How many women are going to have to put up with their obstetricians leaving halfway through the pregnancy, either moving or dropping obstetrics, and having to find another obstetrician, or in rural areas not being able to find an obstetrician at all?

So I do call on my colleagues to stand with America's patients, the American people, and resist the powerful special interests—we know they are out there today—that want no change whatsoever.

I am determined to press forward. We will try once again at some point in the future to address this on the floor of the Senate. This is not a partisan issue. It goes way beyond that. People say we have these partisan votes, but it is not a partisan issue. This should not be and cannot be a partisan issue. So let's make Massachusetts the last State added to this list. Let's reduce that list. The only way we can do that is by acting on the floor of the Senate. Let's act now to stop the crisis from spreading and let's work together to put America's patients first.

I yield the floor.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Reed amendment No. 3352, to increase the end strength for Active-Duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400.

Warner amendment No. 3450 (to amendment No. 3352), to provide for funding the increased number of Army Active-Duty personnel out of fiscal year 2005 supplemental funding.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri, Mr. BOND, will be recognized to call up the Bond-Harkin amendment.

AMENDMENT NO. 3384

Mr. WARNER. I wonder if the Senator will yield for a minute? The Senator from Missouri, perhaps the Senator from Iowa, could they advise the Senate with regard to your desire to make a change to the amendment? Has that been completed yet?

Mr. BOND. Mr. President, I would advise the distinguished chairman of the committee that we have made a modification on this to change the offset to an across-the-board reduction in the DOE appropriations. Discussions are continuing with you. We would like to have the same treatment for these workers as the other workers who were described in the Bunning amendment.

This is a work in progress. We do have an across-the-board offset in authorization for all DOE programs in this bill, but, obviously, we are going to have to continue to work with you and work in conference to make sure this is an effective, agreeable offset.

Mr. WARNER. Fine. I would say we will continue to work. At the moment, from the managers' perspective, at least this manager would have to take a close look at this.

I hope in a short time we could establish a time agreement so we could move on with other matters.

Mr. HARKIN. Will the Senator yield for a question?

Mr. BOND. Mr. President, I yield to the distinguished Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized to offer his amendment under the previous order.

Mr. REID. Will the Senator from Missouri yield for a question?

Mr. BOND. I am happy to yield to the distinguished minority whip.

Mr. REID. I am wondering if the two proponents of this legislation, the Senator from Iowa and the Senator from Missouri, would give us a general idea of how long they will speak on this?

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I believe we can have the discussions on the substance of amendment No. 3384 as we work with the managers on both sides and perhaps the Finance Committee to make sure we have the appropriate offset.

The amendment I wish to address, and I know Senator HARKIN and Senator TALENT will address it, is the Energy Workers Special Exposure Cohort Designation Act of 2004, which I will be offering on behalf of myself, Senator HARKIN, and Senator TALENT.

It will designate former nuclear production facilities in Missouri and Iowa as special exposure cohorts under the Energy Employees Occupational Illness Compensation Program Act of 2000. This was a very compassionate act designed to provide lump sum payments of $150,000 to people who had worked in the nuclear weapons production program from 1942 to 1967—way before we understood the dangers of radiation—and who suffered very high levels of radiation and have now been diagnosed, suffered, and many have died from multiple cases of cancer.

This problem was brought to my attention by Denise Brock, whose father had died while waiting for the bureaucracy to work through the steps set up under the program to qualify for that particular $150,000 compensation.

There are a very convoluted set of steps that have to be followed unless you are in a special cohort. There were four States that were designated as having needs that automatically qualified these workers.

We have found upon research that the exposure to the workers in Missouri was in many instances the highest exposure in any place. My colleague and I have met with those workers. Eight workers came into my office with Ms. Brock last spring, in May. Since then, three of them have died. They had multiple cancers. A brave fellow that I met when I met with the group in St. Charles County several months ago, Jim Mitalski, wheelchair-bound because cancer was in his right foot, had at least three other cancers. I am sad to say he slipped into a coma yesterday. His doctors suggest this may be his final coma. He has not been compensated.

The Mallinkrodt workers, who worked at the St. Louis downtown site from 1942 to 1958 and moved out to the Weldon Springs facility in St. Charles County, which operated until 1967, were exposed to levels of radionuclides and radioactive materials that were much greater than the current maximum allowable Federal standards. Many workers were exposed to 200 times the recommended levels of maximum exposure.

The chief safety officer for the Atomic Energy Commission during the Mallinkrodt St. Louis operations described that as one of the two worst plants with respect to worker exposures. Workers were excreting in excess of a milligram of uranium per day, which caused kidney damage.

A recent epidemiological survey found excess levels of nephritis kidney cancer from inhalation of uranium dust.

The Department of Energy has admitted that those Mallinkrodt workers were subjected to risks and had their health endangered as a result of working with these highly radioactive materials.

The Department of Energy reported that workers at the Weldon Springs feed materials plant handled plutonium and recycled uranium which were highly radioactive. NIOSH admits that the operation at the St. Louis downtown site consisted of intense periods of processing extremely high levels of radionuclides. The institute has virtually no personnel monitoring data for Mallinkrodt workers which would be necessary for them to reconstruct the dosages to make them qualify under the act. Under these circumstances, I believe simple justice and equity demands that we provide assistance for these severely ill workers and for their surviving families.

This amendment would add the Mallinkrodt facilities, along with the Iowa Army Ammunition Plant, to the four existing special exposure cohort sites. These are sites where a group of employees with specific cancers who worked at specific nuclear facilities or participated under certain nuclear weapons tests and met other requirements are eligible for expedited compensation. This special exposure cohort designation would make the workers at these Missouri and Iowa sites eligible for the expedited compensation as opposed to requiring them to participate in the long, complex, and cumbersome bureaucratic process known as ''dose reconstruction.'' They are faced with a situation where the bureaucrats are asking them to go back and help them reconstruct the dosages over 50 years ago—or more. They have no records. They are very sick people. They are dying of multiple cancers, the kinds of cancers and other problems caused by exposure to radioactivity. It is not feasible for them to go back and reconstruct. Without the records, we know that these people are seriously ill and are afflicted with all kinds of cancers. We, therefore, ask our colleagues if they will accept the amendment as we work to modify the offset.

The total cost over 10 years for the people who worked in the Missouri and Iowa sites is expected to be $180 million. That is over 10 years. Given the fact that these people are suffering from very serious cancers, I hope my colleagues will join Senator HARKIN, Senator TALENT, and me in saying these people badly need the assistance this designation will provide them.

I will withhold submitting the amendment until we have further discussions with the managers to ascertain their desires and the appropriate offset. But offset or no, let me reemphasize to my colleagues that $180 million for people who are suffering mightily from multiple cancers is the least we can do to take care of the brave atomic workers who helped us develop the weapons that ended World War II and who are now paying every day with the suffering from the exposure to that radioactivity.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Missouri.

Mr. TALENT. Madam President, I rise today in support of the Bond-Harkin amendment. I am going to be brief because I think my colleague from Missouri has covered the ground. I imagine the Senator from Iowa will wish to speak further.

I want to begin by recognizing the work they have both put into this amendment. My friend from Missouri has been a tiger in support of compensation for these employees. He was moved—as I was moved and as the Senator from Iowa was moved—by the unique claim these individuals have on justice. This is not some kind of giveaway, but it is just compensation that is owed to them for the sacrifices they made on behalf of this country. That is really what this amounts to.

I was pleased to cosponsor this amendment. I am grateful to the Senator from Virginia and the Senator from Michigan for their attempts to work this out. I hope we can do that. I know they want to. I know they recognize the justice of the claims.

We certainly understand the importance of doing this the right way. I just hope we can do this. At the end of the day, if we have to put it in without all of the t's crossed and the i's dotted and work on it in conference, I hope we can do that because we will have other opportunities further down the road in the Defense bill to tie up any loose ends which may exist. Certainly the Senators from Missouri and Iowa have worked in good faith, as I have, in trying to make this acceptable to the managers of the bill.

In Missouri, an estimated 3,500 people worked at sites which handled and processed highly radioactive material. These workers were exposed—and in most instances unknowingly—to dangerous levels of radiation. It is not necessarily important to blame people for that. Those were in many cases the early years of nuclear work and people just didn't know, and it was necessary to do this work. That is why, without trying to point fingers, Congress created the Energy Employees Occupational Illness Compensation Program Act—EEOICPA—of 2000, which was designed to provide these employees with the compensation they deserve.

Unfortunately, the process, as any of us know who sit on the Armed Services Committee or on the Energy Committee—both of which I sit on—is complex, it is disjointed, and in many cases outright mishandled. As a result, in Missouri, hundreds of claims have been filed by surviving individuals who have received not only no compensation but no progress in the processing of their claims. In many cases those individuals faced 200 times the dosage of radiation that would be considered acceptable today. We know that happened because we know the nature of the processes in which they were working, and we can see the illnesses they now have.

That doesn't mean they can go back and reconstruct from worksheets that no longer exist—and which they wouldn't have access to anyway—exactly what happened on a given day 50 or 60 years ago, which is the reason Senator BOND explained so lucidly we need a special exposure cohort, or an SEC, to expedite compensation for these employees. The amendment would simply allow these employees to be included in an SEC. They already exist for employees in other States.

An SEC is a group of employees with specific cancers who worked at specific nuclear facilities or who meet other requirements under the act. The designation would provide former employees at the site with expedited compensation for going through the lengthy and oftentimes impossible process of dose reconstruction.

I could go on. I know the bill handlers want to get the bill finished. The program so far has one of the most abysmal records of performance which I have witnessed in my now 10 years in the Congress on one side of the Capitol or the other. As the Department of Energy and the Department of Labor create bureaucratic paperwork burdens for sick former employees, this amendment, which would remove the barrier of dose reconstruction for those cases, is a small step forward toward giving them the justice which they so clearly deserve.

I believe workers in Missouri and Iowa ought to qualify for inclusion in the SEC.

It is a pleasure for me to cosponsor this amendment. I hope we can work out the issues that remain surrounding it and get it included in the bill.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Madam President, my colleague, Senator BOND from Missouri, and I are on the floor today to basically work with the committee to do the right thing. We are here to simply add former atomic workers, nuclear workers, who worked in our ammunition plants in Missouri and Iowa, to a group of workers who are already eligible for special compensation.

This category is already in effect for workers from Kentucky, Ohio, Alaska, and Tennessee. But since the original legislation was passed in 2000, we have learned a great deal more about the facilities in Iowa and Missouri which makes it necessary to include these workers as well.

I spoke at length on this issue yesterday on the floor. I will not go over those again. I want to make a couple of brief points today.

In Iowa, between 1947 and 1975, almost 4,000 people were employed handling nuclear weapons. So great was the secrecy that 5 and a half years later we still don't know exactly to what the workers were exposed.

At the time the bill passed in 2000, Congress recognized that there were likely to be more situations where it was simply not feasible to reconstruct workers' doses because the records don't exist, or they are inadequate, because it might take so long to reconstruct a dose for a group of workers that they would all be dead before we would have an answer to determine their eligibility. That is precisely the situation we find ourselves in in Iowa, and the workers also find themselves in in Missouri.

Speaking just about the Iowa facility, the Army ammunition facility in

Burlington was in operation from 1947 to 1975. The people who worked there and who are still alive today are elderly. Many are sick and many have cancers. They are ill and they are dying. Yet almost 4 years into this program, only 38 Iowans have received compensation. That is because after 3 years of hard work by researchers at the University of Iowa, and at the same time by the National Institute of Occupational Safety and Health, we have learned that Iowa has the worst records documenting worker exposure to radioactivity of any facility in the country. Without good documents, you simply cannot do good dose reconstruction.

When Congress passed this law, they explicitly said workers could be added to a cohort when the records didn't exist to make it feasible to do dose reconstruction. Now, NIOSH has concluded that there are no records anywhere that document the level of internal radiation exposures to which workers at the Iowa Army Ammunition Plant were exposed. None, no records.

With regard to external doses, up until 1968, the highest percent of the DOE employees who were monitored was 7 percent, or 23 workers out of a workforce of 800.

It is time to admit that both in Iowa and Missouri we have two sites where it simply is not possible to perform dose reconstruction. The Government simply doesn't know what went on at these facilities and to what the workers were exposed. That makes it impossible to do timely dose reconstruction.

Some may say the law provides for people to be added to a cohort administratively. Well, 10 days ago, after 3½ years of waiting, the Department of Health and Human Services issued a rule setting out the procedure. This only occurred as a result of congressional pressure. The process set out under the rule is likely to take several more years because there are no statutory deadlines that must be met.

So the workers who worked there, who had high exposure to radioactive materials, who are sick and many have had multiple cancers, quite frankly, cannot wait any longer.

We took an important step in fixing about half of this program yesterday with the Bunning amendment. Now it is time to finish the job and give the workers in Iowa and Missouri the same ability to be compensated as those workers in Kentucky, Ohio, Alaska, and Tennessee.

Again, my colleague from Missouri has an amendment now that is being worked out. We hope it is going to be accepted once all of the T's are crossed and I's are dotted. Basically, it is an equity argument to make sure these workers will be treated fairly and in the same manner as workers who were exposed in other places.

I have met with these workers, as Senator BOND has, and it just tears your heart out. These were patriotic individuals. I have talked to some of them who told me they were told what they did was top secret and they could not discuss it with anybody, not even their doctors. So years later, because they were patriotic, hard-working Americans, they never told anyone about the kind of work they did. In fact, I had to work with some of my colleagues a few years ago to get the Department of Defense to get them a written document that said it is OK for them now to talk about what they did. So, as a result of that, we are now getting a clearer picture of the kind of work these individuals did. They handled highly radioactive materials. Many times, they did not even wear dose badges. They had no idea what they were handling. When you listen to workers talk about how, when they worked, certain things would happen to them, such as the hairs on their arms and legs would stand up when they were getting near this material, they had no idea what it was.

Sadly, many of them have already died. Sadly, many of them died at an early age and they left young children. Some of their kids who are alive today tell me about how their father died and how they had all these illnesses and sores and cancers. Many died when they were in their forties or early fifties. They had no idea it was because of the radiation exposure they had when they worked in those plants.

I think it is time for us to do this, acknowledge their patriotic service, the work they did, the dangers they were exposed to and were never really told about. What Senator BOND and I are seeking to do is simply make this equitable. There is no reason why his workers in Missouri, or mine in Iowa, should be treated any differently than those in the four States I mentioned. I believe those in the four States should be compensated, too, and they have been. We thought ours were going to be compensated, but in the intervening 4 years, we found out that no records exist. So they cannot do the dose reconstruction. They have tried to get around it, but they cannot. So we are left on the floor of the Senate to make this equity argument in the hope the Senate will concur and allow us to move ahead in a way that, hopefully, before the year is out, we will be able to include these workers in this special cohort that will allow them to be compensated out of a fund that was established 4 years ago to compensate these workers. The fund still has, as I am told, plenty of money in it. So we are not actually spending any new money. We are simply adding some people to the fund to be compensated.

I am hopeful we can get this all worked out and that we can accept this amendment and move ahead to adequately compensate and acknowledge the work these people did, at least in Iowa and Missouri. I thank my colleague, Senator BOND, for his leadership on this issue. I thank Senator TALENT for his comments earlier.

Madam President, I yield the floor, and I will be back when we have the amendment fully ready.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Washington.

AMENDMENT NO. 3427, AS MODIFIED

Mrs. MURRAY. Madam President, I call up amendment No. 3427 and ask unanimous consent to have the amendment, which is at the desk, modified.

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

Mr. WARNER. Reserving the right to object, and I do not intend to object, I think the managers are doing our very best to move along this morning. We have had a number of unexpected switches by a number of Senators who start amendments and stop them for various reasons. We are prepared now to go ahead with the amendment of the Senator from Washington. But I say to our colleagues, when they have informed the managers they are prepared to go ahead, and then abruptly have to stop, it makes it increasingly difficult for us to work on this bill.

I thank the Democratic whip. He has been most helpful. We have lost a lot of time this morning due to unexpected decisions.

Mr. REID. Madam President, if the Senator will yield, we on this side certainly understand the travails of the managers of this bill. Several days ago, we had written on our sheet "voice vote." We thought the amendment of the Senator from Washington had been accepted. There were miscommunications and, of course, that happens. It is certainly no fault of the Senator from Washington. She was ready several days ago, and we told her not to push it because we thought it would be accepted.

Mr. WARNER. We will proceed with the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 3427, as modified.

Mrs. MURRAY. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom)

At the end of subtitle E of title VI, add the following:

SEC. 653. CHILD CARE FOR CHILDREN OF MEMBERS OF ARMED FORCES ON ACTIVE DUTY FOR OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) CHILD CARE FOR CHILDREN WITHOUT ACCESS TO MILITARY CHILD CARE.—(1) In any case where the children of a covered member of the Armed Forces are geographically dispersed and do not have practical access to a military child development center, the Secretary of Defense may, to the extent funds are available for such purpose, provide such funds as are necessary permit the member's family to secure access for such children to State licensed child care and development programs and activities in the private sector that are similar in scope and quality to the child care and development programs and activities the Secretary would otherwise provide access to under subchapter II of chapter 88 of title 10, United States Code, and other applicable provisions of law.

(2) Funds may be provided under paragraph (1) in accordance with the provisions of section 1798 of title 10, United States Code, or by such other mechanism as the Secretary considers appropriate.

(3) The Secretary shall prescribe in regulations priorities for the allocation of funds for the provision of access to child care under paragraph (1) in circumstances where funds are inadequate to provide all children described in that paragraph with access to child care as described in that paragraph.

(b) PRESERVATION OF SERVICES AND PROGRAMS.—The Secretary shall provide for the attendance and participation of children in military child development centers and child care and development programs and activities under subsection (a) in a manner that preserves the scope and quality of child care and development programs and activities otherwise provided by the Secretary.

(c) FUNDING.—Amounts otherwise available to the Department of Defense and the military departments under this Act may be available for purposes of providing access to child care under subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term ''covered members of the Armed Forces'' means members of the Armed Forces on active duty, including members of the Reserves who are called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) The term ''military child development center'' has the meaning given such term in section 1800(1) of title 10, United States Code.

Mrs. MURRAY. Madam President, as my colleagues know, I have been working for several months on proposals to help ease the burden on Guard and Reserve families who have a loved one serving our country. Today, I am offering an amendment to help families get childcare so a parent can go back to work while their spouse is deployed overseas.

This amendment applies to activated only, and it is discretionary. I want to make sure that is clear. I think there was a misunderstanding with regard to that issue. It is for activated soldiers, and it is discretionary. This will help relieve the childcare squeeze that is hurting so many families who are silently sacrificing for all of us.

Hopefully, with the success of this amendment, the Senate will then have adopted several proposals to help our Guard and Reserve families get health care through TRICARE, pay for their equipment, help them stay on their payrolls through employer tax credits, and, today, with a critical piece on childcare.

Each one of these steps is part of the much larger effort to help ease the burden on families who are trying so hard to make ends meet while their spouse serves our country overseas.

Six months ago, on January 9, I sat down with members of the Guard's 81st Armored Brigade and their families at Camp Murray in Fort Lewis, WA, and at that meeting Guard and Reserve members told me about the tremendous challenges their spouse and their children would face once they were deployed.

I could see how worried and concerned they were that they would not have time to get their families on sound footing with a job, with childcare, and with health care before they deployed to Iraq. I listened closely to all of their concerns, and I spent several weeks crafting a bill to address a number of those issues.

On February 12, I introduced S. 2068, the Guard and Reserve Enhanced Benefit Act. That is a comprehensive bill that will minimize the challenges at home when these brave men and women leave their jobs, leave their schools, and leave their families to protect our homeland and fight terrorism.

Since that meeting back in January, many of the Guard and Reserve members with whom I met have now been deployed to Iraq. Currently, more than 5,400 brave Washington National Guard and Reserve soldiers have been activated, including 3,200 members of the 81st Armored Brigade who are serving in Iraq today. They are part of the more than 168,000 Guard and Reserve troops who have been called to active duty from States around the country.

Our Washington Guard and Reserve troops are among the more than 22,000 total troops from Washington State who are supporting Operation Iraqi Freedom and Operation Enduring Freedom.

As I have talked with family members since the deployment, I have learned a lot about the tremendous challenges they are facing. Today, I want to report back to them on the steps we have taken in the Senate to help ease their burden.

I am proud that in the past month, the Senate has delivered on three of those challenges I outlined in my bill back in February. The first one we delivered on was health care. My bill proposed providing access to TRICARE for all members of the Guard and Reserve, and their families, regardless of their employment or insurance status. That is an issue that Senators DASCHLE, REID, GRAHAM, and others have been working very hard on over the years. I was a cosponsor of that TRICARE amendment. I voted for it on June 2, and I am very pleased that it passed the full Senate.

Now we need the House of Representatives to agree that our citizen soldiers and their families deserve health care.

Secondly, we made progress on another challenge: the strains facing those who employ Guard and Reserve members. My bill offered tax credits to employers to encourage their support of activated Guard and Reserve. It is something that Senator KERRY and Senator LANDRIEU have worked on. I was the original cosponsor of an amendment to provide a tax credit to employers who continue to pay active Reserve and Guard employees, and that passed the Senate with my support on May 11.

Third, we have provided help for soldiers and families who had to provide equipment because the military did not provide it to them in a timely fashion. Back on October 17, on the Senate floor, I told the story of SPL Ian Willet, who was deployed to Iraq on his 21st birthday last September. His father David wrote to me and told me that Ian and his family will have to buy equipment that the military should have provided.

This week in the Senate we did the right thing for soldiers such as SPL Ian Willet and his family. On Monday, I voted for an amendment directing the Secretary of Defense to provide reimbursement to soldiers who face this hardship. I was proud to be a cosponsor of the Dodd amendment that passed this body by an overwhelming margin.

Today, the Senate has the opportunity to pass the Murray childcare amendment, and that will be another important and critical step forward for families who are sacrificing for all of us.

I have raised these issues time and again on the Senate floor because I believe if the American people are told about the silent sacrifices that so many families are making, they will demand that we do more.

President Bush is visiting Fort Lewis in my State tomorrow, and I hope during his visit he shines a bright light on the sacrifices that families are making while their loved ones serve our country overseas. I think it is critical that he hears directly from these families, as I have, about the burdens our Guard and Reserve are facing today. It is important that he support the steps we have taken in the Senate to help those families with health care, payroll, equipment, and, today, childcare. I hope the President will make it clear to those in the House of Representatives that the support we provided in the Senate cannot be removed from the Defense bill in the dark of night.

One critical support we need to take care of is this amendment on childcare that I am offering today. I offer this amendment in honor of all the Guard and Reserve troops who are sacrificing for us overseas, and I offer this amendment in honor of their spouses and their children who are sacrificing so much for us at home.

Let me explain why childcare is such a challenge for many of our military families. Often when a member of the Guard or Reserve is deployed overseas,

the remaining spouse has to go to work to support the family and to make up for the income their spouse has given up because of their military service. Unfortunately today, as we all know, high-quality childcare is very expensive and often out of reach of a single parent.

In addition, many Guard and Reserve families do not live anywhere near a military installation, so they cannot use the services that are available.

I will tell my colleagues about a Washington wife and a mother whose life was turned upside down when her husband was called to active duty. Danielle and Jack Lucas have three children. They worked opposite shifts to avoid the cost of daycare. In February, Jack was told to report to the 81st Armored Brigade at Fort Lewis. Danielle scrambled to figure out how to keep her job and care for her children, including a newborn. Unfortunately, as so many of us find, the cost of daycare was prohibitive and she was forced to quit her job, after 10 years of work, when her husband was deployed.

Jack's monthly military pay was $1,000 less than his civilian job. So when it became impossible to make ends meet, Danielle moved to another part of my State where rent was less expensive. She has now gone back to work, but the cost of daycare is still not affordable. She juggles today with help from her family and her friends to watch her three children, and she often has as many as three different people watching her children in one 8-hour period.

While SPL Jack Lucas is taking the same risks as all Active-Duty soldiers in Iraq, his family has faced emotional and financial turmoil that will be alleviated with the Murray amendment. We cannot continue to ignore the needs of our Guard and Reserve families.

Unfortunately, Danielle's situation is not an isolated case. When MAJ Jake Callahan was called back to duty, his wife Kathleen and two small children were suddenly faced with a childcare dilemma. Kathleen's job requires her to travel and attend work events on weekends and evenings, but her son has special needs, and the cost of childcare is financially out of the question. Kathleen struggles with the stress of abandoning her career now or continuing to rely heavily on her family for childcare.

Kathleen is not alone. Lisa Palmer made the difficult decision to quit her job as a registered nurse when her husband was deployed to Iraq with the 81st Armored Brigade. After her husband was deployed, her two sons began experiencing severe emotional problems due to their father's departure. Lisa believed it was important for one parent to be at home to help her sons through these challenges. Her son's depression, his nightmares, his overwhelming sadness require constant assurance and support by her. Lisa has now started to work part time at the hospital to help lessen the tremendous financial strain of their greatly reduced family income. However, like Danielle and Kathleen, Lisa is only able to do so by leaning heavily on her family and friends to provide childcare.

All three of these women tell me they honestly do not know how they are going to make it through until their husbands return home. The current support system for our deployed and activated Guard and Reserve families is broken. We need a fix to keep our families strong while their spouses serve our Nation. Unless we soften the tremendous burdens they face, we may have trouble retaining the soldiers we have and recruiting the new soldiers we need.

This amendment is about easing the burden on those who serve us today, recognizing that we ask more of them so we need to provide them with more support, ensuring that we can recruit and retain our Guard and Reserve members for our future security.

I have heard some of my colleagues argue that some of these Guard and Reserve proposals are too expensive. We may hear that claim again today. But I think we need to look at the costs of abandoning these families who are serving. We need to look at how much pain it causes them. I have talked with these families. They are trying to serve our country honorably, but they cannot do it when they are so worried about how they are going to keep their children safe and secure while they work to keep their families financially capable. We need to look at how this issue threatens our ability to recruit and retain the voluntary military we need to protect us.

We are spending $5 billion a month on the war in Iraq, and virtually all of this spending goes right to the deficit that our grandchildren are going to inherit. Supporting our Guard and Reserve families is not cheap but we need to do it if we still want to have a Guard and Reserve system after all of these long, extended deployments. These families are part of our war effort. They are part of the war on terrorism. They are part of the war in Iraq. They are part of our homeland security efforts.

All of our military families are sacrificing today. Our Guard and Reserve troops are doing the right thing. They are meeting their obligations. They are protecting our people and they are serving our country with honor.

We have to acknowledge that our unprecedented deployment of Guard and Reserve Forces is creating tremendous new hardships that we have not had to deal with before. The amendment before the Senate now gives us the opportunity to do the right thing for these families and for the loved ones who are serving. We are asking so much of our Guard and Reserve members and their families. We have an obligation to make it easier for their spouses and their children during these long deployments.

The Murray childcare amendment and the other steps we have taken tell our Guard and Reserve soldiers that they can serve our country overseas, even on long deployments, and know their families will be financially secure and they will be able to get childcare and health care.

So my message to our Guard and Reserve families is: We gave you access to health care through TRICARE. We made sure you were reimbursed if you had to buy protective equipment. We made sure employers can continue to keep your loved ones on the payroll by providing employer tax credits. Today, this body will assure you that you have an ease of mind when it comes to your children that you left behind, that they have the childcare that is so critical to the well-being of your family.

We made progress. We have much more to do. We need to keep the pressure on to make sure when we get to conference behind closed doors these measures are not lost.

There are several other elements of my original comprehensive bill that have not been addressed yet, but today I think it is extremely important that we adopt this amendment.

The DOD is supportive of this amendment. It is for our activated soldiers. I urge the Senate to adopt this amendment today. I hope we can do it efficiently and quickly because I think we will send a strong message to those who are serving us so honorably overseas today.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Virginia.

Mr. WARNER. Mr. President, I commend our colleague. This is a subject that certainly will be approached in a very bipartisan way.

I am wondering, do we have any procedural requirement on that family who needs childcare, to express some sort of need for it before it is automatically granted? Would the Secretary adopt regulations? I just ask the distinguished Presiding Officer if I may enter into a colloquy with our distinguished colleague on that.

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

Mrs. MURRAY. Mr. President, this would allow the DOD Secretary of Defense to promulgate the process for the families to go through. It would be discretionary for him.

Mr. WARNER. That is very helpful.

Mr. LEVIN. Will the Senator yield for a question on that point?

Mr. WARNER. Yes, of course.

Mr. LEVIN. In the form of a question to the Senator from Washington, whose amendment fills in such a gap and really meets such an incredibly important need for childcare, but is it not true that in section (a)(3), the bottom of page 2, you do provide specifically:

> The Secretary shall prescribe in regulations priorities for the allocation of funds for provision of access to child care. . . .

So the amendment itself does provide for those regulations to be adopted by the Secretary of Defense?

Mrs. MURRAY. The Senator is absolutely correct. I think it is also important to point out there is no direct

spending. It simply authorizes the Secretary of Defense to help geographically dispersed Active-Duty military families.

Mr. WARNER. I thank our colleague. I asked the question so as to make it a part of the record of the proceedings today. So often when Congress acts on an amendment such as this, which is so important to so many families, they suddenly hear from Washington, ''You got childcare.'' But I think we better put in a caution: Yes, childcare hopefully will be made available, but there has to be some showing of a requirement. Because it is my understanding the Department of Defense now has a number of childcare centers here in the Greater Washington area. Frankly, the adequacy is questionable. Some families do not have access to them. But those families, I point out, might not be able to meet the criteria in the opening section 1:

In any case where the children of a covered member of the Armed Forces are geographically dispersed. . . .

Those families theoretically are not geographically dispersed, but they are caught in between the class that you are establishing and those who are near a major military installation here in Washington, yet there are inadequate childcare facilities.

Those are the types of things that are going to have to be worked out should this become law.

Mrs. MURRAY. Mr. President, there is no doubt the childcare is an issue that is very difficult for many families, and to provide all this support for every family is something that will be extremely difficult. We all acknowledge that. But there is a specific group of families serving us overseas today in Iraq and Afghanistan who are absolutely excluded from any help whatsoever. My amendment assures that they are not excluded.

Mr. WARNER. Fine. We definitely want to care for those. Those families who are not serving overseas yet have been pulled up abruptly from Reserve or Guard status, yet where the husband or the wife—whichever the case the uniform may be worn—is not deployed overseas, they may have a critical problem, too.

Mrs. MURRAY. The amendment before us is in support of all activated personnel.

Mr. WARNER. You make reference to those families overseas repeatedly. I just want to make sure about some of those at home.

Mrs. MURRAY. The Senator is correct.

Mr. WARNER. Fine. On the basis of that, we are prepared to accept the amendment on this side.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me first commend the Senator from Washington. She has been tenacious, absolutely determined to provide childcare for military personnel. She has devised this amendment to take care of the ones who are currently employed in Iraq and Afghanistan, because their families surely are the ones who, first and foremost, we have to try to take care of, where they have no other alternative on base because they are geographically dispersed.

This amendment provides funds for childcare for members of the Armed Forces who do not have access to military childcare programs because they are geographically dispersed and there is no military childcare program available to them. These will mainly be Guard and Reserve people but not exclusively. There may be families of Active-Duty people who are normally on active duty, who because their loved one is now in Iraq or Afghanistan, for instance, take the family back home and who also will have access to childcare because of this amendment.

It is discretionary spending. I note the Department of Defense supports this amendment. It seems to me the fact that the Senator from Washington was able to work with the Department of Defense to actually obtain their support for her amendment is a notable success for which she is entitled to the commendation of this body and the thanks of this Nation.

I hope this amendment will be adopted by the Senate. I do not know if a rollcall is necessary. If it is, I hope we strongly support this amendment, and I commend Senator MURRAY for her tenacity and for the sensitivity which she shows in so many issues, but in this case on the childcare needs of this country.

Mr. WARNER. Mr. President, I have indicated that colleagues on this side of the aisle are very anxious to work to make this childcare available subject to the availability of funds, as the amendment states. We are prepared to move on, make it totally bipartisan, and voice-vote this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection the amendment is agreed to.

The amendment (No. 3427) was agreed to.

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. WARNER. Mr. President, we are prepared to proceed with the amendment on important aspects of missile defense by our colleague from California.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 3368

Mrs. BOXER. Mr. President, I call up amendment No. 3368.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 3368.

Mrs. BOXER. 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 allow deployment of the ground-based midcourse defense element of the national ballistic missile defense system only after the mission-related capabilities of the system have been confirmed by operationally realistic testing)

On page 33, after line 25, insert the following:

SEC. 224. LIMITATION ON DEPLOYMENT OF GROUND-BASED MIDCOURSE DEFENSE ELEMENT OF THE NATIONAL BALLISTIC MISSILE DEFENSE SYSTEM.

The ground-based midcourse defense element of the national ballistic missile defense system may not be deployed for initial defensive operations before the Secretary of Defense certifies to Congress that the capabilities of the system to perform its national ballistic missile defense missions have been confirmed by operationally realistic testing of the system.

Mrs. BOXER. Mr. President, we are going to face a series of amendments on the missile defense system, and I believe I have an amendment which I am surprised we even have to have a long debate about because it is so straightforward. It says let us not spend the money to deploy the system until it has been tested and until it has been certified as passing those tests by the one office that has the capability of doing it, which is the Office of Director of Operational Test and Evaluation.

We want to ensure that the ballistic missile defense system the President plans to deploy later this year has passed these tests.

In 1983, Congress created the Office of the Director of Operational Test and Evaluation—DOT&E. It is now headed by Mr. Thomas Christie.

The Office of DOT&E was created under the ''fly before you buy'' law. ''Fly before you buy'' makes a lot of sense for our taxpayers. Frankly, when it comes to defending our country, my goodness, how much more important can it be before we tell our people they are protected that we actually know they are protected and that the tests which have been done have been signed off on by the very office that has been created for that purpose?

The office oversees the operational testing programs of all major military systems. Operational testing is intended to be as realistic as possible. This includes testing at night, testing in bad weather, using soldiers rather than contractors who have a special interest in the outcome of the test, and using expected enemy countermeasures.

Let me repeat that. In order to have operational tests that you can trust, the testing has to be done under realistic circumstances. We don't know if our enemy is going to attack us on a beautiful, clear day with the wind blowing at a certain rate. The fact is, we need to test under the harshest conditions so that we know what we are deploying works. It must be a realistic test. Most importantly, the tests must be conducted by the Office of DOT&E—

the program that is developing the weapons system.

I am sure you are going to hear people stand up and fight against this amendment.

I have to tell you that if you really look at the facts, they do not have them on this side. If I were to ask one of my constituents, who knew nothing about this at all, who they would rather have testing our military systems to make sure they work, the contractor, who has an economic interest in it; the program director, who has an economic interest in getting the program funded; or basically an independent office that was set up by Congress, the Office of Director of Operational Test and Evaluation, I think the answer would be clear. People would want an objective test.

My amendment requires that the Secretary of Defense confirm that the ground-based, midcourse missile defense system has passed these operational tests prior to deployment for initial defensive operations. It is very simple—fly before you buy, test before you deploy, common sense, following the wishes of Congress that knew this was a problem when we set up that office.

Here is why it is important. This amendment is important because the current plan of the Missile Defense Agency does not include any operational testing at any time in the foreseeable future.

Let me say that again. The current plan of the Missile Defense Agency does not include any operational testing at any time in the foreseeable future. And this statement I just made has been confirmed by the Office of Director of Operational Test and Evaluation.

Imagine: We are about to spend $10 billion on this program. It is the biggest program in the defense budget, as I understand it, and we are going to deploy without operational testing.

On December 17, 2002, President Bush announced that the United States will declare a midcourse ballistic missile defense system ready for defense operations at the end of the year. That is interesting. He declared and announced that we would be ready to deploy before the system was tested. He should say: Assuming it passes the tests by the appropriate evaluation agency, which is DOT&E. But he didn't say that. The Pentagon's current plan is to deploy the first interceptor missile in late July, and before the system becomes operational by the end of September when five interceptors are in place at Fort Greeley, AK. The Missile Defense Agency hopes to have a total of 10 interceptor missiles in place by the end of January 5 at both Fort Greeley and Vandenberg Air Force Base in California.

They are moving ahead without any operational testing done by the office that was created to do this.

This plan that I described to you, known as Block 2004, will eventually result in the deployment of 20 missile interceptors by the end of next year.

There is a serious problem here. We have no way of knowing that these interceptor missiles will actually be able to protect us from an incoming ballistic missile attack. The system President Bush is deploying has been tested eight times—not by the Director of the Office of Operational Test and Evaluation, it has been tested by the DOD. The contractor was involved in those tests, and the program director was involved in those tests of the Missile Defense Agency, but not the office that has been created to be the objective tester. The tests were conducted, again, by the Pentagon's Missile Defense Agency in cooperation with the contractor—not the DOT&E.

These tests were highly scripted. They occurred in an unrealistic test environment, and only five of the eight were successful.

Here is the GAO report.

The date is April of 2004. This is a relatively new report. In this report, the GAO criticizes the administration's plan, saying:

> as a result of testing shortfalls and the limited time available to test the BMDS [Ballistic Missile Defense System] being fielded, system effectiveness will be largely unproven when the initial capability goes on alert at the end of September 2004.

That is when the initial five missiles will be deployed.

This report from the General Accounting Office, which is the investigative arm of the Congress, goes on to say:

> the Missile Defense Agency predicts with confidence that the September 2004 defensive capability will provide protection of the United States against limited attacks from Northeast Asia. However, testing in 2003 did little to demonstrate the predicted effectiveness of the system's capability to defeat ballistic missiles as an integrated system.

And from the GAO, who we pay a lot of money to, to advise us, they go on to say:

> None of the components of the defensive capability have yet to be flight tested in their fielded configuration (i.e., using production-representative hardware).

My friends, the GAO has essentially exposed the fact that the President plans a ''Wizard of Oz'' defense. We have seen the Wizard of Oz. That Wizard of Oz was scary, but when you pull back the curtain, it was just some little guy.

I want to see a successful missile defense system. I want to see it work. Ever since I have been in Congress, I have been voting continually for research, research, so we have one system in place that works. It would be the greatest to have. We may eventually have it. I hope to God we do. I am from California. I want a missile defense system. I am worried. I am just as worried, however, that if we tell our people they are defended and we do not have objective testing behind it, it will be a very hard blow to people and a waste of money that, God knows, we need in other areas of the military and in other ways to defend our people from the suitcase bomb or an attack on a nuclear power plant, which we know the terrorists are looking at.

The President's decision, in my view, before the testing is done, is a waste of our resources. The total amount requested for missile defense in 2005 is $10.2 billion, more than any other defense system in one year ever.

To put this $10.2 billion in perspective, let me read the budgets of some of the programs in agencies critical to protecting us from the threat of terrorism. I have a chart listing what we spend in other areas that are key in our fight against terrorism.

The entire missile defense system is $10.2 billion. That includes everything, research and everything else. I am talking about the deployment costs, which are about $3.7 billion of the $10 billion. This chart shows the $10.2 billion, which is the entire missile defense cost. The money we are talking about spending is $3.7 billion to deploy these 20 missiles.

Look what we have spent on the other areas to protect our people. The customs and border protection is $6.2 billion. My colleague, Senator MCCAIN, right now is holding a hearing—unfortunately I could not do it because I had to be here—on our problems at the border, protecting our borders from terrorism. The fact is, we need to spend more in high-tech equipment to better protect our people from terrorists crossing the border. The total is $6.2 billion, compared to $10.2 billion on missile defense; Transportation security, $5.3 billion; Coast Guard, $7.4 billion; FEMA, $4.8 billion; Office of Domestic Preparedness, $3.5 billion. This is what we are talking about spending on this deployment—$3.7 billion of the $10 billion—before it is operationally tested by the office that is supposed to do that.

We know the customs and border protection is the front line in protecting the American public against terrorism. Transportation Security Administration—we all know what happened on 9/11; they are responsible for keeping our airlines safe but also our railroads and our ports secure—$5.3 billion, and we are going to spend $3.7 billion on an untested deployment? Coast Guard, $7.4 billion. Imagine that is what we spend on the Coast Guard, and they are right in the line of fire. I visit my Coast Guard ports all the time. They are the lead Federal agency in maritime safety. They are so important. We spend $7.4 billion. And we are spending $10.2 billion on the entire missile defense and ready to toss out $3.7 billion of that in this initial deployment.

All of FEMA, the lead agency for preparing us to respond to all domestic disasters, including acts of terrorism, $4.8 billion. We are about to spend $3.7 billion on an untested system, and we are spending $4.8 billion on FEMA.

Office of Domestic Preparedness, $3.5 billion, which is less than we will spend on an untested system. They are the

lead agency responsible for preparing the Nation against terrorism by assisting States and local governments in preparing for terrorists acts.

The Presiding Officer must hear the same things I hear at home from the police officers, from nurses, from the first responders, the firefighters. They are hurting. They need our help. Would it not be better at the moment now not to waste $3.7 billion on this initial deployment, if we have that extra funding, but to put it into the fight on terrorism?

My amendment does not cut any money from this program. My amendment does not cut one dollar from the program. However, it says, do not spend the money until the system is operationally tested. We will have other attempts because other people will be taking out some funding. I do not touch the funding. All I say is, test it before you deploy it. If the Office of Operational Test and Evaluation comes back with a good report, then I say please deploy but not until that time.

We are at war with al-Qaida and with terrorism. The only four nations that have ever successfully tested a nuclear capable intercontinental missile are Russia, France, Britain, and China. We are not at war with them.

We will talk about Korea and Iran. There are fears, and I share the fears, that this technology could get into the hands of the wrong countries or somehow a terrorist could get his or her hands on one of these missiles. That is why I want to protect our country against the potential of this kind of a strike. However, I do not want a make-believe system. I do not want a Wizard of Oz system.

I want a system I can look my people in the eye and say: We spent $3.7 billion deploying the first aspects of this system, and we know it works. I think my people deserve to know that.

When I was in the House, I was on the Armed Services Committee, and I worked very hard on procurement reforms. I enjoyed so much being on the Armed Services Committee in the House. I was there for years. We had some wonderful debates. What we found is: ''Fly before you buy'' is essential. And that is all we are saying. We want to know the system works. We want to be able to tell the people the system works. And, clearly, we should look at the threat we face.

Now, the reason I am for this program, the reason I have voted for this program many times for research, is because I want to have a system that works. Why? North Korea. I am very fearful of North Korea. Although I believe we can try our best and do more to negotiate with them, there is no question I am worried about a potential missile system in North Korea.

But here is the issue. We have a capability that is not talked about that much here, but the Pentagon's former Director of DOT&E, Philip Coyle, has said: We would never wait until North Korea has launched a missile attack. ''We'd blow it up on the ground.'' We have the capability to know when these missiles are being moved into place. Let me repeat what Philip Coyle said, the Pentagon's former Director of DOT&E:

> We would never wait until the thing was launched. We'd blow it up on the ground.

Now, I subscribe to that theory. I want to blow it up on the ground. I think Philip Coyle is right. With our capabilities, we could see any movement, and we would know. But wouldn't it be great to intercept a missile once it is in the air? Absolutely. If we could not destroy it before it was launched, definitely. But let's operationally test the system first, with the people who are hired to do this for the taxpayers.

Now, let's hear what the Union of Concerned Scientists is saying. They are an independent nongovernmental organization. They released an analysis of the President's plan to deploy a missile defense system. Let me read you two of their findings:

> The Block 2004 missile defense will have no demonstrated capability to defend against a real attack since all flight intercept tests have been conducted under highly scripted conditions with the defense given advance information about the attack details.

Now, do we think our enemies are going to place a call to us and say here is what we are going to do; here is what time we are going to do it; here is the weather we are going to do it in; here is the day? No. The fact is, we have not realistically tested this system.

This is what the Union of Concerned Scientists says:

> Unsophisticated countermeasures that could readily be implemented by countries such as North Korea remain an unsolved problem for mid-course defenses against long-range missiles.

So they are calling our countermeasures that we are using unsophisticated. It is a problem. This means that any country able to launch an ICBM is also capable of using countermeasures to fool our interceptors.

The Union of Concerned Scientists report ends with their recommendation that the Pentagon's Missile Defense Agency should:

> [H]alt its deployment of the Block 20O4 Ground-based Mid-course Defense system and Congress should require MDA to conduct operationally realistic testing of the system before it is deployed.

I thank the Union of Concerned Scientists because it was their very clear writing that led me to this amendment. In addition, common sense led me to this amendment. In addition, many former generals who have spoken out on this led me to this amendment. I agree with the scientists. That is why my amendment says that before we declare the system operational, we should know that it has been tested in a realistic manner.

I want to show you the list of 49 generals who have written on this issue. I say to the Presiding Officer, I think you would find this very interesting. This is a list of 49 generals and admirals who call for missile defense postponement because they do not believe the testing is adequate.

In a recent statement these 49 generals and admirals have written to President Bush asking that the deployment of a ground-based midcourse missile defense system be postponed. Their letter points out that the Pentagon has waived the operational testing requirements that are essential to determining whether this highly complex system of systems is effective and suitable.

The last paragraph of their letter sums up the concerns of these generals and admirals:

> As you have said, Mr. President, our highest priority is to prevent terrorists from acquiring and deploying weapons of mass destruction. We agree. We therefore recommend, as the militarily responsible course of action—

The militarily responsible course of action—

> that you postpone operational deployment of the expensive and untested GMD system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials and to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter signed by 49 retired generals and admirals.

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

MARCH 26, 2004.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In December 2002, you ordered the deployment of a ground-based strategic mid-course ballistic missile defense (GMD) capability, now scheduled to become operational before the end of September 2004. You explained that its purpose is to defend our nation against rogue states that may attack us with a single or a limited number of ballistic missiles armed with weapons of mass destruction.

To meet this deployment deadline, the Pentagon has waived the operational testing requirements that are essential to determining whether or not this highly complex system of systems is effective and suitable. The Defense Department's Director of Operational Test and Evaluation stated on March 11, 2004, that operational testing is not in the plan ''for the foreseeable future.'' Moreover, the General Accounting Office pointed out in a recent report that only two of 10 critical technologies of the GMD system components have been verified as workable by adequate developmental testing.

Another important consideration is balancing the high costs of missile defense with funding allocated to other national security programs. Since President Reagan's strategic defense initiative speech in March 1983, a conservative estimate of about $130 billion, not adjusted upward for inflation, has been spent on missile defense, much of it on GMD. Your Fiscal Year 2005 budget for missile defense is $10.2 billion, with $3.7 billion allocated to GMD. Some $53 billion is programmed for missile defense over the next five years, with much more to follow. Deploying a highly complex weapons system

prior to testing it adequately can increase costs significantly.

U.S. technology, already deployed, can pinpoint the source of a ballistic missile launch. It is, therefore, highly unlikely that any state would dare to attack the U.S. or allow a terrorist to do so from its territory with a missile armed with a weapon of mass destruction, thereby risking annihilation from a devastating U.S. retaliatory strike.

As you have said, Mr. President, our highest priority is to prevent terrorists from acquiring and employing weapons of mass destruction. We agree. We therefore recommend, as the militarily responsible course of action, that you postpone operational deployment of the expensive and untested GMD system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials and to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States.

Mrs. BOXER. Mr. President, the admirals and generals are essentially asking to take that money, that $3.7 billion, out of the $10 billion, and divert it to other programs. I am not doing that. I am simply fencing the money and saying: You can spend it when the tests pass. So they are really asking more than I am doing.

The people who wrote this letter are some of our most distinguished military men and women. I am going to read the names of these generals and admirals:

ADM William J. Crowe, United States Navy, Retired; GEN Alfred G. Hansen, United States Air Force, Retired; GEN Joseph Hoar, U.S. Marine Corps, Retired; LTG Henry E. Emerson, Army, Retired; LTG Robert Gard, Jr., Army, Retired; VADM Carl Hanson, Navy, Retired; LTG James Hollingsworth, Army, Retired; LTG Arlen Jameson, Air Force, Retired; LTG Robert Kelley, Air Force, Retired; LTG John Kjellstrom, Army, Retired; LTG Dennis McAuliffe, Army, retired;—they are all retired, so I will not continue to say that—LTG Charles P. Otstott, Army; LTG Thomas Rienzi, Army; VADM John Shanahan, Navy; LTG Dewitt Smith, Jr., Army; LTG Horace G. Taylor, Army; LTG James Thompson, Army; LTG Alexander Weyand, Army; MG Robert Appleby, Army.

Mr. REID. Will the Senator from California yield for a question?

Mrs. BOXER. Yes.

Mr. REID. I have spoken to the two managers. Senator LEVIN wants to speak in support of your amendment for 5 minutes. They want 25 minutes to respond to your statement.

Mrs. BOXER. Sure.

Mr. REID. We would like to set a vote for around 12:30.

Mrs. BOXER. OK.

Mr. REID. Which is 40 minutes from now.

Mr. WARNER. Mr. President, and no second degrees prior to the vote.

Mr. REID. Yes.

Mrs. BOXER. I am happy to take another 7, 8 minutes and then finish.

Mr. WARNER. That runs us into about 35 minutes on your time.

Mrs. BOXER. I will finish in 5 minutes.

Mr. REID. Yes. Senator BOXER will speak for 5 minutes. He will speak for 5 minutes. That will give you 40 minutes and will be about evenly balanced.

I ask unanimous consent that on the pending Boxer amendment, there be 10 minutes left on the proponents' side, 5 minutes for Senator BOXER, and 5 minutes for Senator LEVIN, and the remaining time be under the control of Senator WARNER, and that there be a vote at 12:30 with no second-degree amendments prior to the vote.

Mr. WARNER. Reserving the right to object, could we state no later than 12:30? We may be yielding back time.

The PRESIDING OFFICER. Does the Senator so modify his request.

Mr. REID. Yes, and that Senator BOXER could have 1 minute prior to the vote.

Mr. WARNER. We will take on this side equal time with 1 minute prior to the vote.

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

Mrs. BOXER. May I ask the Senator, I do get a vote on this?

Mr. REID. Yes, at 12:30.

Mrs. BOXER. The reason I am reading these names is because these are names we know. These are our heroes: Major General Appleby, Major General Boatner, Major General Bradshaw, Major General Brady, Major General Burns, Rear Admiral Center, Major General Crawford, Major General Edmonds, Rear Admiral Elliot, Major General Faith, Rear Admiral Gormley, Major General Griffitts, Rear Admiral Grojean, Major General Haddock, Major General Holbein, Major General Hyman, Major General Jackson, Major General Lawson, Major General Luchsinger, Major General LeCleir, Major General Willoughby, Brigadier General Cannon, Brigadier General Costa, Brigadier General Cowan, Brigadier General Foote, Brigadier General Forney, Brigadier General Grubbs, Brigadier General Hastings, Brigadier General Johns, Brigadier General Roush.

This is not easy for these people to come out here now and do this. They believe, as I do, and as I hope colleagues on both sides of the aisle feel—and I don't know what will happen with this—that with all of the threats we face today, we have to take care of everything. But for goodness' sake, before we make a $3.7 billion deployment decision, let us test the system with the agency that was set up to do it, not with the program that is kind of fighting for its life always because that is what happens around here, whether it is in the military or any service. You can't rest with that and with the contractors that have the economic stake. This separate objective office is the one.

I stand with the scientists who say we need the realistic test. I stand with the 49 former generals and admirals who say the militarily responsible course is not to spend this money until these tests pass. The Pentagon's current Director of the DOT&E, Thomas Christie, says we can't be sure the system will work against a real North Korean missile. So why wouldn't we fly before we buy? Why wouldn't we be sure that we are spending the money for the taxpayers in a wise way?

I want this as much as anybody else. I want this very much to work. But I don't want to spend the money until we know we have tested the system realistically, and that is common sense.

Again, I named the names of these admirals. They want to go even further. They want to postpone this. I am saying let's not take away the money. Keep the money in place. Let's just make sure the appropriate agency does the testing. That appropriate agency is the Director of Operational Test and Evaluation. It is very simple. I hope my colleagues will support this. We are being told by the people who know that it is not ready yet for deployment.

I thank my colleagues for their patience. I yield the floor. I look forward to a good vote.

Mr. WARNER. Mr. President, I yield myself such time as I may require. I would like to enter into a brief colloquy with our colleague from California. If we can keep the answers short, I want to frame, for those Members following this debate, my perception of what your amendment does. I start by pointing out that last year, this body, this Congress, in a conference report, approved 20 ground-based interceptors—they have been authorized—16 of which will be based at Fort Greely, AK, and four of which will be placed at Vandenberg, CA. They are being fielded as part of a missile defense test bed. This test bed is required for operational realistic testing and provides some measure of operational capability which serves as a basis for the IDO.

Is that basically a correct statement of what we did last year?

Mrs. BOXER. I am sorry. My staff was pointing out something. You are asking me if what?

Mr. WARNER. What we did last year, this body authorized moving ahead on 20 test bed sites, 16 in Alaska and the balance in your State. Am I correct?

Mrs. BOXER. Yes.

Mr. WARNER. Is not the purpose of your amendment to stop that process?

Mrs. BOXER. Absolutely not.

Mr. WARNER. Then how do you proceed to do any testing if you stop the test bed?

Mrs. BOXER. We want operational testing. We want the tests to be done by the appropriate office. That is the purpose of the amendment. That is exactly what the generals are saying. That is what the admirals are saying.

Mr. WARNER. I thank my colleague.

Mrs. BOXER. Sure.

Mr. WARNER. I interpret it quite differently. The amendment would prohibit deployment of the ground-based midcourse missile defense system until

the Secretary certifies to Congress that the capabilities of the system to perform its national missile defense missions have been demonstrated in operationally realistic testing.

We authorized precisely what was to be done last year. We are proceeding on that basis right now. And as I look at this amendment, it would be in effect to reverse what we did last year and start off in an entirely different direction. The test bed capabilities will include space, ground, sea-based sensors, missile defense interceptors, battle management facilities, software, command and control, and communications facilities. To provide additional realism, military operators participate in the tests, and the warfighter is developing a concept of operations.

So, basically, what we are doing, if we were to adopt this amendment, is to put a halt on this system.

As I said, I rise in strong opposition to the Boxer amendment. This amendment would prohibit deployment of the ground-based midcourse missile defense system until the Secretary certifies to Congress that the capabilities of the system to perform its national missile defense missions have been demonstrated in operationally realistic testing.

This amendment, however, is flawed.

Let me start by noting that the Missile Defense Agency, with the strong support of the Pentagon's Director of Operational Test and Evaluation, is fielding an extensive missile defense test bed. This test bed is key to operationally realistic testing.

The test bed capabilities will include space, ground, and sea-based sensors; missile defense interceptors; battle management facilities and software; and command, control, and communications facilities and software. To provide additional realism, military operators participate in the tests, and the warfighter is developing a concept of operations.

The test bed facilities, the participation of military operators, and a good concept of operations provide MDA the ability to test realistically but also provide the initial defensive capability of the BMD System. This initial capability is based on the operational capabilities inherent in the test bed. We are, in fact, on track to field an initial, limited defensive capability later this year. That is what a number of Senators have described as a missile defense deployment.

Indeed, the Commander of U.S. Strategic Command strongly supports the early operational exploitation of test bed capabilities. He is the individual charged with assessing the military utility of the BMD system. He testified forcefully to our committee that the BMD system provides a useful military capability, contributes to deterrence, and provides a useful option to military commanders and national command authorities, even in the early phases of testing. He testified that he intends to ''take full and early operational advantage of the system's antimissile capabilities under development.'' He also wrote in a recent letter, ''U.S. STRATCOM supports the continued appropriate development of missile defense capabilities . . . under the evolutionary approach of concurrent test and operation.''

The amendment does not recognize the connection between the test bed and the fielding of operational capability. If you prohibit this ''deployment,'' you prohibit operationally realistic testing—and prevent the very basis for the certification that the amendment requires.

The BMD system is already being rigorously tested. I would argue that it is one of the most thoroughly tested systems—at this point in its development—that we have. It has gone through thousands of hours of ground testing. The ground-based midcourse missile defense element that we are discussing has achieved successful intercepts in five of eight tests and proven the basic soundness of the hit-to-kill technology. The operational test community is deeply involved in the test program, each test includes operational test goals in addition to developmental test goals.

Each test already includes a measure of operational realism. That testing will continue and will become progressively more realistic and challenging as the system matures. Testing successes will provide greater confidence that the system is performing as we expect it will.

I would further note that the fielding of BMD systems is threat driven. Serious ballistic missile threats exist today and will increase in the future. Congress addressed this issue years ago in the National Missile Defense Act of 1999, which states that it is the policy of the United States to deploy a national missile defense as soon as technologically possible. The Senate passed that act by a vote of 97–3. We need to proceed expeditiously with fielding.

This is entirely consistent with past practice. Our nation has often fielded military systems without completion of operational testing in response to an urgent military need. These systems include the Joint STARS system in the first Persian Gulf War, and the Global Hawk and Predator UAVs in the war on terror. Deployment of these systems—which had not completed testing—greatly increased the security of our nation. The same will be true when we have fielded the missile defense system.

I urge my colleagues to oppose this amendment.

I ask the chairman of the subcommittee to address the Senate and allocate the time on this side.

Mr. ALLARD. Mr. President, I thank the chairman for yielding to me. Senator KYL was on the Senate floor. I thought I would go ahead and give him an opportunity to make some comments. I would like to make some comments following his remarks.

Mr. WARNER. Does the Senator from Colorado agree with me as to what this amendment does?

Mr. ALLARD. I do. If you take down the test bed, you in effect are going to stop the progress of the missile defense program. The real issue is, if you take down any part of it, it is so intertwined and interconnected, you slow down and stop the whole system. Your comments are very pertinent. They are very much in order. I have tremendous concern that this in effect is going to undo what the Congress has worked so hard to do.

If you remember, initially the legislation directed that we move forward on missile defense as soon as technologically feasible. We are ready to move ahead, and we need to.

I yield 10 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, with regard to the amendment before us, the chairman of the committee and of the subcommittee have made precisely the right point. Congress has passed a law to get us to this point today, to begin the kind of operational testing that everybody agrees we need to do, that even critics of the missile defense program want us to do. Yet now they say let's stop building the missiles that would be used for the operational testing.

The essence of this is captured in one of the first comments of the Senator from California.

She talked about the concept of ''fly before you buy,'' which ordinarily is the way we buy military equipment but not always. She noted that is one of the reasons why the Office of Test and Evaluation was created, and she noted there had been problems as a result of the fact that not all of the operational testing had been done on this program.

Let me quote from the person who heads that office, the Director for Operational Test and Evaluation, Thomas Christie, on this precise issue in his recent testimony before the Senate Armed Services Committee:

> . . . I think the issue we're talking about here is the building of missiles that will be put into silos that are part of the test bed, and we have to have this test bed in order to do some of the testing that will become more realistic engagements, geometrics, for example, than we've been able to do before. And some of these attributes of this test bed are in response to criticism that came from my office and my predecessor in previous administrations. . . .

Mr. President, that is the precise point. The criticism has been that not all of the testing has been under the kind of realistic conditions that would be the real battlefield we need to be able to test against. It has been done by contractors, and, of course, that is the way you have to start out to test the components and make sure they work. Eventually, you have to build the missiles, put them into the ground, and test them in real conditions. What better way to do that than to put them in the actual silos in which they will have to be located in Alaska?

By the way, when Thomas Christie speaks of this, he talks about the places for the best chance of intercepting missiles, where we think they might come in. Where is that? Alaska. Weather conditions in Alaska are not necessarily the best. We have to test these missiles under conditions where there would be several feet of snow or ice on top of the missile silo, the lid that has to be blown off for the ground-based missile interceptor to be shot off. That is why we have to have missiles precisely in the place where they can be tested under these operational conditions. That is precisely why we have to, A, authorize and, B, fund this group of 10 missiles which will be part of the test bed.

Now, the fact that they may also have the capability in an extreme emergency of actually shooting down a hostile missile should not be a bad thing. If, God forbid, a hostile country should challenge us and either mistakenly launch a missile at us or intentionally do so against us, wouldn't it be nice to have the missile in the silo to shoot it down with? I fear some opponents—certainly not anybody on the Senate floor—would say you cannot do that because we have not certified yet that it is an operational system.

In the 1991 gulf war, for example, when we had an air defense system called Patriot and Saddam Hussein began sending Scud missiles at our troops in Saudi Arabia and Kuwait, we actually sent that air defense system to Saudi Arabia, doing some fixes to it on the way over, and we put it on the ground. As the Scuds were launched, we fired Patriot missiles at them. We didn't hit them all, but I think we hit something like about a third of the Scud missiles.

That system wasn't designed to shoot down missiles. It had never been operationally tested and hadn't been certified for deployment, but in an emergency we needed it. We have done that with other systems, such as JSTARS and some of our unmanned aerial vehicles. There are some other programs we can talk about that we didn't ''fly before we buy'' with those systems. We had them in a developmental process, and all of a sudden we needed them and we used them. Thank God, they were there to be used.

So even if we had to use one of these missiles in an emergency, God forbid, would anybody object to us doing that? Would we have to say, wait a minute, we don't have the certification called for in the Boxer amendment yet? Sorry, we cannot defend ourselves.

I think not. It is an unrealistic requirement. More importantly, it is a requirement that even the head of the group that we have set up, the Director of the Operational Test and Evaluation Office, has said is unnecessary.

We need to move forward in building these missiles so we can put them in the silos and conduct the operational tests that we all agree need to be conducted.

I note that our colleague from California said she has always voted for research. I accept her word on that. But part of the problem for missile defense is that a lot of us vote for research, but when it comes to bending the metal, actually building the system and putting it into the ground, that is when people say we need to slow up, we have not done enough testing, we are not sure it will work against everything. So we have spent an awful lot of money on missile defense and, frankly, a lot of research, but we have not been able to put something into the ground.

President Bush said, when he came into office, we are going to put something into the ground that will work. We may have to let it evolve as it moves forward, and we will make changes as we learn more and more. But that is all right. At least we have an initial capability that might work, God forbid, should somebody accidentally launch something against us, or even do so intentionally. I look at our weapons systems, such as the F–16s that are tested at Luke Air Force Base in Arizona. I am not sure which version of the F–16 we are flying now, but it is not the A, B, C, or D. We build systems and we keep improving them. We evolve in our technology and keep putting that new technology into the systems.

That is precisely what we have decided to do with missile defense, rather than trying to come up with the perfect system that will defeat any kind of offensive system against us. We understand we need to start with something that will be rudimentary and at least will deal with a threat coming from a country like—let's say North Korea, and it may not work against one of the old Soviet systems, for example. But as we get better, we will include those new technologies into these systems, improve them; so as our adversaries develop systems, we will be one step ahead of them.

Finally, part of the purpose of this is deterrence. It is not just to be able to defeat a missile that might be thrown against us. The message we want to send to North Korea, Iran, and other countries is the same one we sent to Soviet Union, which it heard loudly and clearly. It was the message President Reagan sent: We have the economy to outspend you, out-research you, out-build you, and we are going to build a missile defense that will defeat you. Why go to the trouble, since you cannot afford to do it, of trying to build an offensive system that we can defeat? That is the message we want to send to these potential enemies. We can deploy a system and we will always be able to have a system that will defeat what you throw against us. Why take the time and trouble to develop that kind of system? It has a deterrent effect as well.

We need to move forward with this system and defeat the Boxer amendment. Both Chairman WARNER and the Senator from Colorado, Senator ALLARD, are precisely correct in their opposition to this amendment.

Mr. ALLARD. I thank the Senator for his statement. I recognize in a public way his great work on this particular issue, and his comments are very enlightening.

I will yield myself 6 minutes.

I rise in strong opposition to the Boxer amendment. Today, we face a clear threat from long-range missiles in North Korea. Iran has made no secret of its intent to develop long-range missiles. We may have to deal with that threat in the not-too-distant future. That is the truth.

Consequently, I have great concern about this amendment, which seems relatively straightforward but it is potentially devastating to the effort to defend our Nation from long-range missile threats. I say ''seems straightforward'' because I can actually read this amendment three different ways. None of these readings seem useful to the defense of this country.

If I focus on mission, I would note that Admiral James Ellis, Commander of Strategic Command, has testified to our committee that the ground-based midcourse element of the ballistic missile defense system enhances deterrence and provides him a militarily useful capability. On that basis, perhaps the Secretary could provide the certification required by the amendment, even at this stage of the testing. I don't believe that is what the Senator from California has in mind.

If I focus on operations, I might read this amendment to say we can deploy all we want, but we cannot use what we deployed operationally. Taken literally, that would mean if North Korea or some other nation would launch a missile at us, we would be forbidden by law from trying to defend ourselves. I don't believe that is what the Senator has in mind either. Of course, to be able to try to intercept such a missile, the ground-based midcourse element would have to be on alert and operationally ready. This is precisely why Admiral Ellis strongly supports taking advantage of the operational capabilities of the missile defense test bed.

That brings us to the third reading focusing on deployment. If I read the amendment correctly, it would impose a prohibition on any deployment of defenses against long-range ballistic missiles. Any additional deployment would be prohibited until the Secretary of Defense certifies that operationally realistic testing has demonstrated that the ground-based midcourse defense element can perform its mission.

If that is the Senator's intent, as I read this, if this amendment were to become law at the beginning of the new fiscal year, no further fielding of ground-based midcourse interceptors, radars, battle management facilities, command and control facilities, or communications assets would be permitted. These are the components of the BMD test bed on which the initial defense capability of the GMD element are based.

This has the potential to cause extraordinary harm to the GMD effort by disrupting ongoing efforts to acquire assets for the BMD test bed, including all of the assets I just mentioned. Recovering from this disruption, depending on how long fielding of capabilities were to be suspended, could take years and cost hundreds of millions of dollars. But beyond that, as a consequence of this disruption, and the consequent harm to the BMD test bed, it is not clear to me at all how the Missile Defense Agency could achieve the operationally realistic testing that all of us support.

Furthermore, I believe this amendment fails to grasp the essentials of how the Department of Defense and the Missile Defense Agency are attempting to field missile defenses as effectively and expeditiously as possible.

The ballistic missile defense program is a spiral development effort. That means, in essence, develop missile defenses and field those defenses if the warfighter believes the capability has military utility without necessarily waiting for the 100-percent solution. Further development then allows those defenses to be improved in subsequent spirals.

This amendment does not seem to take account of this spiral development, that the ground midcourse defense system element will be able to perform at a certain level early in its fielding and will improve in its capabilities over time or that continued testing will demonstrate new capabilities as they are developed. Testing, which already incorporates operational goals and some measure of operational realism, gets more realistic and more rigorous with time.

This method of development, testing, and fielding does not seem to me to be compatible with the one-time certification by the Secretary. We all support operationally realistic testing, but banning deployment until a certification appears to me to be self-defeating.

I urge my colleagues to join me in opposing this amendment.

I would like to bring to the attention of my colleagues a quote by Christie, who is the Director of the Operational Test and Evaluation Program:

> I continue to strongly support the construction and integration of the BMDS test bed. This test bed will provide the elements that make up the initial defense operations or. . . .

the architecture of the missile defense system.

Who is this director? He is the chief tester. This is what the chief tester himself is saying about how important it is that we move forward with spiral development where we can operationally show in a test bed the dual capability.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator has used 6 minutes.

Mr. ALLARD. Mr. President, I yield the floor and yield—how much time does the Senator from Alabama wish?

Mr. SESSIONS. Five minutes.

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

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

Mr. SESSIONS. Mr. President, I thank Senator ALLARD for his great leadership on the issue of national missile defense, space technology, and all the related issues. We are fortunate to have him as chairman of the Strategic Forces Subcommittee. He understands the issue. He has been dealing with it for many years. He studied it and brought his scientific background to the issue. I agree with him, and I also very much agree with the comments of our distinguished Senator JON KYL from Arizona, who also has studied this issue for many years.

We voted back when President Clinton was President, and he signed the bill to deploy a national missile defense system as soon as technologically feasible. It was an amendment, I recall, by Senator THAD COCHRAN and Senator JOE LIEBERMAN. It passed by a very large vote, and we made a commitment to do that. There was a lot of debate about it then.

I think some people still are somewhat motivated by their criticism of President Reagan's Star Wars maybe; that this would not work; it could not work. They just did not like it. But we voted on it after a national commission had reported unanimously that we needed to have this defense. Overwhelmingly the Senators voted for it. Since then, there has been a steadfast effort to slow, delay, and undermine the actual deployment of this system.

We are now on the move to deploy this system in September in Alaska, to put, I believe, five missiles in the ground, and this will give us the ability to conduct realistic testing, the kind of testing that can actually deal with the realistic conditions around the world, our radar systems, our interceptor systems, the nature of the launch facilities in Alaska, which is the perfect place, people have convinced us, to deploy a system and cover all the United States. It will protect us now. It has military capability to protect this country when deployed.

It also could, in addition to perhaps a threat from a nation such as North Korea that actually rattled its missiles a number of times and are working steadfastly to improve their missile system, help us deal with an accidental launch from a country that has a missile defense program. It would give us the ability to have protection today for the entire United States. That is what we committed to do.

We voted to begin this deployment in September, and General Kadish and his entire team, General Holly and others, have worked so hard to prove the feasibility of this system. A bullet can meet a bullet. We have done it. We know it will work. Now we need to set up an operational system, a very realistic system, deploy these missiles, and continue to test them. We will learn to make them even better to deal with some of the problems we have not anticipated today from this deployment and the testing that can occur there.

We are doing this as part of the spiral development, the idea that when you are developing a new system such as this, it is not possible to anticipate everything that may occur, every challenge that may be out there, and as we learn, we continue to improve the system.

We in Congress in the past have made mistakes sometimes about mandating a new weapon system, a new production, and then demand it meet 10 characteristics, when we may find, as we go along in the development of it, if we drop off 1 of those characteristics and keep 9 of them, we have even more capability and a better system. We are giving them some freedom to deploy and test as they go.

I believe we are well on the way under Senator ALLARD's leadership and Senator WARNER, the chairman of our committee, to deal with any scientific difficulties that have come up in the past.

I thank the Chair for recognizing me to speak on this issue. I join with Chairman WARNER and Chairman ALLARD in urging defeat of the amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the pending amendment would prevent deployment of the missile defense system before that missile defense system is shown to be workable by operationally realistic testing. That is what we are supposed to do around here. This is nothing new. What is new is the deployment of a system before it has been realistically tested and operationally tested with no plans to ever test the system.

There are a couple of examples where we have deployed systems, but we have never deployed a system without a plan to at least operationally test at some point. There are no such plans here. It violates the spirit and, in one case, the letter of the law relative to testing and relative to ''fly before you buy.''

These laws are intended to prevent the purchase and deployment to the field of billions of dollars in military equipment prior to it being adequately tested. What we have heard on the floor is a giant rationalization for deploying a system which may or may not work. We have been told this morning that we have to deploy in Alaska because that is where the operational testing is going to take place. How can there be operational testing unless these missiles are put in the ground?

The problem is, that is not accurate. There is not going to be flight testing of these missiles from Alaska. That is not just me saying that; this is what the Department of Defense has told us. I will quote from the DOT&E fiscal year 2003 annual report:

> Due to safety considerations, no tests are currently planned to launch interceptors from the operational missile fields.

I am going to repeat it:

Due to safety considerations, no tests are currently planned to launch interceptors from the operational missile fields.

So these missiles are not going to be put in Alaska in order to have some place from which to operationally test a missile. It is not going to happen.

Mrs. BOXER. Will the Senator yield for a question on that point?

Mr. LEVIN. I would be happy to yield.

Mrs. BOXER. So when Senator WARNER says essentially we need to go ahead because we are going to test this once they are deployed, what I hear my colleague saying the Pentagon told him, and they put it in writing, is because of safety concerns there will be no operational testing at those sites; is that correct?

Mr. LEVIN. At these sites, they are not going to be fired. So you want to deploy before you test. Do not deploy because you think that is where you are going to be testing from. We are not. That is according to the Department of Defense.

Now another reason we are given is that will work against the real North Korean missile threat. That is what we are told. Yet on March 11, the Pentagon's own chief tester, Tom Christie, testified in front of the Armed Services Committee and Senator JACK REED asked him whether it was true that at this time we cannot be sure the actual missile defense system would work against a real North Korean missile threat, to which Mr. Christie replied, ''I would say that's true.''

Now, there are good arguments to test a missile defense system which will work. It seems to me to say that a missile defense system which may or may not work, which we have not tested operationally or realistically, is a deterrent against some potential threat, is totally inaccurate as well. It is wishful thinking. Something is not deterred with a system which may not work. There is testing to get a system which does work and then deterrence may be possible, because if there is going to be a missile attack against us, we always have to remember that the people who would shoot at us, No. 1, would destroy themselves, not us. They may or may not destroy us depending on how accurate the missile is, but they would destroy themselves because the retaliation would be swift, clear, certain, and massive. That is the deterrent that works and has always worked in the area of missiles.

Nonetheless, if one wants a defense against such an attack, if they do not think they can deter an attack by the certainty of massive retaliation, if they think some country is going to shoot a missile at us even though it will lead to their own destruction, then the value of that system would be ''if it works.'' But no operational testing here.

Senator BOXER's amendment would prevent deployment of the administration's national missile defense before the capabilities of the system have been confirmed by operationally realistic testing. This amendment does exactly the right thing. The administration currently plans to deploy a national missile defense before the capabilities of the system have been confirmed by operationally realistic testing. This violates the entire spirit, if not the letter, of the ''fly-before-you-buy'' laws, because these laws are intended to prevent the purchase and deployment to the field of billions of dollars of military equipment prior to it being adequately tested to show that it would work in actual combat.

Sometime in September of this year, the Bush administration will declare a national missile defense system deployed and operational, probably with much fanfare. However, the system has never been realistically tested, against targets that actually look like an enemy missile. Instead, the targets have had beacons on them, telling the national missile defense where they are, instead of using the national missile defense radars to do that. An enemy missile will not have a beacon on it. Yet, the DoD has never yet tested this system without the target having one. Nor has the system been tested against targets that look like a threat missile might look, with the simple countermeasures that any ICBM-capable country would almost certainly have.

The Pentagon's chief test official, who is required by law to independently oversee and approve all operational testing of major weapon systems, has not been given any authority over the missile defense test plans. This chief test official is the only true independent judge of the Pentagon's weapon system. The law established his position to ensure that political or other pressures did not result in a weapon system being deployed before it was ready. But the Bush administration has consistently tried to marginalize the role of the Pentagon's test official in missile defense.

The result is that the testing for the national missile defense system has remained unrealistically simple. The tests have been designed to ensure test success, and ''rack up the score,'' not to ensure the system actually works in wartime. Despite the artificial simplicity of the tests, the last major test of the system was a failure. That was back in December of 2002, and the DoD has not conducted another such test in the 18 months since then. This long delay has been due to a number of developmental problems with the system's interceptors. The Pentagon still has not fixed the developmental problems with the system, which is why the next test, originally scheduled for March, has been delayed by 4 months. Yet despite these continuing problems, test failures, and the substantial delays, the administration still plans to deploy the system in September, as it has for more than a year. This is putting perceived political advantages of a Presidential election-year before technical reality, and fiscal responsibility.

Senator BOXER's amendment would require realistic operational tests, under the control of the Pentagon's chief tester, prior to deployment of a national missile defense. I support Senator BOXER's amendment, which would put common sense ahead of missile defense politics, and would reinforce the intent of existing ''fly-before-you-buy'' laws which protect men and women in uniform, the taxpayer, and our national security. I urge others to support this amendment as well.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. ALLARD. My colleague said all we have to have is mutually assured deterrence. That is a policy out of the cold war: Blow me up and I am going to blow you up. We are past that in this day and age. We are dealing with leaders in other countries who do not care, and that is where our threat is coming from, it is coming from countries such as Iran and North Korea. We need to figure out a new system, and we need to get it in place as quickly as we possibly can to make sure we can continue to provide the security to this country that the American people expect. The missile defense system is the answer.

We are talking about a test bed that is overlapping with an operational capability, and anything we do to delay the operational capability, we delay testing. When testing is delayed, the cost of the program is run up and the program is delayed out. Then pretty soon there are cost overruns and then the opposition says, well, we cannot move forward because of all of these delays and cost overruns.

The fact is, we are on schedule. We expect to get these missiles in the ground this fall, and we are going to begin to have a system in place where we can defend this country from an unexpected missile attack that may occur out of North Korea or Iran.

Mr. Christie, who I had quoted earlier, in simple terms, was our chief tester, and he states that the test bed is necessary for evolution improvement to the ballistic missile defense system, and that the challenge is to do testing in a manner that will improve the system while supporting an operational system.

Stating something Mr. Christie said from his recent testimony to the full committee, he says that fielding the test bed provides an opportunity to gather operational data on system performance, safety, survivability, availability, and maintainability. We should expect these data to drive system enhancements. The challenge will be in achieving a defensive posture that is flexible enough to accommodate the necessary changes to hardware, software, and processes that will be necessary to maintain a highly available

ballistic missile defense system, while supporting a comprehensive testing program that is designed to mature, improve, and demonstrate mission capabilities through continued development.

Mr. Christie believes the Missile Defense Agency test program is a strong one, and that it is working. Unnecessary delays are unnecessary. We simply cannot tolerate those. This issue is too important to the security of this country. So I am asking that my colleagues join me in opposing the Boxer amendment. This is a devastating amendment. It is creating all sorts of problems as far as the defense of this country is concerned, and it is going to severely hinder what we are trying to do with ballistic missile defense.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, is there any time for me to rebut some of what was said?

The PRESIDING OFFICER. The Senator from California has 1 minute 20 seconds remaining; the Senator from Colorado has 8 minutes 20 seconds remaining.

Mrs. BOXER. Mr. President, I will take this time to rebut some of what has been said.

The amendment I am offering with Senator LEVIN does not cut one slim dime from the National Missile Defense Program. All it says is, let us make sure the system works before we expend $3.7 billion to deploy it. How people can say that is devastating is beyond belief.

If one wants to talk about devastating, devastating is investing money in something that will not work when it is needed. Devastating is something where the people of this country are told they are protected when they are not because the agency that was set up to test this is not in charge of the operational testing.

The opponents to this amendment also say something else over and over again: It is important we deploy these. Then we will test.

The fact is, the Pentagon themselves—and I ask unanimous consent to have printed in the RECORD this Pentagon report in which they say:

Due to safety considerations, no tests are currently planned to launch interceptors from the operational missile fields.

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

[From the Director, Operational Test and Evaluation]

FY 2003 ANNUAL REPORT

DOD PROGRAMS, ARMY PROGRAMS, NAVY AND MARINE CORPS PROGRAMS, AND AIR FORCE PROGRAMS

Ground-Based Midcourse Defense (GMD)

The Ground-based Midcourse Defense (GMD) element is an integrated collection of components that perform dedicated functions during an ICBM engagement. As planned, the GMD element includes the following components:

GMD Fire Control and Communications. The communications network links the entire element architecture via fiber optic links and satellite communications. For IDO, all fire control will be conducted within the GMD element.

Long-range sensors, including the Upgraded Early Warning Radar, the COBRADANE radar, and the Ground-Based Radar Prototype. In December 2005, a sea-based X-band (SBX) radar is to be incorporated.

Ground Based Interceptors and emplacements, consisting of a silo-based ICBM-class booster motor stack and the Exoatmospheric Kill Vehicle (EKV). The plan for the 2004 Test Bed plan places six Ground Based Interceptors at Fort Greely, Alaska, and four at Vandenberg Air Force Base, California. In 2005, plans are to place ten more at Fort Greely.

GMD soon plans to interface with other BMDS elements and existing operational systems through external system interfaces. Through FY06, these plans include GMD interfacing with the Aegis SPY–1B radars and satellite-based sensors and communications.

To date, the GMD program has demonstrated the technical feasibility of hit-to-kill negation of simple target complexes in a limited set of engagement conditions. The GMD test program in FY03 was hindered by a lack of production representative test articles and from test infrastructure limitations. Delays in production and testing of the two objective booster designs have put tremendous pressure on the test schedule immediately prior to fielding. The most significant test and infrastructure limitations and mitigation plans are described in the table below.

MAJOR GMD TEST LIMITATIONS AND MDA MITIGATION PLANS

Limitation	Comments	MDA mitigation plan
Lack of a deployable boost vehicle	The Orbital booster has been tested in developmental flight tests without attempted intercepts. The Lockheed booster testing has slipped such that it may not be available for IDO.	MDA is proceeding with deployment plans emphasizing the Orbital booster. Testing will continue with both designs as Lockheed booster production resumes.
Lack of a realistically placed midcourse sensor	The GMD test radar is collected at the interceptor launch site. The FPQ–14 radar, a non-deployable asset that tracks a transmitter attached to the test target, currently accomplishes the midcourse tracking and discrimination functions.	GMD is developing a mobile, sea-based radar. The scheduled employment of this radar in the GMD Test Bed occurs in the post-2005 time frame.
Fixed intercept point	All of the flight tests to date have had similar flyout and engagement parameters. This limitation includes range constraints and a requirement not to create space debris.	The 2004 Test Bed expands the flyout range and engagement conditions. Space debris creation remains a problem.[a] Transitioning between testing and operations is a concern.

[a] These factors constrain test engagements to relatively low target intercept altitudes and downward directed velocities for both the target and interceptor.

Intercept Flight Test–9 (IFT–9) took place on October 14, 2002, resulting in a successful intercept. The target suite consisted of a mock warhead and a number of decoys launched from the Vandenberg Air Force Base, California, towards the Reagan Test Site. IFT–9 (largely a replay of IFT–8) was designed to increase confidence in the GMD capability to execute hit-to-kill intercepts. Overall, the test execution was nominal although the EKV experienced the track gate anomaly previously observed in IFT–7 and IFT–8. The software changes incorporated in IFT–9 to mitigate this problem were not successful. Further changes were made prior to IFT–10.

In December 2002, GMD attempted a night intercept in IFT–10. In this test, the EKV failed to separate from the surrogate boost vehicle and therefore the ability to intercept the target could not be tested. The failure to separate was attributed to a quality control failure combined with shock and vibration loads on the EKV. As a result, corrective measures taken to fix the track gate anomaly found in previous tests could not be used.

GMD suspended intercept flight testing after the EKV failed to separate from the surrogate booster in IFT–10. IFT–11 and IFT–12 that employed the problematic surrogate booster were eliminated from the schedule. This decision was reasonable given the increased risk of surrogate boost vehicle failure, the resources that would have to be diverted from tactical booster development to fix the problems, and the limited amount of additional information to be gained in IFT–11 and IFT–12 over that available from previous flight tests. It does, however, leave very limited time for demonstration of boost vehicle performance, integration of the boost vehicle to the new, upgraded EKV, and demonstration of integrated boost vehicle/interceptor performance. IFT–13A and IFT–13B remain in the schedule as non-intercept flight tests to confirm booster integration and performance. IFT–13C was added to the schedule and represents a significant exercise of the Test Bed infrastructure. It will be the first system-level flight test to use the Kodiak, Alaska, facility to launch a target missile. While it is not a planned intercept attempt, it will fully exercise the system and may result in an intercept. IFT–13C also addresses a long-standing concern over target presentation that has not yet been tested. IFT–14 and IFT–15 are the next official intercept attempts and are scheduled for May 2004 and July 2004, respectively.

The Orbital Sciences Corporation booster was successfully tested with a mock EKV on August 16, 2003. Shock and vibration environments were measured and compared to previous test levels. Preliminary analyses suggest that the new booster produces lower than expected vibrations at the EKV. Performance of the real EKV mated with the Orbital booster will be demonstrated in IFT–14 prior to IDO. Similar demonstration flights for the Lockheed Martin booster design are slipping due to technical difficulties and several explosions at the missile propellant mixing facility. Silos and related construction projects at Fort Greely, Alaska; Kodiak, Alaska; and Vandenberg Air Force Base, California, are proceeding on schedule. Due to safety considerations, no tests are currently planned to launch interceptors from the operational missile fields.

To date, EKV discrimination and homing have been demonstrated against simple target complexes in a limited set of engagement conditions. Demonstrations of EKV performance are needed at higher closing velocities and against targets with signatures, countermeasures, and flight dynamics more closely matching the projected threat. In addition, system discrimination performance against target suites for which there is imperfect a

prior knowledge remains uncertain. GMD is developing a SBX radar mounted on a semi-submersible platform. The SBX radar, scheduled for incorporation into the GMD element in December 2005, is designed to be a more capable and flexible midcourse sensor for supporting GMD engagements. This radar will improve the operational realism of the flight test program by providing a moveable mid-course sensor.

A flight demonstration of the BMDS capability using Aegis SPY–1B data (particularly for defense of Hawaii) is planned for IFT–15 in FY04. A flight demonstration of COBRADANE is currently not planned, and its capability will need to be demonstrated by other means until an air-launched target is developed. IFT–14 and IFT–15, scheduled for FY04, are intended to provide demonstrations of integrated boost vehicle/EKV performance. Even with successful intercepts in both of these attempts, the small number of tests would limit confidence in the integrated interceptor performance.

Mrs. BOXER. Here we have a situation where you have an amendment that does not cut any money from this, that just says fly before you buy. I hope my colleagues will approve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I know we are under a time agreement. I ask unanimous consent for a couple of minutes to report on what is happening with the bill so far. I was asked this morning to give a report on this. I would like to do that.

Mr. ALLARD. Would you repeat your request?

Mr. REID. I would like a couple of minutes to give the Senate a report on what we have done on the bill so far, the number of amendments and such.

Mr. ALLARD. On the Defense authorization bill? We have no objection.

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

Mr. REID. Mr. President, we have been on this bill 12 days counting today, but 4 of those days are our famous—or infamous, however you look at it—Mondays and Fridays. So actually we spent 8 days on this bill. When we dispose of this amendment, the Boxer amendment, we will have disposed of 79 amendments. During this period of time, counting the Boxer amendment, we will have had 12 roll-call votes.

For a Defense authorization bill, we have not spent an inordinate amount of time on it. We have not spent very much time at all. There have been very few quorum calls. The quorum calls we had this week have been most productive. We have been able to work out the problem dealing with the South Carolina situation, as the Presiding Officer knows. We were able to work out various other problems with the quorum calls we had. Even having had quorum calls, they were very short. So I think we have accomplished quite a bit in a very short period of time on this bill.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I would like to call on the Senator from Mississippi and yield him 3 minutes to comment on the Boxer amendment. I want to recognize, in a public way, that he is the one who carried the initial amendments on the missile defense system that said we move forward when technologically feasible and he has been a real leader in the defense of this country.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COCHRAN. I thank the distinguished Senator from Colorado for yielding to me. I also thank him for his leadership on this issue in the Armed Services Committee. He has been a key proponent and a very persuasive supporter of the National Missile Defense Program and missile defense generally.

This amendment would undermine the ability of our Department of Defense to go forward in the deployment and protection of our country through the use of ballistic missile technology and capabilities. These capabilities have been developed in response to legislation that was approved by the Congress and signed by the Chief Executive to develop a missile defense capability that could defend the United States against missile attack.

We have made great progress since those initial authorizations were approved by the Congress. We are now in a position of actually deploying a system that is workable. The testimony of General Kadish before our Appropriations Committee and before the Armed Services Committee has clearly indicated the successful progress of this program to date. We should continue to support it and we should defeat this Boxer amendment.

Mr. ALLARD. Mr. President, I would like to know what time remains on the Boxer amendment.

The PRESIDING OFFICER. There is 6 minutes 50 seconds.

Mr. ALLARD. On our side. How about the other side?

The PRESIDING OFFICER. All time has expired, other than the 2 minutes preceding the vote.

Mr. ALLARD. Mr. President, I would like to yield myself 2 minutes. I would like to make a couple of summary comments.

First, technologically we are ready to move ahead. The various components of this missile defense system have been shown to be functional and scientifically can happen. What needs to be established is all the communications systems that run from California to Alaska to Colorado, to some of our space satellites, to some of our ships at sea, to the Hawaiian Islands, to the Kwajalein Islands, over thousands and thousands of miles, that they can communicate with one another.

There is only one way to do that. You have to put together a large test bed. This test bed happens to also be the same thing we would use to operationally defend ourselves. To not continue on a dual pathway does not make any sense at all. That is why it is so very important that we defeat this Boxer amendment.

Mr. Christie, who is the tester, is the one who has been following this. It has been stated time and time again that he is satisfied with the progress, the way we are moving forward. He is the expert. He says: You are doing a good job. Keep it up. I am satisfied. I am responsible and accountable for how this program has gone ahead. He has been before the committee and made that statement.

It is very important that we defeat this Boxer amendment. I ask my colleagues to join me.

I think the chairman has a concern or two he wants to raise. I yield the floor.

Mr. WARNER. Mr. President, I wish to advise Senators, Senator LEVIN and I have conferred. We have the next amendment following this vote to be provided by the Senator from Rhode Island, Mr. REED, No. 3354. I reserve the right to put on a second-degree amendment. As soon as we provide the second-degree amendment to the other side, it is my expectation, during the course of the deliberations, we will be able to work out a time agreement.

Mr. LEVIN. Hopefully, we can work out a time agreement after we see the second-degree amendment.

Mr. WARNER. That is correct. There is no restriction. Offer the amendment.

Mr. LEVIN. And the second-degree amendment is not available at this point?

Mr. WARNER. It momentarily will be available. I think we can yield back all time. I didn't know whether the Senator wanted another minute to speak to the amendment. Did she ask for it?

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. I thank the Senator.

I think we have had a good debate. I am just saying to colleagues, these are the names of retired admirals and generals you all admire. They are saying we have to delay this deployment because we have no idea that this system works.

To my colleagues who said let's deploy it and then test it, the Pentagon in its own words has said they can't do it. It is not safe. Here it is. They say:

Due to safety considerations, no tests are currently planned to launch interceptors from the operational missile fields.

So the Pentagon has said very clearly—and good for them because it would be too dangerous—they are not going to operationally test from the missile fields. So what are we doing? We are investing $3.7 billion out of the $10 billion to move forward with a system that is untested.

For those people who say this is a devastating amendment, why do they support ''fly before you buy,'' which is the way we do things around here? This is a way to get around realistic testing. That doesn't make us any safer; it makes us weaker. It makes us vulnerable.

So I hope you will stand with these 49 generals and admirals and Senator

LEVIN and me and vote for the Boxer-Levin amendment.

The PRESIDING OFFICER. There is 1 minute remaining.

Mr. WARNER. I say to our colleagues, this issue was acted upon last year. Money was authorized and appropriated. The program is underway. The effect of this amendment is to cancel what the Congress did last year.

I yield the remainder of our time. I think a vote is now in order.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The clerk will call the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—42

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

NAYS—57

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

NOT VOTING—1

Kerry

The amendment (No. 3368) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we have advised the Senate that the Senator from Rhode Island, Mr. REED, will have an amendment.

Mr. President, if the Senator is ready to send his amendment to the desk, then I would like to send up a second-degree amendment, and we will proceed.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. Yes.

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

AMENDMENT NO. 3354

Mr. REED. Mr. President, I call up amendment No. 3354.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 3354.

Mr. REED. 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 baselines for and testing of block configurations of the Ballistic Missile Defense System)

On page 33, after line 25, insert the following:

SEC. 224. BASELINES AND OPERATIONAL TEST AND EVALUATION FOR BALLISTIC MISSILE DEFENSE SYSTEM.

(a) OPERATIONAL TESTS.—(1) The Director of the Missile Defense Agency shall prepare for and conduct, on an independent basis, operationally realistic tests of each block configuration of the Ballistic Missile Defense System being fielded.

(2) The tests shall be designed to permit the evaluation of each block configuration of the Ballistic Missile Defense System being fielded by the Director of Operational Test and Evaluation.

(3) The Director of the Missile Defense Agency shall carry out tests under paragraph (1) through an independent agent, assigned by the Director for such purpose, who shall plan and manage such tests.

(b) APPROVAL OF PLANS FOR TESTS.—The Secretary of Defense shall assign the Director of Operational Test and Evaluation the responsibility for approving each plan for tests developed under subsection (a).

(c) EVALUATION.—(1) The Director of Operational Test and Evaluation shall evaluate the results of each test conducted under subsection (a) as soon as practicable after the completion of such test.

(2) The Director shall submit to the Secretary of Defense and the congressional defense committees a report on the evaluation of each test conducted under subsection (a) upon completion of the evaluation of such test under paragraph (1).

(d) COST, SCHEDULE, AND PERFORMANCE BASELINES.—(1) The Director of the Missile Defense Agency shall establish cost, schedule, and performance baselines for each block configuration of the Ballistic Missile Defense System being fielded. The cost baseline for a block configuration shall include full life cycle costs for the block configuration.

(2) The Director shall include the baselines established under paragraph (1) in the first Selected Acquisition Report for the Ballistic Missile Defense System that is submitted to Congress under section 2432 of title 10, United States Code, after the establishment of such baselines.

(3) The Director shall also include in the Selected Acquisition Report submitted to Congress under paragraph (2) the significant assumptions used in determining the performance baseline under paragraph (1), including any assumptions regarding threat missile countermeasures and decoys.

(e) VARIATIONS AGAINST BASELINES.—In the event the cost, schedule, or performance of any block configuration of the Ballistic Missile Defense System varies significantly (as determined by the Director of the Ballistic Missile Defense Agency) from the applicable baseline established under subsection (d), the Director shall include such variation, and the reasons for such variation, in the Selected Acquisition Report submitted to Congress under section 2432 of title 10, United States Code.

(f) MODIFICATIONS OF BASELINES.—In the event the Director of the Missile Defense Agency elects to undertake any modification of a baseline established under subsection (d), the Director shall submit to the congressional defense committees a report setting forth the reasons for such modification.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3453 TO AMENDMENT NO. 3354

Mr. WARNER. Mr. President, at this time I send an amendment to the desk in the second degree to the pending amendment.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3453 to amendment No. 3354.

The amendment is as follows:

(Purpose: To require the Secretary of Defense to prescribe and apply criteria for operationally realistic testing of fieldable prototypes developed under ballistic missile defense program)

In the matter proposed to be inserted, strike subsections (a) and (b) and insert the following:

(a) TESTING CRITERIA.—Not later than February 1, 2005, the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, shall prescribe appropriate criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program. The Secretary shall submit a copy of the prescribed criteria to the congressional defense committees.

(b) USE OF CRITERIA.—(1) The Secretary of Defense shall ensure that, not later than October 1, 2005, a test of the ballistic missile defense system is conducted consistent with the criteria prescribed under subsection (a).

(2) The Secretary of Defense shall ensure that each block configuration of the ballistic missile defense system is tested consistent with the criteria prescribed under subsection (a).

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to exempt any spiral development program of the Department of Defense, after completion of the spiral development, from the applicability of any provision of chapter 144 of title 10, United States Code, or section 139, 181, 2366, 2399, or 2400 of such title in accordance with the terms and conditions of such provision.

Mr. WARNER. Mr. President, we would be happy, on this side, to work out a time agreement as soon as the Senator from Rhode Island is able to indicate to us the amount of time he desires. We will quickly respond as to the amount of time we would desire.

Mr. REED. Mr. President, I think if I could have an hour on my side.

Mr. WARNER. I say to the Senator, an entire hour on your side?

Mr. REED. I would not attempt to simply fill the hour. I would yield back time if we have reached a point where we have sufficiently discussed it.

Mr. WARNER. Mr. President, I would request we have an hour on this side, with the expectation we will be able to yield time back.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor and makes a unanimous consent request.

Mr. WARNER. Mr. President, I am happy to yield to the Senator for purposes of a statement.

The PRESIDING OFFICER. Does the Senator from Michigan wish to be recognized?

Mr. LEVIN. I thank the Chair.

Mr. President, the suggestion of an hour on this side relative to the Reed amendment, would that include the proposed time for the second-degree amendment to be offered by Senator WARNER? Does the hour that you have estimated you would need include time for debate on the Warner second degree?

The next question is this: If the Warner second-degree amendment prevails, which is a substitute, then the question is, Would the hour that you are referring to, then—without seeing, knowing exactly what would be in the second-degree amendment that would be offered—cover the debate time for your second-degree amendment to the substitute?

Mr. REED. If I may respond, it would be appropriate if we took an hour debating both the Reed first degree and the Warner second degree. At the conclusion of a vote on the Warner second-degree amendment, then there would be no time agreement entered into. It would be my intention to offer——

Mr. LEVIN. If that substitute were adopted——

Mr. REID. Could I be recognized? Would anybody be insulted if I asked for a quorum call?

Mr. WARNER. No.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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, we are moving along in a very cooperative spirit. We are going to ask for a time agreement on the Reed amendment and the Warner second-degree amendment as a package. They will be considered in the course of 2 hours, hopefully less. At the conclusion of the debate on these two amendments, we will then proceed to a record vote on the Warner amendment. In the event the Warner amendment prevails, then the Chair would recognize the Senator from Rhode Island for the purpose of a perfecting amendment, which he has a right to do under the rules, but in order to keep the sequence moving, I would like to advise the Senate that it would be done in that way. At this time, until we see the perfecting amendment, we cannot set a time agreement on that. But it would be my hope that we can move along expeditiously, first by crunching the 2 hours to less, moving to a vote, and then the perfecting amendment and concluding, hopefully, a brief colloquy, debate on that, and vote, if that becomes necessary. Have I correctly stated it?

Mr. REID. Mr. President, of course, there would be no amendments in order to either of the amendments, the one of Senator REED or your second degree.

Mr. WARNER. That is correct. But there would be in order an amendment to the perfecting amendment.

Mr. REID. I understand that. I have no objection to that. We have no objection to that.

The PRESIDING OFFICER. So the Chair gets it straight, if the Senator from Virginia could clarify, this is a request for a 2-hour time agreement on the second-degree amendment?

Mr. WARNER. Let me try that again. We have before the Senate at this time the underlying Reed amendment. We have the Warner amendment in the second degree. We ask for an hour on each. At the conclusion of that period of time, which I hope will be less than 2 hours, the Senate would proceed to a record vote on the Warner amendment. I am asking for the yeas and nays incorporated in this. After that is taken, the Chair would then recognize the Senator from Rhode Island for the purpose presumably of offering a perfecting amendment.

Mr. REID. Mr. President, however, if the Warner amendment does not pass, then we would vote on the underlying Reed amendment.

Mr. WARNER. The Senator is correct.

Mr. LEVIN. Immediately.

Mr. WARNER. Immediately.

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

The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that following the votes or vote, whatever the case may be, there will be probably a number of judges we might be called to vote on. My point is at around 3 or thereabouts, there could be a series of as many as four or five votes.

Mr. WARNER. That is a leadership request, I so advise the Democratic whip.

Mr. REID. It is not a unanimous consent request.

Mr. WARNER. It is just an advisory for Senators. But I understand that my leader will be making that request.

The PRESIDING OFFICER. The Senator from Virginia asked for the yeas and nays on the second-degree amendment; is that correct?

Mr. WARNER. That is correct.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Are the yeas and nays ordered on the underlying amendment of the Senator from Rhode Island? If not, I so ask.

The PRESIDING OFFICER. The Chair informs the Senator, it is not in order to request the yeas and nays on the first-degree amendment at this time without consent.

Does the Senator from Virginia yield the floor?

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. Who yields time under the unanimous consent agreement?

Mr. REED. Mr. President, I yield myself such time as I may consume.

I rise to offer an amendment which would implement the recommendations of the General Accounting Office for missile defense testing and base alignment. Last month the GAO issued a report on missile defense entitled ''Missile Defense Actions Are Needed To Enhance Testing And Accountability.'' In its report, the GAO makes some commonsense recommendations to improve the testing of missile defense and to increase accountability of Congress for missile defense programming.

The principal recommendation is that at some point there is developed and executed a plan for operational testing. That is a very critical point. As the GAO pointed out, they would recommend to the Missile Defense Agency that they prepare for and conduct, on an independent basis, not within the purview of the Missile Defense Agency but on an independent basis, operationally realistic tests of those missile defenses. This is the way we develop and deploy major weapons systems in the United States. We do initial testing. We prove out the technologies. But before we field them, we go ahead and do a test on their operational capacities. That is the basic approach. It is a good approach, a sound approach. The GAO recommendations would make the missile defense programs consistent in this regard with all other programs.

The second aspect of the proposed amendment would be to require the Missile Defense Agency to require course baselines so that we know how much we are spending with respect to missile defense. We know what the course goals are. We know when they are exceeded or when they are constrained by good planning and good management. These are two fundamental aspects of any sound military procurement program.

Missile defense is one of the most complicated programs we will ever attempt to field in the history of this country.

I believe it is appropriate at this juncture to take a look at this missile defense system as it exists today. I think you will hopefully concur with

me that we do need some realistic operational testing.

First, this is the basic architecture of the system. The system we are deploying in Alaska is designed principally, if not exclusively, to counter one potential threat—the threat of a missile coming from North Korea. Now, the system is composed of several major elements. I will review them.

First is the DSP early warning satellite. This is a defense system that has been flying since the 1970s. It is well proven, but essentially all this system does is spot the lift-off of an enemy missile, or potential adversary missile, coming out of North Korea or anyplace else. It was put up in the 1970s as part of the cold war to identify a Russian missile or Chinese missile being ignited. That is a rather established technology. It provides just the cue that an enemy missile has been launched.

The next part of the proposed system is the Aegis ships. They have radar, but it was designed not to track ICBMs. Rather, it is to track cruise missiles and close-in aircraft. They are being essentially pushed into the role of trying to acquire the target after it lifts off and track it as far as it can. It really cannot track that far because of built-in limitations. Again, this version was not designed to track long-range ICBMs. Their radar doesn't seem to be powerful enough to protect and track accurately to places such as Hawaii. Also, these Aegis ships have never guided an interceptor to its target in a single intercept test. They have done preliminary activities but have not guided an interceptor to a target in a test. The operational tracking software of Aegis has never been tested in an integrated test. So you have one element that is still not quite up to the speed we would like it to be in terms of the Aegis system.

The next part is the Cobra Dane radar system in Alaska. Cobra Dane is another 1970s version. It has been updated, but it has no real discrimination capability in terms of determining what a missile warhead would be or what a decoy would be. It is incapable of tracking a North Korean missile bound for Hawaii. So, again, we have a problem in terms of providing coverage. It has never been used in an intercept test, and there are no plans to do so because we do not have an ICBM target that can fly in Cobra Dane's field of view. Then we were going to have to replace Cobra Dane and x-band radar on Shemya Island. We don't have the x-based, land-based system. We are working on a sea-based x-band radar, not primarily for operational use but for test use, to be ready in fiscal year 2005.

The final one is the interceptor with the kill vehicle on top. Both the interceptor and kill vehicle are brand-new, and neither have been tested together in an intercept test. The new version of the kill vehicle hasn't been flight tested at all. It is coming off of production. There are new systems within the kill vehicle. It is an improvement, we hope, over the previous prototypes but has not yet been flight tested. Problems with the kill vehicle are seen as delaying the next scheduled test. That is the IFT–13c. That test is being touted by the Missile Defense Agency as a fly-by. So the next test—the one before this system is declared deployable and deployed—is not designed to knock the missile down but to simply fly by it. If it does knock it down, I am sure the Missile Defense Agency will take great pleasure in it, with great claim. By declaring it just a fly-by, they will have wiggle room for saying the test succeeded and saying we didn't intend to knock it down either. Ask yourself, if we are deploying a missile system in a most recent test to fly by the missile, is that going to protect the U.S.? I don't think that is the case.

My amendment would require that we do operational testing, which is something done on every major system. It is under the purview of Dr. Tom Christie in the Office of Test and Evaluation at the Department of Defense. He is charged by Congress with independently evaluating these systems on behalf of the Defense Department.

Some argue that we need to go ahead and deploy this system right away, that we have done it before, and that is fine. It turns out that we have deployed systems before in emergencies, such as the Predator in Kosovo in 1999. That system had already on the books operational testing plans. Indeed, when this emergency deployment was completed, that operational test was carried out the following year, 2000. This system is a rudimentary system with huge gaps in technology, which has never been fully tested on an integrated basis. None of these parts have been put together in one intercept test yet. This system has no plans for operational testing, which denies the obvious point of the custom and practice and the law in many cases.

The JSTAR surveillance system is another one which individuals will say was put into the fray before it was operationally tested. That is also true. In 1991, JSTARs were deployed in Desert Storm. Following the deployment, even though the Senate Armed Services Committee was so impressed that they wanted to deploy it without testing, the Air Force insisted upon operational testing. They found defects because of the testing. They completed the operational testing in 1995, and this testing revealed problems with respect to the inability to operate at the right altitude and inadequate mission reliability. These were corrected, so the JSTAR system is much more reliable today than it would have been without operational testing.

Once again, this system is untested in a systematic way, and it is not even scheduled for operational testing. The point of my amendment is not to delay or defer this deployment; it is simply to say at some point in time—some point when the Missile Defense Agency feels they are ready for operational testing—we should at least have operational testing. I believe that is absolutely critical.

There are examples now, too, of the tests that have been conducted. These suggest that the tests are not up to the level of operational testing. For example, for the tests conducted so far on this system, all of the targets have had beacons on them, telling the National Missile Defense Agency and the shooters, if you will, the exact location of the missiles coming in. I don't think anybody believes that an adversary would put a beacon on the missile to warn us. Those are the types of rudimentary tests taking place today. They are important tests but not operational tests. Indeed, I asked the Director of the MDA in March when we would stop using beacons on our target vehicles. He simply said he didn't know. That is not exactly the kind of realistic testing the General Accounting Office called for.

I mentioned Cobra Dane, which is the radar that is a critical piece. It will track this target for a long way, and it would hopefully be able to discriminate between decoys and the actual warheads. But we have, as I mentioned before, no plans to test this radar because we lack an appropriate testing vehicle, ICBM.

The other point, which is very important—and it goes to the heart of realistic testing—is that every intelligence analyst who looks at this problem has suggested that if a nation is capable of putting a nuclear device on a long-range missile, and particularly if they are so motivated to use it against us, they are likely to be just as capable of having sophisticated decoys or even rudimentary decoys on the missile.

We have never conducted tests against very sophisticated or even realistic decoys. As a result, we are prepared to deploy a system that has not been adequately tested. But more importantly, there are no plans to adequately test it.

My amendment would simply ask the Department of Defense, through the normal procedures, through the Office of Test and Evaluation, to prepare such plans and conduct those tests when appropriate.

These are just some of the examples I have given with respect to this particular system. There is a whole laundry list of what should be done to ensure that this system, when deployed, is appropriately ready for the challenge. This chart shows yes and no in terms of obvious parameters for a system that is about to be fielded. Most of the parameters have not been accomplished. In fact, the vast majority have not been accomplished.

There is no full system operational test. There are no tests, to my mind, that have integrated every part of this system, from Cobra Dane, the Aegis warships, to the interceptor with the new-kill vehicle with the new booster

attached and flying out and engaging a target.

There is no full system operational test scheduled. We are not talking about a situation where we have to wait a few months or a year and there is an operational test planned for. By the way, these operational tests are not something that can be done on 2 or 3 days' notice. These takes months and months to prepare and plan and are extremely costly.

I do not really know, because it is hard to figure out the budget for MDA, whether they have put aside money for operational testing. It is hard to tell. We are not even scheduling these tests.

It has not been tested in bad weather. It has not been tested at night. Experts in the field indicate that is a very important aspect of ensuring the system will work.

Again, I do not think there is any American who does not want to see a workable system in place, but we have to raise questions when we have not done the testing to assure the American public that this system will work and will work as it is designed to work.

Tested three-stage booster and intercept test: This new package of the booster and kill vehicle has not been tested yet.

Tested without interceptor knowing in advance warheads infrared and radar signature, I mentioned that before. All of the data of the enemy warhead is essentially given to the forces that are trying to engage it. That is not a realistic test.

It has not been tested against a tumbling warhead, when the warhead detaches from the boost vehicle and spinning. That has not been tested.

Tested against realistic decoys and countermeasures: Realistic decoys would be something that looked like a warhead; just one other body that looks like a warhead. We have not done that. The decoys that have been used to date have been large spheres that look completely unlike the warhead.

It has not been tested against complex decoys. These are much more sophisticated decoys. We certainly have not done that. We have not reached the realistic level, let alone the complex level.

It has not been tested against more than one warhead on a missile. Again, if there is a nation out there that is capable of producing a nuclear warhead and putting it on a missile, they are probably capable—it may take a little longer—of producing multiple warheads and putting them on a missile.

It has not been tested against more than one incoming missile. If North Korea is going to attack us, why would they do something that would spell doom, first because of our overwhelming power to deter them, but second, what makes us think they will fire just one missile at us? I would assume they would fire multiple missiles, and we have not tested against that.

Again I mention this, we have not tested this without a GPS system, a beacon on the adversary missile and warhead.

Tests have been conducted by the contractors and managers. That is the first ''yes'' accomplished.

Tests overseen by Pentagon's independent test office: No, and that is the core of our debate today, because looking at the chairman's amendment to my amendment, what they are essentially saying is: Listen, we do not want the independent tester to look at this; we want the Secretary of Defense to prescribe this. That is not the way to do this because it just invites all of the problems with individuals testing themselves.

This is not as much a technical problem as a problem of human nature. You tend to pass every test you give yourself, particularly if it is important you pass the test. That is why we set up, in the eighties, this Office of Test and Evaluation with an individual who is appointed by the President, not the Secretary of Defense, to conduct these tests.

SBIRS high early warning satellites: This will be the follow-on to the DSP satellites. SBIRS is not yet flying. The original plan was to have SBIRS in this system instead of the old DSP system.

SSTS space tracking and surveillance system: This is another system not in place.

Cobra Dane radar upgraded: Yes, it has been upgraded, but not the x-band radar contemplated for this system. It does not have the power of the x-band. Even with this upgrade, it is still not capable of the discrimination that you need to separate decoys from the warheads.

The ground-based x-band radar I mentioned is not deployed. It has been essentially canceled.

Sea-based x-band radar is being developed. It is not yet deployed.

Question: Will it protect Hawaii? It is a question because of the coverage of the Cobra Dane, because the fact the Aegis system is providing an important part of the tracking system.

Fly before you buy: We are certainly violating that. We are buying the system without flying. That is the fundamental problem we are facing today. Yet we are going to declare the system operational. We can argue about that, and we have. Senator BOXER had an amendment which talked to that specifically.

My amendment is not about deploying the system. My amendment is about conducting operational tests at some juncture. I believe this operational testing scheme has hit a nerve because, as I saw the chairman's substitute to my amendment, he basically said yes, we will do operational—in fact, he specifies a date. I believe it is October of 2005. That is pretty ambitious since we are not planning for any tests yet. It is also pretty ambitious since we do not have a suitable missile target vehicle that could fly from the vicinity of North Korea and go through the space in which Cobra Dane operates.

As a result, in a very short time, we would have to build a target missile, we would have to plan for the test, and we would have to integrate all these other pieces. Yet that is what the amendment offered by my colleague from Virginia would say.

The problem with the amendment is that it takes out of the loop the one person who is there to guarantee the independence, the rigor, and the accuracy of this test, and that is the Director of the Office of Test and Evaluation at the Pentagon. That is something I think is critical.

Again, given this list of items to be accomplished, it seems stunning to me that we are actually debating about whether we should just authorize and require at some point—and at this point, after deployment—operational testing, or at least to plan it. But that is the substance of the debate, and just as importantly, not just the operational testing, but the fact it is going to be conducted by an independent agency within the Pentagon, not by the people who are graded by whether they pass or fail. Again, not high tech but human nature. I think more people are comfortable with having someone objectively design the test and supervise the test than having the people who have everything to lose and everything to gain do that.

There is one other aspect of my amendment I want to mention, which is important, and that is the notion of baselines. The GAO came back to us and said: No one seems to know how much the system is costing because there are no baselines.

They pointed out, for example, that there was a $1 billion overrun of the cost goal of missile defense to be fielded starting in September, but the Department of Defense never explained to Congress this overrun. Instead, they simply changed the cost goal.

How can we evaluate this system? How can we make difficult choices between investing in missile defense and increasing the end strength of our Army, if MDA suddenly says, well, our objective was X, but we found it cost us a billion dollars more, so now it is X plus one billion? We have to have a baseline. This is all designed to have appropriate control and appropriate notification to the Congress about the status of this very complex system.

Additionally, this cost goal change was surprising because the GAO also noted that originally the system in Alaska to be deployed in September was to have 10 interceptors, and now it is 5. So not only did they change the cost goal by increasing the amount of money they are spending, but they lowered the number of interceptors and also, I think by fair inference, the capability of the system. High cost, lower capability, but yet it was not communicated to us.

My amendment would ask them to prepare the baseline, to communicate to us when those baselines are exceeded. If we do not have that, then we will

not have the ability to do our job, which is to supervise appropriately and oversee the activities of the Missile Defense Agency in the development of this very complicated system.

There has been a great debate about whether we should deploy this system. I found it interesting to note that President Reagan was approached years ago by some Congressmen and Congresswomen who wanted to deploy then the existing system. This was in August of 1986. According to the Frances Fitzgerald's book about President Reagan ''Way Out There in the Blue,'' here is what he told those Congressmen:

> I know there are those who are getting a bit antsy [to deploy a missile defense] but to deploy systems of limited effectiveness now would divert limited funds and delay our main research. It could well erode support for the program before it's permitted to reach its potential.

Once again, we are not debating today the deployment in this amendment. We have had that debate previously with Senator BOXER. We are not debating deployment. We are simply debating let us plan to do the operational testing. Let us get that operational testing done at some point because otherwise we are literally getting a system that is untried. No one wants the first time this system is fully operationally tested to be in the deplorable and horrific situation of a missile heading toward us.

So I would hope that we could, in fact, adopt the Reed amendment, have operational testing planned for it, have baselines established to be able to monitor this system as we should and be able, I hope, to assure the American public that when we say it is in service, it will work. There is a difference between telling them it works and proving it in operational and realistic testing. I hope we can do that.

I reserve the remainder of my time in response to my colleagues.

The PRESIDING OFFICER. The Senator yields the floor and reserves the remainder of his time.

Who yields time?

The Senator from Colorado is recognized.

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

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ALLARD. Mr. President, I rise in opposition to the Reed amendment that was before us prior to the amendment from Senator WARNER, and I want to talk about that briefly. Then I want to talk about the second-degree amendment by Senator WARNER.

With respect to the Reed amendment, from my standpoint and the standpoint of the Missile Defense Agency and the Pentagon's office of Test and Evaluation and Formal Operation, tests at this juncture simply would not be helpful.

According to a letter I received on May 17, 2004—and I think this is the most current position—the letter from the Pentagon's Director of Operational Test and Evaluation, Mr. Tom Christie, in response to several questions I asked him, Mr. Christie writes—he is the chief tester we referred to, and he is responsible for overseeing much of the testing that goes on at the Department of Defense and obviously has a deep interest in what is happening as far as accountability in the missile defense system.

Mr. Christie writes, and this is important:

> The Ground-based Midcourse Defense element is currently at a maturity level that requires continued developmental testing with oversight and assistance from operational test personnel.

I would add at this point that the Missile Defense Agency is currently stressing the system is involved in every developmental test to ensure that they are as realistic as possible.

Mr. Christie continues in his letter:

> Conducting realistic operational testing in the near-term for the GMD element would be premature and not beneficial to the program.

I ask unanimous consent that his letter of May 17, 2004, be printed in the RECORD.

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

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, May 17, 2004.

Hon. WAYNE ALLARD,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ALLARD: Thank you for your May 11, 2004, letter concerning my role in the Ballistic Missile Defense System (BMDS).

The Missile Defense Agency (MDA) is building a BMDS test bed that is essential to support realistic testing, and is absolutely essential for conducting adequate operational testing in the future. The test bed is also key to developing operational concepts, techniques, and procedures, while allowing my office to exploit and characterize its inherent defensive capability.

The Ground-based Midcourse Defense (GMD) element is currently at a maturity level that requires continued developmental testing with oversight and assistance from operational test personnel. Conducting realistic operational testing in the near-term for the GMD element would be premature and not beneficial to the program.

My office has unprecedented access to GMD, and I am satisfied with the cooperation between the program office and the test community. I will continue to advise the Secretary of Defense and the Director, MDA, on the BMDS test program. I will also provide my characterization of system capabilities, and my assessment of test program adequacy annually, as required by Congress.

Sincerely,

THOMAS P. CHRISTIE,
Director.

Mr. ALLARD. In testimony before the Senate Armed Services Committee, Mr. Christie expressed his support for the approach the Missile Defense Agency is taking to incorporate operational realism in the developmental test and is conducting, in his words, continuous operational assessments of the ballistic missile defense system.

We must consider that missile defense is a capabilities-based spiral development evolutionary acquisition program—this is a mouthful—and under this approach the missile defense programs are designed to focus on developing capabilities to meet a range of possible threats. These programs are developed incrementally in blocks with the recognition that full capability would not be reached in the first block.

Missile defense does not have a final architecture that is defined in the first block but will continue to evolve over time. Therefore, testing of the system should occur as we continue to develop it.

We should also consider rethinking how we do formal tests and evaluation. Formal operational testing carries with it certain requirements. There can be no developmental goals because of that. Contractors cannot be involved.

The Director of Operational Test and Evaluation must approve the operational test plans. Even the current Director of Operational Test and Evaluation recognizes the need to adopt a new acquisition paradigm for tests and evaluation.

Here is what Mr. Christie said about that in his speech just 2 months ago:

> The concept of milestone driven operational test and evaluation appears to be becoming a process of the past. Either we change our way of doing business, adapt to the new acquisition paradigms and the realities of the war on terrorism, or we will find ourselves becoming irrelevant with dire consequences for our operational forces. . . . Users need up to the minute, continuous test and evaluation to keep them informed of system capabilities and limitations. Even after fielding, the acquisition community needs continuous evaluation to feed spiral development and other evolutionary acquisition concepts.

I ask unanimous consent that a copy of Mr. Christie's speech be printed in the RECORD.

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

TEST AND EVALUATION IN THE ''NEW WORLD OF 2004''—TUESDAY, MARCH 2

(By the Honorable Thomas Christie)

Let me express my thanks to Gen. Farrell and the leadership of NDIA for, once again, affording me the opportunity to discuss with you some of my views and concerns with T&E. I have had the opportunity to do this for the last two years, and recall that, when I spoke in Savannah [March 2002], I warned you that I might sound like a ''stick-in-the-mud'' or some sort of Cassandra because I couldn't help but say that I had seen and heard all this acquisition reform stuff before. I'm not sure my remarks here this morning will paint a much different picture than I presented in my talk in Savannah, where I contended that the problems we face as operational testers may have to take different forms than previously, but remain formidable. Recall that the Cassandra I referred to was a princess of Troy who could foresee the future—but the penalty for her gift was that the Gods made it so that no one would believe her. If you don't believe—I will understand.

The theme for this Conference is ''Operational Test and Evaluation: Twenty Years and Counting: Doing OT&E Better After Twenty Years of Practice.'' That title seems

to imply two things: that we are doing OT&E better after twenty years and that we have been doing OT&E only in the last twenty years. Our conference chairman, Jim O'Bryon has assembled many of the historic—I won't say ancient—personalities in the field. I challenge each of them to demonstrate that we are doing OT&E better after twenty years of so-called practice. I would offer my observation—or at least concern—that program offices and developers appear at times to be learning faster how to avoid testing then we are learning to do it better. This conference should consider that.

I think Jim may have confused the ''Practice makes Perfect'' adage with the professional use of the word practice. Doctors have a practice; and I always worry about that when I go to them. I don't want them to practice on ME. For a variety of reasons, Program Managers don't want T&E to be practiced on them either. I know Walt Hollis used to think that they taught ''Test Avoidance 101'' to program managers at the Defense Systems Management College.

This morning, I thought it would be appropriate for us to spend some time thinking about the history of OT&E in preparation for the insight to be offered by the elder statesmen that you will hear from over the next few days: first, the early reform efforts that set the stage for the creation of DOT&E; then, a little bit of history of the office itself, and I am sure that we will get more of that during the conference because all the living DOT&Es will be here; then, finally, we should discuss some of the challenges that the fast changing acquisition process and accompanying practices are posing.

EARLY REFORM EFFORTS

While I know that the theme of this conference is about the twentieth anniversary of the law on OT&E, for me, OT&E's relevance to OSD goes back, not twenty years, but well over thirty years. The 1970 Blue Ribbon Defense Panel, also known as the Fitzhugh Commission, addressed a whole host of defense management issues, to include ''Defense acquisition policies and practices, particularly as they relate to costs, time and quality.''

This Commission found the acquisition strategies in being then to be ''highly inflexible . . . and also based on the false premise that technological difficulties can be foreseen prior to the detailed engineering effort on specific hardware.''

With respect to OT&E, the Blue Ribbon Presidential Commission made several cogent observations. Let me, once again, recall for you four of them, because they relate to early involvement by operational testers, joint test capability, and T&E funding—all of which are coming around again as important issues:

It has been customary to think of OT&E in terms of physical testing. While operational testing is a very important activity . . . it is emphasized that the goal is operational evaluation and that physical testing is only one means of attaining that goal. This is an important point, since it is often argued that operational testing must await production of an adequate number of operationally-configured systems; and, by this time, it is too late to use the information gathered to help decide whether to procure the new system or even influence in any significance way the nature of the system procured.

If OT&E, as a total process, is to be effective, it must extend over the entire life cycle of a system, from initial requirements to extending its life by adaptation to new uses. It must use analytical studies, operations research, systems analysis, component testing, testing of other systems, and eventually testing of the system itself.

There is no effective method for conducting OT&E that cuts across Service lines although, in most actual combat environments, the U.S. must conduct combined operations.

Because funds earmarked for OT&E do not have separate status in the budget, or in program elements, they are often vulnerable to diversion to other purposes.

DOT&E HISTORY

Some ten or more years after the recommendations of the Fitzhugh Commission, the Congress perceived a lack of responsiveness on the part of the Office of the Secretary of Defense with respect to the call for an independent entity overseeing and reporting on OT&E. Congress then legislated the creation of the D,OT&E in 1983. As many of us recall, the Congressional Military Reform Caucus of the 1980s played the key role in this initiative. Among the players in that reform caucus and that legislation were names you would still recognize: Dave Pryor, Bill Roth, Nancy Kassenbaum, Denny Smith, Dick Cheney, Newt Gingrich, . . . They pushed through legislation that created the DOT&E over the adamant objections of the Pentagon, particularly from the acquisition office at that time. Over the past twenty years, these reformers and their successors have protected the office and the independence of OT&E from continued pressures to eliminate or downgrade its function and to vitiate the independence and influence of the OT&E community throughout the Department.

To my three predecessors as DOT&Es, we testers as well as the men and women in our combat forces owe a great debt of gratitude for their courageous efforts in protecting and nourishing the independence and relevance of OT&E. Over the years, each in some way stood up when it counted and made significant contributions to strengthened testing in the Department.

It took over a year and a half after the landmark legislation of 1983 to actually get the DOT&E office up and running and to bring the first Director—Jack Krings—onboard.

Jack did a masterful job of putting the office together and on its feet. He took the initiative—against the grain in most cases—to initiate many of the processes and activities that we take for granted now: the notion of Early Operational Assessments; responsive reports on systems to the decision-makers in the building and on the Hill; the Central T&E Investment Program; and DOT&E oversight of the Automated Information Systems.

Cliff Duncan, who headed the office during the first President Bush's administration, expanded on many of Jack's initiatives, pushed earlier involvement by OTers and enhanced the evaluation capabilities of the organization with particular focus on Independent Evaluations by DOT&E.

In the 1990s, when the budgets for testing and the infrastructure were being slashed by the Services, there was not a greater champion for testing than Phil Coyle. And I believe his vision for ''testing as learning'' and ''making it all count'' will continue to guide DOT&E as it adapts to new acquisition strategies.

Over the years, we've developed a ritual here at the NDIA Conference. That is, every year we give Phil Coyle a copy of the Annual Report. We won't disappoint him this year. Here is your very own copy. All the rest of you will be able to see what is in it early tomorrow, when it appears on Phil's web site.

One thing that Phil tried very hard to promote while he was the DOT&E was the proper use of models and situations. It fit in well with the Blue Ribbon Panel comment: that the goal is operational evaluation and that physical testing is only one means of attaining that goal. He had one of the most favorable environments in which to promote modeling and simulation that will be around for many administrations: the use of modeling and simulation in T&E became one of the ''Bill Perry's Themes.'' But, in the end, despite Phil's dedicated efforts, I contend that modeling and simulation in support of T&E has been a mixed bag, at best.

MY LEGACY: EARLY INVOLVEMENT, NO SURPRISES AND THE WARFIGHTER AS THE CUSTOMER

As I walked through this short history, you may have wondered what my hopes and desires for the office are. Making early involvement pay off, cutting down on surprises, better serving the operator—these are among my hopes.

Of course, early involvement is not new to DOT&E. Jack Krings did the first early operational assessment, and Phil Coyle worked hard to great effect to make it the normal way of doing business. There is tremendous power that comes from having operational testers involved early. Some of that power is technical, and some of it comes from the added credibility of having an independent tester looking at the system from the outset.

Obviously, if operational testers, to include my office, are involved in programs from the outset—reviewing requirements or desired capabilities; developing and assessing test plans, to include development testing; participating in critical design reviews; monitoring closely DT along with the deficiencies and corrections that arise from it—all of these efforts help to preclude the big surprises at the last stage of programs that operational testers are blamed for.

THE WARFIGHTER IS THE CUSTOMER

Another direction that I have emphasized is a refocus on who our customer really is. The operational test community, to include DOT&E, should consider the prime customer for its efforts to be the user—the men and women in the trenches, on-board the ships, flying our fighter/attack aircraft, maintaining our complex systems, etc., etc. We are in an era where we are rushing to field new equipment to the warfighters in the Global War on Terrorism. We need to be timely and we need to tell it like it is in informing them of the capabilities and limitations of the new system they are being asked to employ in the field.

In that context, I see a critical need to expand our contacts with operational users across-the-board and to cultivate them as principal recipients of our assessments. Right or wrong, the concept of milestone-driven OT&E appears to be becoming a process of the past. Either we change our way of doing business, adapt to the new acquisition paradigms and the realities of the war on terrorism, or we will find ourselves becoming irrelevant with dire consequences for our operational forces. When so many of our systems go to war before IOT&E and before full rate production, users need up-to-the-minute, continuous T&E to keep them informed of system capabilities and limitations. Even after fielding, the acquisition community needs continuous evaluation to feed spiral development and other evolutionary acquisition concepts.

MISSION FOCUS/JOINT TESTING

Also important, I would like to continue the evolving improvements to the OT&E process we have seen over the years: early involvement—testable operational requirements; backing away from the ''pass/fail'' mentality; truly testing for learning; mission-oriented focus; more emphasis on evaluation. These are all very ''old-time,'' but

just as true now as in 1970. Developing and fielding joint force capabilities requires adequate, realistic test and evaluation in a joint operational context. To do this, the Department will need to provide new testing capabilities and institutionalize the evaluation of joint system effectiveness as part of new capabilities-based processes. DOT&E has been directed to develop a roadmap no later than May 2004 that addresses the changes necessary to ensure that test and evaluation is conducted in a joint environment to enhance fielding of needed joint capabilities. We are working with the Service and Defense Agency test communities to satisfy this direction.

ACQUISITION SYSTEM COMMENTS

You all know that the acquisition process changes much faster than we actually acquire anything. DoD would be much better off if we could produce systems as fast as we produce new Acquisition Regulations. So a major acquisition program during its development passes through, not just milestones that used to be called 1,2,3 and are now called A, B, C, but perhaps even several whole acquisition processes. Programs, such as the V–22 Osprey and the F–22 Raptor, have seen an acquisition system that has been called Need-Based, then one called Simulation-Based, then one called (in the Air Force) Reality-Based, and now one called Capability-Based. These changes are not at the root of the problems encountered by these programs, but they certainly haven't helped. The situation may be getting worse rather than better: I believe I am the first DOT&E to sign two versions of the 5000.2 and I've been in the job less than three years.

TESTING TO SUPPORT NEW ACQUISITION STYLES

Among the major new initiatives, as I just mentioned, is Capabilities-Based Acquisition. The idea here, as I see it, is a continuous process of design, development and testing of a new concept or system until we demonstrate and validate a level of capability deemed worth considering for procurement and deployment. At that point, the decision-maker—hopefully, based on the informed advice of the potential user as well as the acquisition and testing communities—decides that the system has indeed demonstrated a needed warfighting capability and approves advancing it, perhaps into full-scale engineering development, or even directly into production and deployment to our operational forces. One of the features of this approach is that, up to this point, there are no hard and fast requirements, threat-based or otherwise, against which to measure the operational effectiveness or suitability of the system. I said two years ago, ''How all this will work in detail is still a little murky.'' We are still feeling our way. The Ballistic Missile Defense System is a major test bed, in fact, for the operational test community in working with this new acquisition paradigm. In this approach to acquisition, we testers won't be making judgments as to a system's effectiveness or suitability against some ORD-based bench-marks, but rather presenting our best judgment as to the capability demonstrated to-date in whatever environments—open-air testing, hardware-in-the-loop, or human-in-the-loop—the system has been subjected to. Interesting enough, we have some helpful guidance in a statement in the new 5000.1 DoD Directive: The Defense Acquisition System. The Directive has only three policies identified, the second of which I quote: ''The primary objective of Defense acquisition is to acquire quality products that satisfy user needs with measurable improvements to mission capability and operational support, in a timely manner, and at a fair and reasonable price.''

METHODOLOGY: MISSION FOCUS/COMPARISON TESTING

This directs me, as I see it, to define some marks on the wall with respect to capabilities that must be improved upon. It also keeps a strong mission-oriented focus. The ''measurable improvement'' phase in the new 5000.1 also highlights the need for comparative evaluations to show improvement. When formal requirements are missing, the current mission capability provides a natural point from which to measure any improvement. This may seem like a simple idea. And we have used it in a number of cases to assist the evaluation. For example, in one Army system, the requirements had specified a timeline for movement after shooting. Well, that requirement was not met in testing, but did that mean the system was ineffective? When we compared the actual time to that of the current system, we found that the new system provided significantly better survivability, even though it did not meet the ''Requirement.'' We used the comparison as part of the justification for calling the system effective.

Now the comparison test idea is often criticized—understandably so in many instances—as being expensive. We need to move to collect data on the capabilities of current systems and forces from ongoing exercises in order to avoid burdening new programs with the time and resources needed to test and collect such data to establish a baseline. But that will require establishing meaningful, accredited databases for operational capabilities of existing forces/equipment/TTPs. As Walt well knows, the information from tests—the databases—quickly become unusable. Archiving the databases should be part of a more robust T&E infrastructure.

TESTING TO SUPPORT ACQUISITION: T&E INFRASTRUCTURE/PEOPLE

While Spiral Development and Block Upgrades might be somewhat different animals, their treatment by the T&E community is somewhat similar. As an aside, we have quite a bit of experience with such approaches, particularly in testing software-intensive systems to include the myriad of automated information systems. Here, we plan our T&E strategies to assess incremental improvements in capabilities as opposed to using the full-up, or ultimate, system requirements spelled out in an operational requirements document as a benchmark. At the least, our assessments should consider whether each spiral or block provides a measurable improvement in military capability over its predecessor. What may be called spiral or block developments, may just be the block upgrades of the past. The T&E community has dealt with those for quite some time now. We should step back now and translate our lessons learned in this context into more concrete policies or strategies for the future.

Undoubtedly, the biggest financial commitment by a program in this context will be to field the first spiral or Block I. Therefore, at a minimum, Block I should clearly demonstrate that it does not represent a decrease in military capability over legacy systems. In addition, If new functionality is added in a spiral or block, we will probably need to carry out some level of regression testing. There will also have to be some assessment of the growth potential of this spiral or block.

The new functionality—if it is to be worth the disruption to the force by requiring retraining, additional training or new operational concepts—ought to represent a significant improvement that should be easy to confirm. We should accept it as our responsibility to confirm, not only that improvement, but that the system continues to be effective and suitable for combat after fielding. In spiral developments, we will need a formal feedback mechanism—spiral reporting, so to speak—to ensure that problems or deficiencies identified in T&E for each spiral are addressed and corrected by the developer. The information needs during spiral development seem to include at least: (1) what is the added capability of the new spiral, (2) what direction should the next spiral take to address the residual deficiencies of the incomplete system and (3) is the new spiral's increase in capability worth the disruption of introducing it into the force—the reconfiguration, the revised training or the changed tactics, techniques and procedures the new spiral might imply.

These considerations lead me to a need for some form of continuous testing, evaluation and reporting even after the system is deployed. Presumably, with increased use of spirals, there will be many more potential engineering change proposals. Hopefully, priorities accorded these proposals will be based on evaluation of data that shows what needs to be fixed depending on the most value to the war fighter.

We need to look to the future beyond the items addressed above—the increasing complexity of systems and tactics to be tested, the need for better trained people in the T&E business, the massive amounts of data becoming available and the concomitant requirement for more sophisticated evaluation techniques/approaches.

T&E INFRASTRUCTURE/TOOLS/MODELING AND SIMULATION

Let me address in some fashion the modeling and simulation disappointment which I inferred earlier. A success story in this context is the AIM–9X. But you have to understand the very special circumstances of that success. First and foremost, the contractor was willing to go down the path. The model was developed by the contractor and was open to the government. The DT program was used to develop and validate the model. The model was a design tool. The OT program also validated the model. The close collaboration of government and contractor was necessary where there are too many cases to cover in a live test program. In the Aim-9X, there were over 500 scenarios that were in the Operational Requirements Document.

However, the experience with M&S, overall, has been a major disappointment of promises undelivered. Why? First, there have been unreasonable expectations. Surely, some design problems can be modeled, but these tend to be small changes in well-understood designs. Defense systems do not tend to be of this ilk. When the system technology is cutting edge, its real limits are probably not well understood. You cannot replace testing with modeling in that case. As Jack Krings used to say, model to interpolate, not extrapolate.

Second is the money problem. Many program managers would like to finance the development of models with money from testing—trade off testing for modeling. That timing is off—modeling, to be successful, has to start early; using OT money is too late. The trade is not what ought to be the goal. Defense systems encounter a lot of problems in development—a fact that the OT community is painfully aware of because so many of those problems appear in IOT&E. To overcome these, in the best case, takes additional time and money. The role of modeling should be as something extra that can be done to help the success of the program—not some trade off with testing.

T&E INFRASTRUCTURE/RESOURCES/T&E CYCLE TIME

Unfortunately, I am concerned that our T&E infrastructure is not in the best of

shape needed to meet the challenges of the future. Past failures of the acquisition process, with all the program slips, have tended to ease the burden faced by the test ranges. Lord knows what would happen if all the programs that claimed to be ready for testing in 2004 actually showed up for testing. If the latest acquisition initiatives deliver what they hope for, then a greater fraction of programs should be ready for testing on or near their schedules. In this respect, I fear the T&E community might not be prepared for success in acquisition reform. A capable test infrastructure to include appropriate targets, instrumentation, etc., will have to be available at our test ranges and facilities.

So, what's the bottom line? First and foremost, we have a lot to be proud of over the past several years in our demonstrated flexibility and responsiveness to an ever-changing acquisition landscape. Our record of early involvement and the fruits of that involvement are also praiseworthy. We have not choice but to continue and even expand our involvement earlier and continuously throughout the life cycle of systems. But, I am concerned with the increasing demands on our resources necessary to make those involvements continue to pay off.

We need to do more in cultivating and serving the users, the operational forces, as prime customers for our products. The Joint Test and Evaluation Capability should play a big role here. Warfighters need to know the capabilities and limitations of the new systems they are deploying, based on our best estimates of what the testing to-date has demonstrated.

The Joint Test and Evaluation Capability will probably borrow a lot from the Joint Training Capability. One key that I believe will connect them is the careful enumeration of the military tasks that is catalogued in the Universal Joint Task List. The tasks, standards, and conditions there can be a basis for comparison of current and new capabilities. It ought to be an important item in the new ''Requirements Generation'' process we will hear about later that is called JCIDS—the Joint Capabilities Integration and Development System.

While acquisition reform has aimed at making substantial reductions in cycle-time, by at least a half in most cases, we in the testing community should be looking at ways of cutting testing turn-around times in half.

I reject the claims of the many critics of the testing process that overall OT&E costs and schedules are excessive—in fact, they're a very small part of system costs (recent Rand study); the costs of skipping tests, of avoiding adequate tests, of skimping on either DT or OT can be huge (as well as cause loss of lives). We started the RAH–66 Comanche, V–22 Osprey and F–22 Raptor programs in the early 1980s. After roughly $7 billion and twenty years of effort, the Comanche is being terminated while still several years from its IOT&E and a production decision. The V–22 program has spent over $16 billion and taken more than twenty years, during which it unfortunately skimped on DT and paid the price in a failed OPEVAL in 2000. It is now embarked on an event-driven test program that will culminate in a second OPEVAL in early 2005. After $36 billion and nearly twenty years in development, the F–22 is about to enter its IOT&E heading for a production decision this coming fall. Now, I challenge you to show me where operational testing has held these programs up or has cost us an arm and a leg as some of our critics would claim.

In closing, I continue to believe the T&E community—in both industry and government, both technical and operational testers—has served the department very well over the years. The success of our operational forces in the last several conflicts reflects that dedication to deploying systems proven effective, suitable and survivable on our ranges and in our facilities. But, the increasing complexity of systems and tactics should be tested, the need for better trained people in the T&E busienss, the massive amounts of data becoming available and the concomitant requirement for more sophisticated evaluation techniques/approaches, all call for new and innovative strategies and capabilities for T&E. I hope this conference does not degenerate into a reminiscence session. We face challenges in the future as we have in the past in ensuring that our soldiers, sailors and airmen are equipped with the best equipment our nation can provide.

Mr. ALLARD. This quote that I just shared describes exactly what he is doing with testing and the Missile Defense Program. Heavy involvement in the developmental test program, with the intent to achieve operational test goals during development, continued test evaluation assessments to keep the warfighter informed of system capabilities and limitations, and continuous evaluation after fielding to feed spiral development. That is the role the Director of the OT&E describes for himself, and that is the role he is playing in missile defense testing.

Everyone on both sides of the aisle, and I would add everyone in the Pentagon, supports operational realistic testing of the ballistic missile defense system, and that is why we are building a missile defense test bed today. That is why the Director of OT&E has over 100 operational test agents influencing and providing input for the GMD. That is why military operators are being used in the tests. Perhaps more importantly, that is why operational test goals are incorporated into each developmental test.

Now, make no mistake, the threat drives this program. We are building missile defenses to meet that threat. The test bed is needed to perform operationally realistic tests of the ballistic missile defense system and testing will proceed, becoming progressively more realistic, and will improve the system. Yet it is these same test bed capabilities that would afford us an early operational capability.

We cannot forget that we have no defense against long-range missiles. The Armed Services Committee has seen intelligence information which illustrates, more than ever, that the ballistic missile threat is real and growing. We are vulnerable and it is time to change that vulnerability. We need a missile defense capability in the field as soon as possible. For that reason, I will oppose the Reed amendment as it was introduced, and I urge my colleagues to oppose those efforts that would tie up our system in a way that adds delays and adds to our inability to defend ourselves from emerging threats in other parts of the world.

With the Warner second-degree amendment, my view of this amendment of Senator REED changes; that is, if we adopt the Warner amendment. This is why I think we need to support Senator WARNER's amendment. The intent is to assure that the Department of Defense conducts operational realistic testing of the BMD system and to support Senator WARNER's second-degree amendment because I believe we will achieve our common goal of operational, realistic testing while avoiding some of the potential pitfalls.

Everyone on both sides supports operational realistic testing, as I mentioned earlier, on the ballistic missile system. I certainly support the Senator's intent to make sure the BMD system is tested. The question is how best to test effectively while improving system capabilities and fielding capabilities as quickly as we can.

Formal operation and testing carries with it certain requirements where there can be no developmental goals. Contractors cannot be involved and the Director of Operational Test and Evaluation approves of the operational test plan.

I think the Warner amendment improves on what was proposed by the Senator from Rhode Island. This is operational testing.

Again, as I said earlier, we are looking at a two-way path here. While we are doing testing, we want to get something in place that is operational. The more we tie this down in a step-by-step process, which happens with the Reed amendment, with accountability on every little finite step in development, the more you delay the process and the more you add to the cost of the program. That is why I am supporting the Warner amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLARD. I ask for an additional 1 minute.

The PRESIDING OFFICER. The Senator has that right. He is yielded an additional minute.

Mr. ALLARD. What happens with the step-by-step process in the Reed amendment which leads to delays and additional costs, the Warner amendment refines that down so it is more streamlined and becomes palatable to us who would like to see rapid deployment of some kind of missile defense system for this country.

It is not going to be perfect. That is why we have spiral development. We are going to develop it and improve upon it with time. This is a process we have used before. It works and it is something that is going to assure us that we will have security rapidly deployed for this country where we have emerging threats in Iran and North Korea.

The PRESIDING OFFICER. The time of the Senator has expired. He yields the floor. Who yields time?

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

The PRESIDING OFFICER. The Senator from Rhode Island has 35 minutes 38 seconds remaining.

Mr. REED. Mr. President, if you could interrupt in 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. REED. Mr. President, I was very interested in hearing about the letter from Mr. Christie. I have not seen it. I am getting a copy of it.

But as I heard my colleague from Colorado, Mr. Christie seems to be saying that this system is not ready for operational testing yet, that it was premature to operationally test it. But it is ready for deployment in September? I think the notion of deployment is this thing is ready to operate; certainly it is at least ready to begin the threshold operation for testing. So I can't think of anything else that more strongly emphasizes the need for operational testing.

We have all heard the terminology, evolutionary spiral development, new techniques, et cetera, but the basic question here is: Does it work? No evolutionary spiral jargon avoids that question. Related to the question, does it work, is: What can it do? What do we expect this system to do? And then, of course, you validate that by testing under realistic conditions.

None of this is taking place. None of this is planned. I believe my colleagues when they say they want to see this operational testing. But there is no plan to operationally test now.

I find interesting the notion that Mr. Christie says it is premature to test, yet in the amendment to my amendment offered by Senator WARNER there is a specific deadline of October 1, 2005, that a test will be completed.

My amendment doesn't do that because I do recognize the fact that these are very difficult technological issues, that there is great concern about getting the system up and running. There are multiple pieces from space-based radar to ships at sea to land-based radar to booster rockets and kill vehicles. Yet interestingly enough, the Warner amendment would lock in a date of October 1, 2005, to test the ballistic missile system. Yet Mr. Christie is talking about it is too premature, et cetera.

I think the approach I have taken is simply saying at some time in the future we need operational testing. Please lay out a plan—a plan, of course, can be modified—and before these new steps in the process are put into effect, let's have the operational testing. I think it makes a great deal more sense.

Also, there is a question about limiting developmental testing and operational testing by saying, when you do operational testing, you can't do developmental testing. Actually both can be conducted in virtually the same test. I think one of the major differences between developmental testing and operational testing is that developmental testing is designed by the proponent agency and the contractors and they are supervised by the proponent agencies and contractors. Operational testing is designed by Dr. Christie's office, the Office of Operational Test and Evaluation, and supervised and conducted by those individuals from that particular office. It is quite appropriate. It is done frequently.

The Patriot was an example of a system that had both operational and developmental testing taking place. Indeed, the Patriot is another good example of the need for operational testing.

The upgrade PAC–3 missile defense system had a very good record when it was in its developmental phase. It was just doing extremely well. Then they started the operational combat, realistic test phase, and the Patriot PAC–3 failed each of these operational tests. It had four consecutive operational test failures. What did that suggest to you about this system? This system might pass all these tests, as some have argued watered down as they are, but it could pass all of them. Well, the PAC–3 system passed all the development tests and then had four consecutive failures in a row in an operational test.

If we have four consecutive failures in a real operational test of this system, I think the American people will be quite shocked, given the fact we are not planning any operational test, yet we are deploying the system.

Luckily, with the PAC–3, there was time to fix the problem.

These operational tests were not only conducted, but the problems were fixed. In Operation Iraqi Freedom, the system was deployed. It worked very well when it engaged missiles. But again, there are still some difficulties. At least one friendly aircraft was engaged and destroyed by a PAC–3 system. Two were destroyed, suggesting that all the problems with the system in terms of target identification, in terms of proper response and enemy versus friendly targets in the air have not been fully resolved. It is a complex system. This system is much more complex and complicated. But the PAC–3 is a very good example of what we should be doing here—that is, operational testing, learning from those tests, fix the system, and keep doing it continuously.

Again, I think it is an interesting notion about this spiral development and everything else. There has to be consistent, constant testing because that is how you learn so you can make the changes. Yet, again, we don't have an operational test planned for this particular system. I believe we have to have something like that. Again, the national missile system is very complex. We have to have this system.

Part of the Warner amendment to my amendment takes out the Director of Operational Test and Evaluation and lets the Secretary of Defense prescribe the criteria. Let me suggest that in the last several years, Dr. Christie has been advising and consulting. But nothing has happened in terms of operational testing. Each year, he reports to his superiors and to the public at large. In each one of those reports, he calls for more realistic testing. Apparently he is consulting and is not particularly effective. But that is exactly what the Warner amendment to my amendment would do—simply make him a consultant.

The reality is, as a consultant, his voice would be no more prominent than it is today. We don't have an operational testing plan. We have not conducted operational testing yet, and yet we are deploying the system. It seems to me that the Warner amendment waters down further the operational testing. He calls it operational testing, but then it takes out the operational testing, giving it to the Secretary of Defense.

We have seen that this Secretary of Defense is committed to getting this program into the ground by September of this year regardless. That doesn't give me and I don't think it should give the public the confidence that a rigorous realistic testing scheme will be developed. But then the amendment goes on to say within a year we are going to have that, we are going to mandate the test. It seems to be slightly schizophrenic. We don't want the normal procedures, we don't want the Director of Test and Evaluation to be doing it, we want the Secretary of Defense to do it, but he is going to do it by October 1 of 2005.

Again, I don't think the amendment really responds to the problem and the issue. The issue and the problem is developing, as we have done for every other system. PAC–3 is an excellent example of operational testing and planning, and then ensuring that the operational tests take place—not just calling for operational tests but having the independent operational testing agency within the Pentagon designing and conducting the test. That is what my amendment does. It doesn't call for any specific deadline. If the conclusion of Mr. Christie were to be that it couldn't be feasible for 18 months or 2 years, at least we have gotten an operational test plan, and we will conduct the test. That, to me, would be a vast improvement over the current situation.

I hope my colleagues will not favorably respond to Senator WARNER's amendment and give me a chance to have this amendment agreed to.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ALLARD. Mr. President, I support the Warner amendment to the Reed amendment because it adds flexibility with accountability. The second-degree amendment will allow the Missile Defense Program to field capabilities expeditiously and to improve those capabilities rapidly and avoids the disadvantages I see in Senator REED's approach, which requires realistic testing broken off into blocks.

Specifically, Senator WARNER's second-degree amendment will require the Secretary of Defense, in consultation with the Director of OT&E, to set forth formal criteria to define operationally realistic testing for the ballistic missile defense system as a spiral development program. It will require operationally realistic testing consistent

with those criteria during the fiscal year 2005, and it will require operationally realistic testing of each block or spiral of the ballistic missile defense system.

The Warner second-degree amendment provides the flexibility needed to incorporate both operational test goals and developmental test goals in missile defense tests—flexibility that is denied in the Reed amendment. Thus, it avoids the substantial replanning, delay, and additional costs that would result if the Reed amendment is adopted.

But the second-degree amendment also helps ensure that the testing of the missile defense system is realistic and will result in a well-tested system that will be capable of defending our Nation. It requires a formal and appropriate role for the Director of OT&E, and it requires this realistic testing to be conducted during fiscal year 2005—almost certainly sooner than the formal OT&E required in Senator REED's amendment, perhaps even sooner.

I urge my colleagues to support the Warner second-degree amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island.

Mr. REED. Mr. President, I am just a bit taken aback by the claim of flexibility. The Warner amendment actually sets out a date certain when the tests will be conducted. Particularly, since it is a year away, particularly Mr. Christie is talking about it is premature because it is in the developmental stage. I thought his letter was quite specific. The ground-based midcourse defense element is currently at a material level which requires continued developmental testing with oversight and assistance from operational testing personnel conducting realistic testing in the near term. I guess the question is, What is ''in the near term''? I suggest it would be a year or more. It would be premature and not beneficial to the program.

Let me reiterate that this is an extraordinary letter. It says basically this system is not mature enough to test, but we are going to deploy it. I think that is very unusual, particularly given the history of having other systems where, even though they had not completed their operational testing—like the Predator and JSTARS—the plan for operational testing had already been sketched out—not by the Secretary of Defense but by the Office of the Director of Operational Test and Evaluation.

I think the flexibility is in my central amendment. It talks about before you deploy a block or a spiral—the new terminology might be ''spiral,'' but what they are going to do essentially is what we do so often: build the system to a certain capability; then, through tests or experience or through actual field trials, develop new software, new technology, and new complements that can make it better. At a certain point, rather than just simply tweaking here and there, you go back in and you develop a new block. That is roughly to me what the spiral development is, minus the catchphrase. Before you do that, we should have operational testing.

I think this is a very critical aspect. My amendment does not intend to stifle flexibility. It has no correlation with deployment. That is an issue that is going to be determined—and has been determined. We had votes on that, but somewhere along the line we need to do operational testing.

I must say I would be much more impressed with the degree of commitment to this operational testing if at least we had a plan for operational tests, a plan prepared by Mr. Christie. We do not have that. At least that would signal that we are serious about operational testing. In fact, that should have been done. It says this system is so immature that we cannot even get to the point of developing a plan to test.

Once again, the amendment is not only reasonable but it is compelling. This is what we do when we develop systems. Again, I suggest it is something we should do.

There is another aspect of my amendment which is very important and that is the baseline. Again, we have to know how much is being spent, what are the cost goals, what are the capability goals with respect to the system.

The GAO discovered—we did not discover this because of the way the books are kept—a $1 billion cost overrun. Rather than reporting it, making it obvious or tracking it, they simply changed the cost goals. In conjunction with that, we find that rather than having 10 interceptors, as they originally talked about in terms of cost goals, they now have 5 interceptors. The situation is that the costs have gone up by $1 billion and capability has gone down by half. Now we have a situation where we were unaware of it until the GAO discovered this.

Call it spiral development, call it evolutionary development, that should not be. One would hope this sophisticated development process, this new form of development, would mean that costs are more transparent, more accurate, and the capability is more obvious. That does not seem to be the case.

Along with the notion of developing operational testing is developing the baseline. None of that is in the Warner substitute to my amendment. I cannot see any discussion of establishing baselines, of making sure the costs are appropriate, of alerting Congress to overruns, rather than just changing goals.

I hope my amendment would be adopted and could be adopted.

I yield the floor, and ask at the conclusion we might think about whether it is appropriate to continue debating or to yield back time.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Colorado.

Mr. ALLARD. Mr. President, on this side, most Members have said whatever they want to say.

I, again, state we have a number of amendments we dealt with last year and this year which, in effect, add delays because of an excess reevaluation of the program. What we are striving for is a commonsense approach to accountability in the missile defense program without so much evaluation that we delay it. Each delay adds more and more costs to the program. Then those people who oppose the missile defense program will use that as a reason to defeat the program.

The fact is, right now we are in the process of putting those missiles in the ground. This fall we expect them to be operational. In order to have the proper developmental process in place, we have to have a test bed. While we are putting the test bed in place, it requires such a wide area we might as well make it operationally functional at the same time. That is what we are trying to do.

The Warner amendment provides the flexibility but still the accountability that we need. I am happy with what he has laid out in that amendment.

Dr. Thomas Christie has indicated time and time again that he is satisfied with his current role and the role his office plays in ballistic missile defense testing. He has testified. He states in his recent letter to me—and maybe I need to read the substance of this letter just to give my colleague an opportunity to hear clearly what his position is—the following:

> The Missile Defense Agency (MDA) is building a BMDS test bed that is essential to support realistic testing, and is absolutely essential for conducting adequate operational testing in the future. The test bed is also key to developing operational concepts, techniques, and procedures, while allowing my office to exploit and characterize its inherent defense capability.
>
> The Ground-based Midcourse Defense (GMD) element is currently at a maturity level that requires continued developmental testing with oversight and assistance from operational test personnel. Conducting realistic operational testing in the near-term for the GMD element would be premature and not beneficial to the program.
>
> My office has unprecedented access to GMD, and I am satisfied with the cooperation between the program office and the test community. I will continue to advise the Secretary of Defense and the Director, MDA, on the BMDS test program. I will also provide my characterization of system capabilities, and my assessment of test program adequacy annually, as required by Congress.

This is the chief accountability officer. He is responsible to make sure everything is ready to move forward. He is satisfied. There is no doubt that he is satisfied with the way things are going.

In order to meet some of Senator REED's concerns, the Warner amendment allows that. We address some of his concerns. Now we need to adopt the Warner amendment so we can still have the flexibility we need to deal with changing technology and perhaps

some unexpected events as we move forward.

I don't think anyone who has watched the development of military systems ever figures we have it right the first time. We come awfully close. With each passing year, new technology evolves and new ideas evolve and there are things we can do to improve the system. That is what spiral development is all about.

Again, Dr. Christie indicates that he is satisfied with his role and the role his office plays in the Missile Defense Program. He states that his office has ''unprecedented access'' to the ground-based midcourse effort and that cooperation is very good between the program office and his office.

He testified that he makes recommendations related to the developmental test program and his office has the ability to bring input into and influence the GMD test program.

Again, to quote Dr. Christie:

> My staff and I remain involved on a daily basis with the Missile Defense System and the BMDS element program offices in order to ensure that operational tests are addressed in their testing.
>
> We have over 100 operational test agents involved in the missile defense test program. A considerable amount of resources are being put forward to make sure we have accountability.

He goes on and indicates again that he is clearly satisfied with emphasis on operational test goals in the BMD system test plan. I will quote directly:

> The GMD [Ground-based Midcourse] program combined test force effectively integrated the operational testers into the program development activities and the test design and planning efforts.

He approved the operational test goals for the last three integrated flight tests.

He recently testified as follows:

> While I am very encouraged by the improved testing environment and capability that the BMDS test bed will provide, I am even more pleased with the increased emphasis on system integration and user involvement that I have seen over the past year.

We go on and on about his testimony as to how he has testified. The fact is, it is working. We are ready to put it in the ground this fall. We all recognize there are going to be improvements as we move along, but we are in a position to make those improvements.

I think the commonsense approach is to support the Warner amendment. I support it and encourage my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, how much time does the Senator from Rhode Island have remaining?

The PRESIDING OFFICER. There is 20 minutes 20 seconds.

Mr. LEVIN. I ask the Senator if he will yield me 8 minutes.

Mr. REED. Mr. President, I yield 8 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment of the Senator from Rhode Island simply says that the usual rules will apply in this case, that we are not going to change the rules because some people believe strongly this is an important weapons system. We have lots of important weapons systems of which we apply the rules that you must have operational testing at some point.

Now, there have been a couple of instances where operational testing has been delayed until after there has been some deployment, but there has been operational testing then. There have been plans for operational testing. The two examples which are used frequently are JSTARS and an unmanned aerial vehicle called Predator. Those are the two examples that have been used where a system has been deployed or partially deployed, and then the operational testing has occurred after that deployment.

But in those two cases—this is the critical issue which the Senator from Rhode Island addresses—as in all other cases, operational testing has occurred; and it has been designed by and implemented by the independent Office of Test and Evaluation.

The difference between the amendment offered by the Senator from Rhode Island and the second-degree amendment offered by the Senator from Virginia is that the Senator from Rhode Island preserves the rule, which as far as I can tell has never been violated, that the Office of Test and Evaluation does the testing. That is an independent test office.

Too often these days we see rules being ignored in order to meet some particular goal: We are not going to apply the Constitution here because we have needs over here. We are not going to apply the usual rules as to how we treat captives and how we treat prisoners because we have other needs over here. We are going to bend rules. We are going to ignore rules because of some particular goal that exists.

In this case, there is a proposal made that we ignore the rule, which has been in place for I don't know how many years, with a very important purpose behind it: that we have independent testing of weapons systems before or during or at some point after deployment by an independent test office—not by the Department of Defense in consultation with the test office but by that test office itself. It is the way we have protected our men and women in the military, to make sure that weapons systems work. It is the way we have protected this Nation, by making sure that weapons systems work.

We should not make an exception for it here. No matter how strongly people feel national missile defense will contribute to our national security, it will only contribute to our security if it works. To make sure it works, you need an independent testing office to do the testing and to lay out the criteria—not to consult, not to have a voice, but to do what they do with all other weapons systems that we deploy, which is to do the testing themselves.

This amendment does not prevent the administration from deploying missile defenses prior to operational testing. That was the amendment which was just defeated. This amendment allows that deployment but says you have to have operational testing sometime, at some point, and—this is the difference between the first-degree and the second-degree amendment—in the case of the first-degree amendment, that testing has to be done by that independent Office of Test and Evaluation, as all other testing of all other weapons systems that we have been able to research. You have to have plans. You have to make a decision: Yes, we are going to test this, and we are going to have our independent Office of Test and Evaluation do it.

Now, as I said, some defense programs have been deployed before operational testing was completed, and among them is the Predator, which was deployed in Kosovo in 1999, prior to the initial operational test and evaluation. But the operational testing for the Predator was planned for long before the Kosovo deployment, and it was completed in the next year after that deployment. The testing was done by that independent office, not by people who are out there in the field arguing for a system, but independently by the independent test office.

The JSTARS surveillance aircraft is another example of a military system which was deployed prior to operational testing. There was a great need. It was decided they could do the operational testing after the deployment. So two JSTARS aircraft were deployed during Desert Storm in 1991.

Interestingly enough, following that deployment, the Senate Armed Services Committee wanted to accelerate the program, but the Air Force thought the effort in the gulf war had not alleviated the need for operational testing. Indeed, it illuminated areas that needed more attention in development. So operational testing was performed on JSTARS in 1995, and the operational tests revealed some significant problems. Some of those problems in JSTARS, which independent operational testing—and the word ''independent'' is just as important as the word ''operational'' and just as important as the word ''testing''—those independent operational tests revealed some significant problems, including the inability to operate at the required altitude, inadequate tactics and procedures, and inadequate mission reliability and time-on-station.

What this amendment would do is to insist that the usual rules about operational testing by an independent test office apply here, not before deployment—that approach was defeated when the Boxer amendment was defeated—but at least sometime, and sometime is critically important, and just as critical is that those tests be done not just in consultation with but by the Office of Test and Evaluation.

If you do not like the rules, change the rules, change the law about OT&E, the Office of Test and Evaluation, change the law, but do not simply say we are going to ignore the law here because that law has an important purpose. That law requiring independent test and evaluation is a law which every Member of this body ought to defend. We fought a long time to put it in place. It has had some wonderful results. Our weapons systems have worked better because we have an independent office that does the testing.

So it is not good enough, as the second-degree amendment says: Well, we will have some consultation with that independent office. That does not give them the critical decision as to whether a weapons system is effective or is not effective. To put billions of dollars into systems which are not shown to be effective at some point, which are not operationally tested at some point by an independent office, is to increase the likelihood that billions of dollars will be wasted.

I thank the Chair and yield the floor.

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

Mr. REED. Mr. President, I yield to the Senator from Nevada.

Mr. REID. Six minutes?

Mr. REED. Six minutes.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, first, I share a name with the sponsor of this amendment. I have, once in a while, given him some advice. When it comes to military matters, there is no one who I have greater confidence in than the Senator from Rhode Island. He is the only Member of the Senate who is a graduate of the United States Military Academy at West Point. He is someone who has taught at that fine school. He is someone who has maintained his military contacts. And he is a student of what has been going on in the military since his retirement from the military. So I feel very confident and comfortable that the Senator—being a member of this most important committee, the Armed Services Committee, and having offered this amendment—is trying to do what he believes is the right thing for this country.

I express my appreciation to him for his studious efforts in offering this amendment and for often answering my questions about the military. He is such a valuable person to have in the Senate.

As I told the majority leader a few weeks ago, when I get up in the morning, the first thing I read is the sports page. I do that because there is always some good news in it. The rest of the newspaper you have to search hard for the good news. But after I finish the sports page, I reluctantly go to the first section of the paper.

This morning I went to the Washington Post. On the front page is a story. We have all seen the headlines about the 9/11 Commission, that according to available evidence, Iraq and Saddam Hussein had nothing to do with the terrorist attacks of 9/11. Another front-page story dealt with Abu Ghraib prison and some of the abuses that took place there.

On page 3 there is a feature story about a soldier that has been laid to rest in Arlington Cemetery. Page 4, there is some discussion about what we did yesterday dealing with the Leahy amendment.

The reason I mention these items very briefly is, you have to go all the way to page A19—I was stunned when I read this—the fourth paragraph, to read:

> Three U.S. soldiers were also killed Wednesday. . . .

It is like a throwaway.

> Three U.S. soldiers were also killed Wednesday. . . .

Three more deaths didn't warrant anything better than a throwaway line in the fourth paragraph on the 19th page of this newspaper.

We know these soldiers who have been killed—more than 800—are fathers, sons, neighbors, loved ones, all different categories. The families of these men and some women who have lost their lives since the war are paying a terrible price. I am stunned that we have come to the point in this war where we now say:

> Three U.S. soldiers were also killed Wednesday. . . .

I don't know how to describe how I felt when I read that. These three soldiers deserved more than that.

I hope we are not at a point where the death of American soldiers in combat is considered so routine that it is barely mentioned, and instead of meritorious placement in a newspaper, it is buried. We need to do better than that.

Hopefully, one of the things this bill will do is focus attention on the sacrifices being made by the men and women in Iraq. I hope the families of these three men get more attention than page A19 in the future.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I see the Senator from Alabama is here. I appreciate Senator SESSIONS serving on the Strategic Subcommittee with me and serving on the Armed Services Committee. He works very hard on that committee. The defense of this country is important. He agrees with that. He brings a stroke of common sense to our deliberations which I, for one, truly appreciate. I yield 5 minutes to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Chairman ALLARD for his leadership and his expertise. He is becoming perhaps the most authoritative Member of the Senate on this issue. He has worked on national missile defense since he has been in the Senate. It is great to work with him.

We do need to do the right thing. We have committed as a country to deploy a national missile defense system. We voted to deploy that system as soon as technologically feasible. That was back in the 1990s, and President Clinton signed the statute we passed. I believe it got 90-plus votes in the Senate. Although there were a lot of people who were opposed to it until the very end, in the end everybody realized that we needed to defend America, and we had the capability of doing so.

There has been a cottage industry of skeptics out there that has made fun of President Reagan. They called his vision for national missile defense Star Wars. Then when President Reagan said no to Gorbachev's proposal in Reykjavik, which accepted so many of the things President Reagan wanted so badly but told President Reagan he would have to stop national missile defense, he thought about that very hard on the eve of the reelection campaign. He knew he would be criticized, but he said, no; national missile defense is important to America. It was important to peace in the world because, instead of worrying about how many of the enemy we could kill, we could begin focusing on how to protect our people from being killed by missile attacks. It was a defining moment in the cold war. One expert recently said that was the moment that signaled the end of the Soviet Union.

We debated it here in the late 1990s. Senator THAD COCHRAN and JOE LIEBERMAN proposed the deploying amendment to go from research and talk to actual deploying and setting a goal for it. We had a bipartisan national commission that unanimously voted that the threat to the United States from missile attack was real, more imminent than intelligence agencies had previously said, and that we needed to move forward to deploy a system.

Under General Kadish, we have achieved a magnificent result. General Kadish—history will record—has been a tremendous leader, a man of substance and honesty and stability and good judgment, under all kinds of pressure. He has been beaten.

Senator LEVIN, the ranking member on our committee, is such a fine Senator. He and Senator REED have been critics of the program. They have raised questions about the program. I don't think it has hurt the program. It has probably helped the program. I know they have never been big fans of it. We made that decision.

We are going forward today. The amendment Senator REED has proposed, I am afraid, would cost us in the long run and provide little benefit. The provisions for cost, schedule, and performance baselines that he mandates have essentially been adopted now by the Department of Defense. It was part of a General Accounting Office study, and the Department of Defense has gone along with that study.

The provision for conducting operationally realistic tests for each block configuration is not unreasonable. Each test we conduct today, however, has developmental objectives. And

since this statute would prohibit the agency from approving developmental tests, we would have a real problem there. Those tests may be a problem. Each test would have developmental capabilities. It would require a significant replanning of the test program, slow the development, and increase costs in the long run.

We made a commitment to a new type of strategy for developing this unprecedented system. It is called spiral development. We said to the military, you develop this system. We are not going to put you in a straitjacket. We are going to allow you to move forward. And as you bring on new science and new capabilities, you decide and make recommendations to us as to how you would deploy it.

Maybe we decided it would be unwise for us to mandate exactly how this system should come out. I think that is what I would have as my biggest complaint with Senator REED's well-meaning amendment. I think it puts too much restraint on the freedom and initiative of the leaders in the Department of Defense to be creative in making the system and utilizing the money we put into the system effectively to come up with the best results.

I have been extremely proud of what has been accomplished so far. In September, we will deploy a missile in Alaska—the spot in the world that allows us to protect all of our States. It can knock down missiles that might be produced by the North Koreans, who have acted bizarrely many times in recent years. It would also allow us to knock down a missile launched by mistake, which could happen at any time. It would not be a complete system yet, and we will begin to test from that platform. In other words, to have a national missile defense system, you have to have a headquarters, radar, a communications system, Aegis-deployed radar to pick up missiles as soon as possible after launch.

This system has to work together as a coherent whole, and you need to have the ability to identify early an incoming missile and knock it down. We have proven hit-to-kill technology, bullet hitting bullet, that has been proven in quite a number of tests, and we continue to try to make it even better. I think the best way to test the system is to go forward with the plan we have today, get it in the ground so we can test it in the harsh Alaskan winters, and in the summer, when the humidity is up and maybe there is condensation in the tubes, and we can see how the radar works, and we can make sure we can have communication with our ships and see how the command structure works in order to make a decision. That is the way we need to test.

General Kadish and his team have accomplished a technological feat that many people in this country believe is second only to putting a man on the Moon. It is incredible. They have proven that they love America, that they are willing to advance rapidly toward a goal but at the same time be honest and prudent with the taxpayers' money.

I would not favor an amendment that would constrict them too much. That is what I am afraid this amendment does. That is why I am supportive of Chairman WARNER's proposal, which I think would accomplish much of what Senator REED would favor, without adverse consequences.

I thank the Chair and yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. REED. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Rhode Island has 7 minutes remaining. The Senator from Colorado has 29 minutes remaining.

Mr. ALLARD. Does the Senator from Rhode Island wish to draw this to a close and move to a vote?

Mr. REED. I think I will speak for about 5 minutes, and at that point we can call for a vote.

Mr. ALLARD. And I will make just a brief closing comment for about a minute or two. Why don't we go ahead. The Senator can make his statement, then I will make my brief statement, and we will move forward to a vote. I think we may have to go into a quorum call briefly before the vote and get things in order.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, first, I want to emphasize, again, that this amendment does not affect the deployment decisions that have been made with respect to the missile system. Again, also, we have all talked about operational testing, its importance, and that you have to do it. I would be much more confident if, in fact, there was at least a plan today for operational testing. Mr. Christie and the Department of Defense could have developed that over the last year or two. His letter said this system is so immature that I cannot even begin to think about operational testing.

Once again, let me raise the obvious. If it is that immature, then what do we have up in Alaska? Is it going to be a deployed missile system or a test bed? Or is it going to be both? That is the real core of my amendment. The real core is that sometimes, unrelated to deployment, we have to have operational testing.

I argue that my amendment provides even more flexibility to the Department of Defense because it doesn't set a date certain of October 1, 2005, when this test must be conducted. I don't think we can make that date, frankly. I think we will find ourselves back here on the next Defense authorization bill striking that, extending it, or pushing it out because, to me, that is an unrealistic, inflexible deadline.

For that reason alone, I urge my colleagues to think particularly about the Warner amendment. There is a suggestion I would unduly hobble development. As I read Senator WARNER's language, he directs the Secretary of Defense to ensure that each block configuration of the ballistic missile system is consistent with the operational scheme, which is precisely what I am saying. But I am not dictating a specific time to do that. The real key difference between Senator WARNER's proposal and mine is that he is reversing the customary and prudent way to do independent operational testing. He is taking away the independence.

The independence, institutionally, is found in Mr. Christie's office, the Office of Operational Test and Evaluation, not in the Office of the Secretary of Defense. Everybody here has to recognize that there is no more political, ideological issue than missile defense in terms of the national security debate. It has been that way for 20 years.

To suggest that the Secretary of Defense and members of the Cabinet are going to be as independent as someone whose job and career it has been to render objective judgments about weapons systems and deployability and effectiveness is, I think, defying logic. This is not rocket science, it is human behavior. Why are we going to build into the system all those objective judgments and objective pressures that any Secretary, regardless of party, regardless of administration, must feel when something this big is before him to decide?

That is why we created a system 20 years ago where there is an independent Office of Operational Test and Evaluation, with a director appointed by the President and who is not directly subject to political whims, the whims of contractors, or the needs of contractors to make sure the funds keep flowing. That is the big distinction between our amendments. We want operational testing, but we want it to be independent. That is the GAO recommendation—independent, realistic operational testing.

We are not specifying to do it next week. We are not saying you cannot deploy until you test. In fact, I am removing myself from the timing. As I said before, I think it is unrealistic to assume that there can be an accurate operational test by October 1 of next year. It is not going to slow down the deployment or development; I don't think so. It is going to make sure we learn from each step, each mistake, and each achievement. That is what good operational testing does.

I feel very strongly that the Warner amendment is trying to talk about operational testing, but the heart of it is not. It is subjective evaluation that has been going on now for years with respect to this missile program. I think we have to get back to independent evaluation. We can do it with my amendment, and we can also ensure that we get baseline information about how much is being spent, and the MDA cannot, in 1 year, decide that they are a billion dollars off in the cost estimate so they change the cost estimate.

That is another example documented by GAO of the temptation to funding programs when you are the tester and the testee. That is what the Warner amendment would do.

So I hope, sincerely, that the Warner amendment can be defeated and that we can move on and adopt the Reed amendment. In the spirit of our prior comments, I will yield back my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 1 minute. I want to make a very brief comment, and that is this: The key argument is that the Pentagon's chief tester says the operational test is premature. The Warner second-degree amendment requires the definition of ''realistic testing,'' and it requires a test according to these criteria next year. That means we will get realistic testing years sooner than with the Reed amendment.

The Warner second-degree amendment provides a formal and appropriate role for the Director of the Office of Test and Evaluation in a developmental program. That is an unusual step and actually enhances his role in the ballistic missile test program. It does all this without incurring the cost and delay of the Reed amendment.

Mr. President, I yield back the remainder of my time and ask my colleagues to vote in support of the Warner amendment.

Mr. President, I have a unanimous consent request that I need to propound.

Mr. President, I ask unanimous consent that following the vote in relation to the pending Warner second-degree amendment, the Senate proceed to executive session and consecutive votes on the confirmation of the following nominations: James L. Robart, Roger Benitez, and Jane Boyle. I further ask unanimous consent that prior to each of the judge votes there be 4 minutes equally divided for debate on the nominations; provided further, that following the votes, the President be notified of the Senate's action, and the Senate then resume legislative session.

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I, first, ask the distinguished acting manager to modify his request to have the votes following the Warner second-degree amendment vote to be 10-minute votes.

Mr. ALLARD. I agree to modify the request to 10-minute votes on the two following the initial vote—or does the Senator want all three of them?

Mr. REID. Yes.

Mr. ALLARD. On all three of them.

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

Mr. REID. Further, Mr. President, under the order, as I understand it, prior to voting on the judges, the Senator from Rhode Island has a right to offer an amendment to his amendment, if the Warner amendment is adopted. The order was he would have the right to offer an amendment; is that right?

The PRESIDING OFFICER. That is the previous order.

Mr. REID. So it is my understanding the Senator from Rhode Island will not offer that amendment now. I ask unanimous consent also, Mr. President—and I think this is in keeping with what Senator WARNER wanted—that following the disposition of these judges, we return to the Defense bill and that the Senator from Rhode Island be recognized to offer another amendment that has already been indicated—I do not know the number of it. It is his second missile defense amendment.

Mr. ALLARD. Missile defense is OK.

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

Mr. ALLARD. Mr. President, I understand we may need to ask for the yeas and nays.

Mr. REID. I ask for the yeas and nays on the Warner amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on the pending second-degree amendment.

Mr. ALLARD. We are ready to proceed to the vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the Warner amendment No. 3453. The clerk will call the roll.

The assistant legislative clerk call the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—55

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

NAYS—44

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

NOT VOTING—1

Kerry

The amendment (No. 3453) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3354

Mr. WARNER. Mr. President, I would like to have a clarification about the standing order with regard to the amendment of the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

Without objection, the amendment, as amended, is agreed to.

The amendment (No. 3354) was agreed to.

EXECUTIVE SESSION

NOMINATION OF JAMES L. ROBART TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON

The PRESIDING OFFICER. The Senate will now go into executive session to consider nominations.

The clerk will report the first nomination.

The legislative clerk read the nomination of James L. Robart, of Washington, to be United States District Judge for the Western District of Washington.

Mr. WARNER. Mr. President, could I inquire of the Presiding Officer, are these three votes 10 minutes each?

The PRESIDING OFFICER. The Senator is correct.

There is 4 minutes of debate equally divided.

Who yields time?

Ms. CANTWELL. Mr. President, this afternoon it is my privilege to introduce you to the incredibly talented nominee for a vacancy on the District Court for the Western District of Washington, James Robart.

In one sense, today's confirmation vote is a homecoming for Mr. Robart. Early in his career, he served as an aide to Senator Scoop Jackson. I am sure that he would be proud of his accomplishments during a long and productive legal career, and would wholeheartedly endorse his confirmation.

Following his public service as a staff member in both Houses, Mr. Robart returned to Washington State, where he has worked as an attorney for the past three decades. During his considerable years of practice in Federal court, he has earned a reputation for fairness and integrity.

Mr. Robart's nomination is the result of a bipartisan selection process that has worked very well for Washington State. Members of Washington State's legal community, the White House, and my colleague Senator PATTY MURRAY and I worked together to review a group of applicants. This cooperative approach has produced a number of highly qualified judicial nominees, and