D) and condition

(E) you were referring to. It may be more easily defined if you are looking for a specific time, although I do not think that is specified here. But these are conditions. These are not specific timelines. We are not saying that the BRAC shall be delayed until March of 2006, although with the QDR that becomes a little more clear.

But these are conditions in the same way that I think our military leadership and the President have said the withdrawal from Iraq ought to be condition-based. These are conditions that would have to be met before the domestic BRAC recommendations would be implemented.

Mr. WARNER. What I am trying to convey, Mr. President, to my distinguished colleague is that the criteria you have established for a new timetable, which, again, is in a subsequent paragraph—that is in paragraph (2) on page 4—and I read it—

The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

So you add possibly up to a year on a whole set of indeterminate schedules up here. Now, I think I have made my point.

I want to put this question to the Senator. As our colleagues have the opportunity—as we are now doing—to look at this and to either determine how best they can vote to protect the interests of their State and to protect the interests of the country, as we go through this very difficult process of BRAC this is my fifth one. It is not easy. I think they have to suddenly recognize the indeterminate schedule, as laid out by this amendment, will hold in limbo the whole BRAC process for, it could be, up to 2 years. I just throw the quick estimate out of 2 years. That 2-year period poses a frightful situation for the communities that will have had by that time the report of the BRAC Commission, which will send its recommendations to the President on September 8.

So this amendment does not stop that process going forward. I am correct on that; am I not?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, again, the Senator from Virginia is correct in that the timeline you gave me, the current BRAC timeline, is not impacted until the President would act and make the recommendation to the Congress.

Mr. WARNER. That is fine. But on September 8, all the communities would know what is final, what is decided by the Commission on the President's original list that went up, which bases, facilities will be closed, realigned, whatever the case may be. It is a wide spectrum of decisions. Then they are subject to other additions, which they are in the process of going through. And they are permitted by law.

So there it is: The BRAC Commission report is out, and these communities have to now cope with the high probability, under this amendment, were it to be adopted—2 years have lapsed. In the meantime, how can they attract new business as a consequence of such facility, the military they have? The businesses that are serving indirectly or directly the military facilities in that community, do they decide to put in new capital and continue to modernize their business to do their responsible actions to support that facility?

You put a cloud of indecision and doubt over all the communities that will be affected by this September 8 decision. And BRAC is onerous in its own schedule right here. It is extremely hard. And now to take and hold these communities, literally, in irons for a period of 2 years until, if the amendment were adopted, certain adjustments might be made in the final Presidential decision—I just find this amendment, with all due respect to my good friend and colleague, who is a member of our committee, as one that will impose on communities a very severe hardship. I am not sure the Congress will want to do that. I say that to you in all respect.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, if I could respond to the very distinguished chairman of our committee. And I do appreciate his leadership on our committee. I appreciate his sensitivity to the impact that these decisions are going to have on communities all across this country.

But I would also submit that when the conditions are met, a timeline should not be a prerequisite where national security is involved. This is the exact same argument we are now making with respect to our involvement in Iraq, that we cannot subscribe to a specific timeline. It is a conditions-based approach that we are adopting there. This would simply say that these are conditions that, when they are met, would trigger that next step in the BRAC process, which ultimately is the approval by this body. It comes back to the Congress.

The Congress would have an opportunity, then, after they have evaluated the recommendations in the QDR, after they have gotten a better handle on that and the Defense Department has had a chance to review the recommendations with respect to overseas basing needs and we have gotten a better idea about what our domestic needs are going to be when these troops start returning to this country. I think those are conditions for which at this point in time it is unwise for us to be moving forward at this fast pace.

I would simply add what the Overseas Basing Commission in their recommendations said; and that is, if the Congress moves too quickly on domestic basing decisions, it could weaken our global posture and, furthermore, that we need to proceed with caution. I believe that the conditions we have included here are things that, as a Congress—as a Member of the Senate—I would want to know before I make a vote on a final list of recommendations.

Now, the Senator is correct, it is fair to say there will be communities, after August 22, perhaps—which I think is when the markup is—that will know whether they are on or off the list.

At the same time, what we are saying is, those communities may or may not stay on that list. In fact, when the Congress has had an opportunity to review some of these conditions that are included in this legislation, they may decide not to vote in favor of those recommendations. I don't think the door is closed, I say to the Senator from Virginia, at the time when the list is approved by the BRAC Commission and submitted to the President.

Mr. WARNER. One last point, and then perhaps the distinguished ranking member would like to be engaged in this debate. One of the aspects of the BRAC process that has always troubled this Senator is the duty, beginning with the Governor of the State and the congressional delegation, to encourage the communities, with their support, to do everything they can to question such decisions as may be made regarding installations within that State and the several communities.

In doing so, they engage in those activities which are quite normal—hire lobbyists, experts to come in and help them. That whole infrastructure then essentially has to be kept in place for maybe up to another 2 years at an enormous cost to these communities. I will argue strenuously, when we get into further debate on the Senator's amendment, that the amendment, no matter how well-intended, will inflict on communities across this land affected by BRAC an unusual punishment that certainly I do not believe any of us would want to do.

Therefore, I urge my colleagues to vote against this amendment.

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

Mr. WARNER. Yes.

Mr. THUNE. If I could make one comment, I understand what the chairman is saying with respect to some of these communities. I think a lot of these communities would welcome the opportunity to keep fighting for a couple of years. I also know firsthand, because I have a community that is involved, about the costs that are associated with a long, drawn-out, protracted campaign. Many of these communities have been in that process literally since the last round in 1995. Much of that expense concludes when the BRAC makes its recommendation. For all intents and purposes, what you are left with, once the recommendations are out there, is final approval by the President and the Congress. My assumption would be that in terms of the cost for consultants and all the costs

associated with analyzing data and making presentations to the BRAC, many of those costs are now sunk. Those are costs that are going to be concluded, by the time August 22nd rolls around and these recommendations are out there.

I hear what the chairman is saying. I don't think that is an issue that many of these communities that are fighting to keep their bases are most concerned with. I think they would welcome the opportunity to keep the fight going.

Mr. WARNER. My last question on that point, there will be an enormous amount of data generated, information and decisionmaking that will take place should the Senator's amendment become law. Is he suggesting that the communities then will have no participation in the deliberations as to how that data may or may not affect the decision of the Secretary of Defense regarding the prior decision of the Base Closure Commission and how the Secretary of Defense is to advocate? I just cannot see this amount of data and decision being made by all of these various tribunals and organizations and that the communities just have to sit there and fold their hands and let the executive branch go backwards and forwards until the President then submits something to the Congress.

Mr. THUNE. I am not sure I fully understand the question except that it seems to me if what you are suggesting is that somehow they are going to continue, once the BRAC Commission makes its final recommendations, to have to appeal this to the Secretary of Defense, I don't understand the process to work that way. Ultimately, what they are left with is a decision by the President and final subsequent approval by the Congress. It seems to me, once you get past this point in the process, when August 22nd is reached and those recommendations are made by the BRAC Commission, it then becomes a function of the President.

What our bill would do is trigger the BRAC period moving forward, going forward from the time the recommendations are submitted to Congress, the 45-day period. So most communities would then be lobbying members of their congressional delegation, if they are on the list, I suspect, to vote no when that final vote would come.

Mr. WARNER. I understand that. But it seems to me, if you look at all of the information, data, reports in A, B, C, D, E, and F, to me, in fairness, the communities should have some involvement as to how that information may or may not impact the decision with regard to their community rendered by the BRAC Commission. I just can't see that everybody is going to fold their hands. If you are going to delay it for 2 years, some provision should be made to allow the active participation, once again, by the communities after this massive amount of data is brought into the public domain. I make that observation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, one final observation. My expectation would be that if we get this, if there is a download of information as a result of QDR and some of these other conditions that we impose, that Congress would hold hearings. The public would have an opportunity, through a congressional process, through their elected representatives, to be heard on the subject that the conditions would address.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I, too, oppose the amendment for the reasons which were set forth by the chairman. But, in addition, I have some other thoughts about this process. Each one of our States has gone through a tremendous period of anxiety. As it turns out, some of that anxiety was well based because they are on the list. For those States that did better than expected or better than their worst fears, it seems to me this amendment will throw them right back into that state of anxiety because by definition, this makes it more likely because of the uncertainty that is injected. And because of the delay in the final disposition, more States will be thrown right back into the position of being very nervous and anxious as to whether their bases and their facilities might be hit by a base-closing round. In other words, there is no finality. It is a totally uncertain finish, not just 2 years.

We don't know when substantially all major combat units from Iraq will be withdrawn. I would be very concerned that in addition to the arguments which the Senator from Virginia made, we have many States that hired consultants, that made major presentations, that now are going to be put back into a state of limbo because they will then say: Well, we are not going to know whether we are basically off the hook for years, potentially many years. So those that breathe a sigh of relief by this list or did better than their worst fears or better than expected are now going to be put in a position where they are going to have to say: This could go on for years. We better keep these consultants on board. We better continue to be nervous about this for some indefinite period of time.

There are many uncertainties that are created and a great degree of pain that will be inflicted if we continue this process for some unlimited period.

As I understand the Senator's amendment, he would complete the process through the Presidential decision.

Mr. THUNE. The Senator from Michigan is correct.

Mr. LEVIN. That means that while the Senator sets forth arguments for why all this information is essential before a congressional decision, the Presidential decision would be made before all of this information is available?

Mr. THUNE. That would be correct.

Mr. LEVIN. I think there is a deep illogic in that. To the extent you would want to delay something so that Congress could have information, which I think would be a mistake for the reasons given, to the extent there is logic in that, the President should have the same information before making his decision as the Congress arguably should have.

Again, for reasons given by Senator WARNER and myself, I think it would be a mistake to create the state of limbo which would result from the adoption of this amendment. It also has that degree of illogic in it as well.

Finally, I ask the chairman, so that we can get the precise position of the administration on this, whether we could reasonably expect that at least by Monday we could have a letter from the administration relating to the specifics of this amendment. I know we have a general position of the administration.

Mr. WARNER. What we do have already is a statement by the President that any effort to delay or impede the BRAC process would lead to a veto, with such clarity in my mind. By the way, an amendment, if I may advise my good friend, quite similar to this amendment was considered by the House and defeated by a vote of 112 for and 316 against, or something.

I think our colleague should know if this ever got into the bill, the President would have to veto the bill. We would have to start all over again on the Defense bill. I don't know when we would do it. But certainly if the House is any guide, it was thoroughly rejected.

Am I not correct in that?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. If the Senator from Virginia would yield, the response to your question is that you are correct. The House did have a vote on an amendment. There was a BRAC amendment. But it was not this amendment. It was an amendment that would essentially do away with or delay the entire BRAC process. In other words, the BRAC Commission would not be able, under the House amendment, to complete its work. This allows the BRAC Commission to continue with their work product and respects the BRAC process, but simply slows down the implementation of those recommendations until these certain conditions are met.

And with respect to the question of the Senator from Michigan regarding the so-called illogic of having the President weigh in on this, frankly, this Senator would like to know this type of information before we cast votes on whether we are going to close bases. I, frankly, don't know, nor does anybody on the floor this evening, what is in the QDR. I have some assumptions about that, but I happen to believe we may be surprised by some of the findings, some of the strategies that are going to be laid out when that

QDR comes out, and what some of the weapon systems needs are and what some of the basing needs are. We are the elected representatives of the people. We represent the people of our respective States. In my view, we should be the ones who review this type of information before we make votes on shuttering bases across the country. As a member of the Armed Services Committee, and my chairman and distinguished ranking member are here, I think we have a responsibility before we make decisions of this consequence and this magnitude about bases that may never be able to be opened again. Once we shut these things down, they are shut down for good.

There are a lot of questions that remain unanswered about the QDR, about basing needs overseas, about what our needs are going to be when those troops start coming home from Iraq and Afghanistan from other theaters.

I appreciate and respect the leaders of this committee on their thoughts. I understand their opposition to this amendment. Frankly, I would urge my colleagues who look at these issues and are concerned about moving forward too quickly on decisions that have enormous and major consequences, not only for the communities that are impacted but for the national security of the United States of America, that without having this kind of information, it seems to me at least that many of the decisions are, at a minimum, very premature.

Mr. WARNER. Mr. President, I thank our colleague. We have had quite a good debate. I am prepared to move on, subject to the views of my colleague.

Mr. LEVIN. Mr. President, I think it is important that in addition to getting the general views of the administration about the importance of this BRAC process proceeding for the reasons they have set forth, the language of this amendment be forwarded to them. I will give an example of why.

As I understand it, one of the impacts of the amendment would be that it would be difficult, if not impossible, for the Army to bring back to the United States about 49,000 personnel and their families because those relocations back to the United States are dependent upon certain steps being taken as proposed in the BRAC process. We are leaving a lot of people in limbo overseas, I believe—that is our conclusion—but I would like to hear from the Defense Department as to the specific ramifications of this kind of delay, in addition to the reasons they have already given for opposing any delay or cancellation of the BRAC process. So I agree with our chairman that they are very clear that they would veto this bill if this kind of amendment passes.

But in terms of the argument on the amendment, there are practical problems, in addition to the ones already raised by the Defense Department, that they may want to raise if we get them the language. I hope that over the weekend the chairman will forward the language to the Defense Department.

Mr. WARNER. Rest assured, that will be done. I will prepare a letter. The Senator from Michigan and I will be here tomorrow morning and perhaps we can make a joint request outlining precisely what our views are.

Mr. LEVIN. I hope the Senator from South Dakota, if available tomorrow or Monday, if there is further debate on this amendment, might be present or be able to listen to the debate so he could respond to it.

Mr. WARNER. I anticipate that the reply from the administration would be forthcoming on Monday. I think the Senator would be available to debate this matter later in the afternoon.

Mr. THUNE. I will, and I welcome the opportunity to come to the floor and speak to it as well.

Mr. WARNER. The Senator has a very distinguished list of cosponsors, I might add.

Mr. LEVIN. And an even more distinguished list of opponents. Just kidding. The hour is late.

Mr. WARNER. Mr. President, in great seriousness, referring to the cosponsors, they are Senators LIEBERMAN, SNOWE, LAUTENBERG, JOHNSON, DODD, COLLINS, CORZINE, BINGAMAN, and DOMENICI.

I stick by my words that it is a distinguished list of cosponsors.

Mr. THUNE. I thank the chair.

Mr. WARNER. Mr. President, the managers wish to advise the Senate that we have accomplished a good deal today, and we will be fully in business tomorrow, with the exception of roll-call votes. It is our hope and expectation that we can go through a number of amendments and stack those votes for a time to be decided by leadership.

Therefore, Mr. President, I think we can move off of the bill and do such wrap-up as is necessary.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

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

TRIBUTE TO FORMER SENATOR JAMES EXON

Mr. CONRAD. Mr. President, I wish to take a moment to pay tribute to former Senator Jim Exon, a friend and colleague, who passed away on June 10, 2005.

Jim Exon is a legend in his own State. For almost three decades, he served the people of Nebraska as both Governor and Senator. And through dedication and the force of his personality, he almost singlehandedly founded the Democratic Party in his State. In his entire career, he never lost an election because his constituents recognized his basic decency and common sense.

However, Jim Exon didn't only serve his Nebraska constituents. He also served his country and our Government in ways that we could sorely use today. He was, of course, a patriot and World War II veteran who brought his wartime experience to his important role on defense matters. But beyond his obvious love of country, Jim Exon especially loved his country's democracy, which he saw as the crucial spark animating the American community.

Jim Exon relished forthright debate and always had tremendous faith in the fairness of our system of Government. But while he advanced his beliefs with conviction and passion, he also listened to those with whom he disagreed. Indeed, he was renowned as a fair and considerate lawmaker who routinely sought common ground with adversaries out of genuine sympathy for their concerns.

Jim Exon's facility for finding common ground with others stemmed from his roots in America's heartland. In rural areas and small towns, neighbors must depend on one another. People in the country rely on pragmatism to solve problems, having little patience with argument for its own sake. Jim Exon brought these Midwestern values to his work, fighting openly for his beliefs, while still playing a cooperative and constructive role in resolving differences.

Given his ability to see the point of view of others, it's hardly surprising that Jim Exon made abundant legislative contributions. I was privileged to serve on the Senate Budget Committee with him, where he fought to keep our Nation's fiscal house in order. Here, too, his approach was balanced, offering a fierce opposition to wasting taxpayer money on unjustified spending, while maintaining an abiding faith in effective government. Most importantly in this area, he recognized that lawmakers must resist the temptation to use public debt to shift current burdens onto future taxpayers. To Jim Exon, skyrocketing Federal debt was a shameful legacy to leave our children.

Senator Exon also understood the wisdom of investing in the family farmer, the backbone of rural communities. A tireless advocate of rural economic development, he was one of the first to recognize the importance of ethanol as fuel, a renewable energy source that we produce here at home. And he fought for better transportation, better medical care, and better