Mr. WARNER. I thank the distinguished Senator. Yesterday I believe the Senator brought that to my attention and we failed to record it. My statement is so amended by the distinguished Senator from Nevada.

Mr. WARNER. Mr. President, I propose to my ranking member that as soon as we conclude our opening remarks, the Senate then recognize the junior Senator from Massachusetts for a period of 1 hour; is that correct?

Mr. KERRY. Mr. President, my two colleagues, the Senator from Connecticut and the Senator from Rhode Island would like to take a moment to acknowledge our distinguished visiting Chaplain this morning. If they could just have a moment to do that.

Mr. WARNER. I am delighted to accommodate them in that fashion.

The PRESIDING OFFICER. The Senator from Rhode Island.

GREETINGS TO REV. PHILIP A. SMITH

Mr. REED. Mr. President, I am delighted to welcome Father Philip Smith, the president of Providence College, our guest Chaplain.

Providence College is an extraordinary institution in my home State of Rhode Island. It is a place where many of my neighbors and friends have been educated. More than that, it has been a source of strength, purpose, and inspiration for the whole community. Father Smith is the 11th president of Providence College and has been a passionate advocate for his institution and for the State of Rhode Island.

Providence College is a Dominican college, a college committed not only to developing the minds but the character of its students. Its leader is a theologian, a scholar, and a leader in his own right. His leadership is not simply intellectual; he is a leader of integrity and of commitment.

Rhode Island is proud of Providence College, and I am particularly proud of the president of Providence College, Rev. Philip Smith. It was an honor to have him in the Chamber today to lead us in prayer. I thank him and commend him. I wish him well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, at this juncture I sought to ask to associate myself with the amendment of the distinguished Senator from Rhode Island. He has spoken eloquently about Father Philip Smith and his wonderful leadership at Providence College.

I am honored to be a graduate of Providence, as was my father. I have fond memories of my years there, as my father did in his undergraduate days.

Father Smith led this institution most admirably during his tenure. We are delighted and honored he is performing the duties of assistant chaplain here today. I commend him for his opening prayer.

The Dominican priests are known as the order of preachers, Mr. President. Certainly Father Smith eloquently displayed that historic reputation of the Dominican order. The lives of the students who have attended Providence College have been so admirably altered as a result of the education of this wonderful institution. I know they join me in expressing our gratitude, not only to Father Smith but the faculty and administrator and others over the years who provided literally thousands of students and families with a wonderful educational opportunity in liberal arts, medicine and health, a very diverse academic curricula that is offered at Providence College. But also as my colleague from the island has adequately and appropriately identified, it is the spiritual leadership as well which we appreciate immensely.

It is truly an honor to welcome Father Smith to this Chamber, to thank him for his words, and to wish him and the entire family of Providence College the very best in the years to come.

The PRESIDING OFFICER. The Senator from Virginia.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001—Continued

Mr. WARNER. Mr. President, for the information of the Senate, I would like to pose a unanimous consent request with regard to the sequencing of speakers.

We have the distinguished Senator from Massachusetts who has, under a previous order, 1 hour. I suggest he be the first and lead off this morning, followed by a period of 30 minutes thereafter. Following that, the distinguished ranking member and I have some 30 cleared amendments which we will offer to the Senate following these two sets of remarks.

Then Senator Smith; as soon as I can reach him, I will sequence him in.

I just inform the Senate I will be seeking recognition to offer an amendment on behalf of Senator Dool and myself, and I will acquaint the ranking member with the text of that amendment shortly.

Just for the moment, the unanimous consent request is the Senator from Massachusetts, followed by the Senator from Rhode Island, for a period of time, probably not to exceed 30 minutes, for the ranking member and myself to deal with some 30-odd amendments.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan. Mr. LEVIN. Mr. President, I would add the following: It is my understanding of the unanimous consent agreement that recognition of the senators who are listed here with a fixed period of time, including Senator KERRY, Senator SMITH, Senator SNOWE, and Senator INHOFE, is solely for the purpose of debate and not for the purpose of offering an amendment. Is the Senator correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I thank the Chair.

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

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the chairman and ranking member for their courtesy and I appreciate the time of the Senate to be able to discuss an issue of extraordinary importance. It is an issue that is contained in this bill. It is a line item in this bill of some $85 million with respect to the issue of national missile defense.

President Clinton has just returned from his first meeting with the new Russian President, Vladimir Putin, and arms control dominated their agenda, in particular, the plan of the United States to deploy a limited national defense system, which would require amending the 1972 ABM Treaty. Russia is still strongly opposed to changing that treaty, and I think we can all expect this will continue to be an issue of great discussion between the United States and Russia in the months and possibly years to come.

As I said, in the Senate today, this defense bill authorizes funding for the construction of the national missile defense initial deployment facilities. Regrettably, we do not have the time in the Senate to lay out policy considerations in a thorough, quiet, and thoughtful way, and I will try to do that this morning. The question of whether, when, and how the United States should deploy a defense against ballistic missiles is, in fact, complex—tremendously complex. I want to take some time today to walk through the issues that are involved in that debate and to lay bare the implications it will have for the national security of the United States.

No American leader can dismiss an idea that might protect American citizens from a legitimate threat. If there is a real potential of a rogue nation, as Senator Dool in particular has pointed out by his activities at any city in the United States, responsible leadership requires that we make our best, most thoughtful efforts to defend against that threat. The same is true of the potential threat of accidents, which if allowed to happen, if not made sure they do not happen, no leader could explain away not having chosen to defend against such a danger when doing so made sense.
The questions before us now are several. Does it make sense to deploy a national missile defense now, unilaterally, if the result might be to put America at even greater risk? Do we have more time to work with allies and others, or should we attempt to unilaterally undermine them in any way as we confront the emerging ballistic missile threat.

Even as we have made progress with Russia on reducing our cold war arsenals, ballistic missile technology has spread, and the threat to the United States should not be underestimated in any way as such as the Chemical Weapons Convention, multilateral arms control agreements, strategic reductions with Russia and mass destruction through bilateral deployments. National Missile Defense System aimed at containing the proposed system's technology, the cost of the system, and the likely impact of deploying such a system on the overall strategic environment and U.S. arms control efforts in general. In my judgment, a system that seriously threatens the United States faces a developing threat from North Korea, Iran, and Iraq. In addition to the possibility that North Korea might convert the Taepo-Dong-1 missile into an inaccurate ICBM capable of carrying a light payload to the United States, the report found that North Korea could use this same threat to threaten the United States with a nuclear weapon to the United States, and it could deliver a crude nuclear weapon to American shores in the next 5 years. The NIE also found that, in the next 15 years, Iran could test an ICBM capable of carrying a nuclear weapon to the United States—and certainly to our allies in Europe and the Middle East—and that Iran might also be able to do the same in a slightly longer time frame.

The picture of the evolving threat to the United States from ballistic missile programs in hostile nations has changed minds in the Senate about the necessity of developing and testing a national missile defense. It has changed my mind about what might be appropriate to think about and to test and develop. If Americans in Alaska or Hawaii must face this threat, however uncertain, I do not believe someone in public life can responsibly tell them: We will not look at or take steps to protect you.

But as we confront the technological challenges and the political ramifications of developing and deploying a national missile defense, we are compelled to take a closer look at the threat we are rushing to meet. I believe the threat from North Korea, Iran, and Iraq is the most immediate, and that we confront today much greater, much more immediate dangers, from which national missile defense cannot and will not protect us.

To begin, it is critical to note that both the Rumsfeld Commission and the National Intelligence Estimate adopted new standards for assessing the ballistic missile threat in response to political pressures from the Congress. The 1995 NIE was criticized for underestimating the threat from rogue missile programs. Some in Congress accused the commission of deliberately downplaying the threat to undermine their call for a national missile defense. To get the answer that they were looking for, the commission then established the Rumsfeld Commission to re-examine to what degree. Recently, the commission was made up of some of the best minds in U.S. defense policy—both supporters and skeptics of national missile defense. I do not suggest the commission's report was somehow fixed. These are people who have devoted their lives in honorable service to their country. The report reflects less than their best assessment of the threat.

In reaching the conclusions that have alarmed so many about the immediacy of the threat, we must responsibly take note of the fact that the commission did depart from the standards we had traditionally used to measure the threat.

First, the commission reduced the range of ballistic missiles that we consider to be a threat from missiles that can reach the continental United States to those that can only reach Hawaii and Alaska. I think this is a minor distinction because, as I said earlier, no responsible leader is going to suggest that you should leave Americans in Hawaii or Alaska exposed to attack. But certainly the only reason to hit Hawaii or Alaska, if you have very few weapons measured against other targets, is to wreck terror. And inasmuch as that is the only reason, one has to factor that into the threat analysis in ways they did not.

Secondly, it shortened the time period for considering a developing program to be a threat from the old standard which measured when a program could actually be deployed to a new standard of when it was simply tested. Again, I would be willing to concede this as a minor distinction because if a nation were to be intent on using one of these weapons, it might not wait to meet the stringent testing requirements that we usually try to meet before deploying a new system. It could just test a missile, see that it works, and make plans to use it.

These changes are relatively minor, but they need to be acknowledged and factored into the overall discussion.

But the third change which needs to be factored in is not insignificant because both the Rumsfeld Commission and the 1999 NIE abandoned the old standard of the likelihood that a nation would use its missile capacity in favor of a new standard of whether a nation simply has the relevant capacity for a missile attack,
with no analysis whatsoever of the other factors that go into a decision to actually put that capability to use. This is tremendously important because, as we know from the cold war, threat is more than simply a function of capability; it is also a function of situation and other political and military considerations. Through diplomacy and deterrence, the United States can alter the intentions of nations that pursue ballistic missile programs and so alter the threat they present to us.

This is not simply wishful thinking. There are many examples today of nations who possess the technical capacity to attack the United States, but whom we do not consider a threat. India and Pakistan have made dramatic progress in developing medium-range ballistic missile programs. But the intelligence community does not consider India and Pakistan to pose a threat to U.S. interests. Their missile capacity alone does not translate into a threat. We see why when they do not hold aggressive intentions against us.

Clearly, North Korea, Iran, and Iraq are hostile to us, and our ability to use diplomacy to reduce the threat they pose will be limited. But having the capacity to reach us and an animosity towards us does not automatically translate into the intention to use weapons of mass destruction against us.

In the 40 years that we faced the former Soviet Union, it was impossible to destroy each other, neither side resorted to using its arsenal of missiles. Why not? Because even in periods of intense animosity and tension, under the most unpredictable and isolated of regimes, political and military deterrence has a powerful determining effect on a nation’s decision to use force. We have already seen this at work in our efforts to contain North Korea’s nuclear and missile programs. We saw it at work in the gulf war when Saddam Hussein was deterred from using his weapons of mass destruction by the sure promise of a devastating response from the United States.

During the summer of 1999, intelligence reports indicated that North Korea was preparing the first test-launch of the Taepo Dong-2. Regional tensions rose, as Japan, South Korea and the United States warned Pyongyang that it would face serious consequences if it went ahead with another long-range missile launch. The test was indefinitely delayed, for “political reasons,” which no doubt included U.S. military deterrence and the robust diplomatic efforts by the United States and its key allies in the region.

Let me speak for a moment now about the currentNice threat. As we know from the cold war, the threat of an accidental or unauthorized launch can overwhelm the proposed limited defense.

Let’s look for a moment at the system the administration is currently defending—whether to launch a retaliatory strike on the United States or, in fact, maintain its strategic forces on high alert to allow for a quick, annihilating counterattack that would overwhelm the proposed limited defense they are offering.

In effect, in order to deploy the system the administration is currently defending, they are prepared to have Russia, maintain a bad system, and control system weapons on hair trigger or targeted in order to maintain the balance.

In sum, the threat from rogue missile programs is neither as imminent nor as mutable as some have argued. We have time to use the diplomatic tools at our disposal to try to alter the political calculation that any nation might make before it decided to use ballistic missile capacity.

Moreover, the United States faces other, more immediate threats that will not be met by an NMD. To meet the full range of threats to our national security, we need to concurrently address the emerging threat from the rogue ballistic missile program, maintain a vigorous defense against theater ballistic missiles and acts of terrorism, and avoid actions that would undermine the strategic stability we have fought so hard to establish.

Let me speak for a moment now about the technology. In making his decision, the President will also consider the technological readiness and effectiveness of the proposed system. Again, I have grave concerns that we are sacrificing careful technical development of this system for an artificial deadline, for an end game, to which I may say, those concerns are shared by people far more expert than I am. Moreover, even if the proposed system were to work as planned, I am not convinced it would provide the most effective response against a developing missile threat.

Let’s look for a moment at the system currently under consideration. The
administration has proposed a limited system to protect all 50 States against small-scale attacks by ICBMs. In the simplest terms, this is a ground-based, hit-to-kill system.

An interceptor fired from American soil and incoming missile directly to destroy it. Most of the components of this system are already developed and are undergoing testing. It will be deployed in 3 phases and is to be completed by about 2010, if the decision to deploy is made this year. The complete system will include 200, 250 interceptors deployed in Alaska and North Dakota, to be complemented by a sophisticated array of upgraded early-warning radars and satellite-based launch detection and tracking systems. I have two fundamental questions about this proposed system: Will the technology work as intended, and is the system the most appropriate and effective defense against this defined threat?

There are three components to consider in answering the first question: The technology's ability to function at the most basic level, its operational effectiveness against real world threats, and its reliability. I have only touched very cursorily on the compressed testing program and decision deadline permit us to come close to drawing definitive conclusions about those three fundamental elements of readiness.

In a Deployment Readiness Review scheduled for the end of this year, the Pentagon will assess the system, largely on the results of three intercept tests. The first of these in October 1999 was initially hailed as a success because the interceptor did hit the target, but then, on further examination, the Pentagon conceded that the interceptor had initially been confused, it had drifted off course, ultimately heading for the decoy balloon, and possibly striking the dummy warhead only by accident. The follow-on test, in February 2000, was postponed until late June and has recently been postponed again. It is expected in early July, just a few weeks before the Pentagon review.

To begin with, after two tests, neither satisfactory, it is still unclear whether the system will function at a basic level under the most favorable conditions. Even if the next test is a resounding success, I fail to see how that would be enough to convince people we have thoroughly vetted the potential problems of a system.

On the second issue of whether the system will be operationally effective, we have very little information on which to proceed. We have not yet had an opportunity to test operational versions of the components of this system in the ways this may potentially do. There are three components to the proposed national missile defense system: the first is the interceptors deployed in Alaska and North Dakota, the second is early-warning radars and satellite-based launch detection and tracking systems and the third is the exo-atmospheric system.

The exo-atmospheric system is also vulnerable to missiles carrying nuclear warheads armed with decoys. Using anti-simulation, an attacker would disguise the nuclear warhead to look like a decoy by placing it in a lightweight balloon and releasing it along with a large number of similar but empty balloons. Using simple technology to raise the temperature in all of the balloons, the attacker could make the balloon containing the warhead indistinguishable to infrared radar from the empty balloons, forcing the defensive system to shoot down every balloon in order to prevent any that the warhead deployed. By deploying a large number of balloons, an attacker could easily overwhelm a limited national missile defense system. Alternately, by covering the warhead with a shroud cooled by liquid nitrogen, an attacker could reduce the warhead's infrared radiation by a factor of at least 1 million, making it incredibly difficult for the system's sensors to detect the warhead in time to hit it.

I have only touched very cursorily on the simplest countermeasures that could be available to an attacker with ballistic missiles, but I believe this discussion raises serious questions about the effectiveness of the proposed system. I do not believe the compressed testing program as a whole is likely to allow for a thorough and rigorous testing program. This recommendation is not made in a vacuum. Two independent reviews have reached a similar conclusion about the risks of rushing to deployment. In February 1998, a Pentagon panel led by former Air Force Chief of Staff Gen. Larry Welch, characterized the truncated testing program as a "rush to failure. The panel's second report recommended delaying the decision on deployment until 2003 at the earliest to allow key program elements to be fully tested and proven. The concerns of the Welch Panel were reinforced by the release in February 2000 of a report by the Defense Department's office of operational test and evaluation (DOT&E).

The Coyle report decried the undue pressure being applied to the national missile defense testing program and warned that rushing through testing to meet artificial decision deadlines has "historically resulted in a negative effect on virtually every troubled DOD development program." The Report recommended that the Pentagon postpone its Deployment Readiness Review scheduled for early July which will be the first "integrated systems" test of all the components except the booster.

The scientific community is concerned about more than the risks of a shortened testing program. The best scientific minds in America have begun to warn that even if the technology functions as planned, the system could be deployed under an incorrect understanding of the results of the first three intercept tests (now scheduled for early July), which will be the first "integrated systems" test of all the components except the booster.

The proper national missile defense system is an exo-atmospheric system, meaning the interceptor is intended to hit the target after the boost phase when it has left the atmosphere and before reentry. An IBM releases its payload at this time, before reaching a speed high enough to prevent the warhead from hitting a braker's reentry vehicle. The IBM release in February 2000 of a report by the Defense Department's office of operational test and evaluation (DOT&E).

The most effective means of delivering a CBW, a chemical-biological warfare warhead on a ballistic missile, is to deploy one large warhead filled with the agent and to divide it up into a large number of as few as 100 submunitions, or bomblets. There are few technical barriers to weaponizing CBW this way, and it allows the agents to be dispersed over a large area, inflicting maximum casualties. Because the limited NMD system will not be able to intercept a warhead if the bomblets are dispersed, it could quickly be overwhelmed by just three incoming missiles armed with bombblets—and that is assuming every interceptor hit its target. Just one missile carrying 100 targets would pose a formidable challenge to the system being designed with possibly devastating effects.

The proposed national missile defense is an exo-atmospheric system, meaning the interceptor is intended to hit the target after the boost phase when it has left the atmosphere and before reentry. An IBM releases its payload at this time, before reaching a speed high enough to prevent the warhead from hitting a braker's reentry vehicle.
a major operational vulnerability in the proposed system and about whether this system is the best response to the threats we are most likely to face in the years ahead. I don't believe it is.

There is a simpler, more sensible, less threatening, more manageable, and more effective approach to missile defense that deserves greater consideration. Rather than pursuing the single-layer exo-atmospheric system, I believe we should focus our research efforts on developing a forward-deployed, boost phase intercept system. Such a system would build on the current technology of the Army's land-based theater high-altitude air defense, THAAD, and the Navy's sea-based theaterwide defense system to provide forward-deployed defenses against both theater ballistic missile threats and long-range ballistic missile threats in their boost phase.

The Navy already deploys the Aegis fleet air defense system. An upgraded version of this system could be stationed off the coast of North Korea or in the Mediterranean or in the Persian Gulf to shoot down an ICBM in its earliest and slowest stage. The ground-based THAAD system could similarly be adapted to meet the long-range and theater ballistic missile threats. Because these systems would target a missile in its boost phase, they would eliminate the current system's vulnerability to countermeasures. This approach could also be more narrowly targeted at specific threats, and it could be used to extend ballistic missile protection to U.S. allies and to our troops in the field.

As Dick Garwin, an expert on missile defense and a member of the Rumsfeld Commission has so aptly argued, the key advantage to the mobile forward-deployed missile defense system is that rather than having to create an impenetrable umbrella over the entire U.S. territory, it would only require us to put a lid over the smaller territory of an identified rogue nation or in a location where there is the potential for an accidental launch. A targeted system, by explicitly addressing specific threats, would be much less destabilizing than a system designed only to protect U.S. soil. It would reassure Russia that we do not intend to undermine its nuclear deterrent, and it would enable Russia and the United States to continue to reduce and dismantle their strategic arsenals. It would reassure U.S. allies that they will not be left vulnerable to missile threats and that they need not consider deploying nuclear deterrents of their own. In short, this alternative approach could do what the proposed national defense system will not do: It will make us safer.

There are two major obstacles to deploying a boost phase system, but I believe both of those obstacles can and must be overcome. First, the technology is not yet there. The Navy's theaterwide defense system was designed to shoot down cruise missiles and other threats to U.S. warships. Without much faster intercept missiles than are currently available, the system would not be able to stop a high-speed ICBM, even in the relatively slow boost phase. The THAAD system, which continues to face considerable challenges with power generation and testing phases, is also being designed to stop ballistic missiles, but it hasn't been tested yet against the kinds of high speeds of an ICBM.

Which raises the second obstacle to deploying this system: the current interpretation of the ABM Treaty, as embodied in the 1997 demarcation agreements between Russia and the United States, does not allow us to test or deploy a theater ballistic missile system capable of shooting down an ICBM. I will address this issue a little more in a moment, but let me say that I am deeply disturbed by the notion that we should withdraw from the ABM Treaty and unilaterally deploy an ABM system, particularly the kind of system I have described. In fact, President Putin hinted quite openly at the potential for that kind of an agreement being reached. I commend the President for working with Russia that will allow us both to deploy in an intelligent and mutual way that does not upset the balance.

I want to briefly address the issue of cost, which I find to be the least problematic of the four criterion under consideration. Those who oppose the idea of a missile defense point to the fact that, in the last forty years, the United States has spent roughly $120 billion trying to develop an effective defense against ballistic weapons. And because this tremendous investment has still not yielded definitive results, they argue that we should abandon the effort before pouring additional resources into it.

...I disagree. I believe that we can certainly afford to devote a small portion of the Defense budget to develop a workable national missile defense. The projected cost of doing so varies—from roughly $4 billion to develop a boost-phase system to an estimated $50 billion to deploy the three-phased ground-based system currently under consideration by the Administration. These estimates will probably be revised upward as we confront the inevitable reliability problems. But, spread out over the next 5 to 10 years, I believe we can well afford this relatively modest investment in America's security, provided that our research efforts focus on developing a reliable response to the emerging threat.

My only real concern about the cost of developing a national missile defense is in the perception that addressing this threat somehow makes us safe from the myriad other threats that we face. We must not allow the debate over NMD to hinder our cooperation with Russia, China, and our allies to stop the proliferation of WMD and ballistic missile technology. In particular, we must remain steadfast in our efforts to reduce the dangers posed by the enormous weapons arsenal of the former Soviet Union. Continued Russian cooperation with the expanded NMD program will have a far greater impact on America's safety from weapons of mass destruction than deploying an NMD system. We must not sacrifice the one for the other.

Let me go to the final of the four considerations the President has set forth for deploying a system does not constitute an abrogation of the ABM Treaty, it sure seems like it. It is not what the Administration means when it says that it is not an aggressive act. Mr. President, the first casualty of such a declaration would be START II. Article 2 paragraph 2 of the Russian instrument of ratification gives Russia the right to withdraw from START II if the U.S. withdraws from or violates the 1972 ABM Treaty. Russia would also probably stop implementation of START I, as well as cooperation with our comprehensive threat reduction programs. I don't have time at this moment to go through the full picture of the threat reduction problems. But suffice it to say that really the most immediate and urgent threat the United States faces are the numbers of weapons of mass destruction that the Russian command and control system is increasingly degraded, and the single highest priority of the United States now is keeping the comprehensive threat reduction programs on target. To lose that by a superficial statement of intention to proceed would be one of the most dramatic losses of the last 40 to 50 years.
So continued cooperation with Russia on these arms control programs is critical. Furthermore, no matter how transparent we are with Russia about the intent and capabilities of the proposed system, Russia's military leadership may perceive a unilateral U.S. deployment as a direct threat to their deterrent capacity. And while Russia doesn't have the economic strength today to significantly enhance its military capabilities, there are clear examples of a country's effort to wield formidable military power when it wants. We must not allow a unilateral NMD deployment to provoke the Russian people into setting aside the difficult but necessary tasks of democratization and economic reform in a vain effort to return to Russia's days of military glory.

Finally, with regard to Russia, a unilateral deployment by the United States would jeopardize our cooperation on a whole range of significant issues. The advantage, as we have seen, that Russian cooperation will continue to be important on matters such as stopping Teheran's proliferation efforts and containing Iraq's weapons programs to promoting stability in the Balkans. While the impact of a limited U.S. system on Russian security considerations would be largely perceptual, at least as long as that system remains limited, its impact on China's strategic posture is real and immediate. China today has roughly 20 times as many long-range missiles. The proposed system would undermine China's strategic deterrent as surely as it would contain the threat from North Korea. And that poses a problem because, unlike North Korea, China has the financial resources to build a much larger arsenal.

The Pentagon believes it is likely that China will increase the number and sophistication of its long-range missiles just as part of its overall military modernization effort, regardless of what we do on NMD. But as with Russia, if an NMD decision is made without consultation with China, the leadership in Beijing will perceive the deployment as at least partially directed at them. And given the recent strain in U.S.-China relations and uncertainty in the Taiwan Strait, the vital U.S. national interest in maintaining stability in the Pacific would, in fact, be greatly undermined by such a decision made on our own.

Nobody understands the destabilizing effect of a unilateral U.S. NMD decision better than our allies in Europe and in the Pacific. The steps that Russia and China would take to address their insecurities about the U.S. system will make their neighbors less secure. And a new environment of competition and distrust will undermine regional stability by impeding cooperation on proliferation, drug trafficking, human rights abuses, and all the other transnational problems we are confronting together. So I think it is critical that we find a way to deploy an NMD without sending even a hint of a message that the security of the American people is becoming decoupled from that of our allies. In Asia, both South Korea and Japan have the capability to deploy nuclear programs of their own. Neither has done so, in part, because both have great confidence in the integrity of our guarantees and in the U.S. nuclear umbrella that extends over them. They also believe that, while China does aspire to be a regional power, the threat it poses is best addressed through engagement and efforts to anchor China in the international community. Both of these assumptions would be undermined by a unilateral U.S. NMD deployment.

First, our ironclad security guarantees will be perceived by the Japanese, by the South Koreans, and others, as somewhat rusty if we pursue a current NMD proposal to create a shield over the U.S. territory. U.S. cities would no longer be vulnerable to the same threat that races would Mt. Fuji or Seoul and Tokyo would continue to face. And so they would say: Well, there is a decoupling; we don't feel as safe as we did. Maybe now we have to make decisions to nuclearize ourselves in order to guarantee our own security.

China's response to a unilateral U.S. NMD will make it, at least in the short term, a far greater threat to regional stability than it poses today. If South Korea and Japan change their perceptions of U.S. willingness to protect them, they then could both be motivated to explore independent means of boosting their defenses. Then it becomes a world of greater tensions, not lesser tensions. It becomes a world of greater hair-trigger capacity, not greater safety-lock capacity.

Our European allies have expressed the same concerns about decoupling as I have expressed about Asia. We certainly cannot rely on our European allies' willingness that Great Britain, France, and Germany will make about the impact of the U.S. NMD system. But I believe their concerns hinge largely on the affect a unilateral decision would have on Russia, concerns that would be greatly ameliorated if we make the NMD decision with Russia's cooperation.

Finally, much has been made of the impact a U.S. national missile defense would have to the Security Treaty. The fact is that of the 40 Soviet MIRVs, the Soviets MIRVed in 1973, and the Soviets followed in 1968. In 1964, we developed the first multiple warhead missile and reentry vehicle; we tested the first MIRV. The Soviets MIRVed in 1973, and so on, throughout the cold war, up until the point that they came up with a different decision—the ABM Treaty and reducing the level of nuclear weapons.

The rationale for testing and deploying a missile defense is to make America and the world safer. It is to defend against a threat, however realistic, of a rogue state/terrorist launch of an ICBM, or an accidental launch. No one has been openly suggesting a public rationale at this time of a defense against any and all missiles, such as the original Star Wars envisioned, but some have not given up on that dream. It is, in fact, the intensity and tenacity of their continued advocacy for such a system that drives the overall fear of what the U.S. may be up to and which significantly complicates the test of selling even a limited and legitimately restrained architecture.

Mr. President, for diplomacy—as in life—other nations and other people make policies based not only on real fears, or legitimate reactions to an advocacy/nonfriend's actions, but they also make choices based on perceived fear. Fear is worst when conflated to their leaders by experts. We do the same thing.

The problem with unilaterally deployed defense architecture is that other nations may see intentions and long-term possibilities that negatively affect their sense of security, just as it did throughout the cold war. For instance, a system that today is limited, but exclusively controlled by us and exclusively within our technological capacity is a system that they perceive could be expanded and distributed at any time in the future to completely alter the balance of power—the balance of terror as we have thought of it. That may sound terrific to us and even be good for us for a short period of time—but every lesson of the arms race for the last 55 years shows that the advantage is short lived, the effect is simply to require everyone to build more weapons at extraordinary expense, and that advantage without a global architecture is inevitably wiped out with the world becoming a more dangerous place in the meantime. That is precisely why the ABM treaty was negotiated—to try to limit the unbridled competition, stabilize the balance and contain the calculations which both sides could confidently reduce weapons.

The negotiation of the ABM Treaty put an end to this cycle of ratcheting up the strategic danger. After 20 years of trying to outdo each other—building an increasingly unstable strategic environment in the process—we recognized that deploying strategic defenses, far from
making us safer, would only invite a response and an escalation of the danger. There is no reason to believe that a unilateral move by the United States to alter the strategic balance would not have the same effect today as it had in the past.

I strongly disagree with my colleagues who argue that the United States is no longer bound by our legal obligations under the ABM Treaty or by the spirit of the treaty. President Clinton has reaffirmed our commitment to the Treaty. And President Clinton has reaffirmed our commitment to its provisions. In fact, we have already withdrawn from the Treaty, and President Clinton has reaffirmed our commitment to it. We retain our obligations to the Treaty under international law, and those obligations continue to serve us well.

As long as we are discussing ABM Treaty amendments with Russia, we should not fail to recognize the progress that has been made in responding to threats. The most important challenge for U.S. national security planners in the years ahead will be to work with our friends and allies to develop a defense against the threat that has been defined. But how we respond to that threat is critical. We must not rush into a politically driven decision on something as critical as this, on something that has the potential by any rational person’s thinking to make us less secure—not more secure.

I urge President Clinton to delay the deployment decision indefinitely. I believe, even were the threat we face is real and growing, that it is not imminent. We have the time. We need to take the time to develop and test the most effective defense, and we will need time to build international support for deploying a limited, effective system.

I believe that support will be more forthcoming when we are seen to be responding to a changing security environment rather than simply buckling to political pressure.

For 40 years, we have led international efforts to reduce and contain the danger from nuclear weapons. We can continue that leadership by exploiting our technological strengths to find a system that will extend that defense to our friends and allies but not abrogate the responsibilities of leadership with a hasty, shortsighted decision that will have lasting consequences.

I hope in the days and months ahead my colleagues will join me in a thoughtful and probing analysis of these issues so we can together make the United States not simply make this an issue that falls prey to the political bickering in the year 2000. I thank my colleagues for their time.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized for 30 minutes.

Ms. SNOWE. I thank the President.

I yield the floor to the distinguished Chairman, Senator JOHN WARNER, who has provided extraordinary leadership in crafting this measure which supports our men and women in uniform with funding for the pay, health care, and hardware that they depend on and that is one of the most critical components of our military’s defense force the finest and strongest in the world.

Mr. SNOWE. This critical legislation which we are considering here today, with our distinguished chairman, and the bipartisan support of the ranking member, Senator LEVIN, the senior Senator from Michigan, represents the committee’s consensus and is a major step forward in ensuring that we are moving toward further reductions between ourselves and our friends and allies in the former Soviet Union.

I urge President Clinton to delay the Phase system I have described, the United States would need to seek Russian agreement to change the 1997 ABM Treaty Demarcation agreements, which establish the line between the two systems in the former Soviet Union and the strategic defenses the Treaty proscribes. In a nutshell, these agreements allow the United States to deploy and test the PAC-3, TTHAAD and Navy Theater-Wide TMD systems, but prohibit us from developing or testing capabilities that would enable these systems to shoot down ICBMs.

As long as we are discussing ABM Treaty amendments with Russia, we should not fail to recognize the progress that has been made in responding to threats. The most important challenge for U.S. national security planners in the years ahead will be to work with our friends and allies to develop a defense against the threat that has been defined. But how we respond to that threat is critical. We must not rush into a politically driven decision on something as critical as this, on something that has the potential by any rational person’s thinking to make us less secure—not more secure.

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This bill not only provides funds for better tools and equipment for our service men and women to do their jobs but it also enhances quality of life for themselves and their families. It approves a 3.7-percent pay raise for our military personnel as well as authorizing increased funding for military health care for active duty personnel, military retirees, and their families.

As chair of the Seapower Subcommittee, I was particularly interested in that report that I read this morning in Defense News titled “U.S. Navy: Stretched Too Thin?” by Daniel Goure. I ask unanimous consent that this article be printed in the Record.

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

[From the Defense News, June 12, 2000]

U.S. NAVY: STRETCHED TOO THIN?—SURGING DEMANDS OVERTWHELM SHRINKING FORCE

(By Daniel Goure)

The term floating around Washington to describe the current state of the U.S. armed forces is overstretched. This means the military is attempting to respond to too many demands with too few forces.

Clear evidence of this overstretch was provided by the war in Kosovo. In order to meet the demands posed by that conflict, the United States had to curtail air operations in the Order over Iraq and leave the eastern Pacific without an aircraft carrier.

The number of missions the U.S. military has been asked to perform has increased dramatically over the past decade—by some estimates almost eight-fold—while the force posture has shrunk by more than a third.

In testimony this year before Congress, senior Defense Department officials and the heads of the military services revealed the startling fact that by their own estimates the existing force posture is inadequate to meet the stated national security requirement of being able to fight and win two major theater wars.

Nowhere is the problem worse than for the Navy. This is due, in large measure, to the Navy’s unique set of roles and missions. Unlike the other services which are now poised to conduct just one major warfare projection—by some measures against the world’s littorals under the rubric of operations against the sea—

It should be remembered that the 1999 military budget set aside 17 terrorist sites in Afghanistan, which is land-locked, and Sudan, which has coastline only on the Red Sea, was accomplished solely by cruise missiles launched from U.S. Navy ships.

Naturally, naval forces are in demand during crisis and conflict and have made significant, and in some instances, singular contributions to military operations in the Balkans and Middle East.

In fact, since the end of the Cold War, the Navy has responded to some 80 crisis deployments in one every four weeks, while struggling to maintain forward presence in non-crisis regions.

So far, the Navy has been able to perform its missions and respond to crises. This is unlikely to remain true in the future. The size of the navy has shrunk by nearly half since the peak of the Cold War. Today the fleet is at 520 ships, down from 750 in 1992.

The mathematics of the problem are simple: A force designed to perform eight times the missions has an effective 16-fold increase in its required operational tempo. This increased burden results in a longer equipment, reduced maintainability, lower morale and less time on-station. Ultimately, it means that on any given day, there will not be enough ships to meet all the missions to address the crises.

The Navy understands the problem. In testimony before the House of Representatives this year, Vice Adm. Barry Lautenbach, deputy chief of naval operations, stated that “it is no secret that our current resources of 316 ships is fully deployed and in many cases stretched thin to meet the growing national security demands.”

This is not merely the view from the headquarters. Adm. Dennis McGinn, commander Third Fleet, told the House Armed Services Committee in February that “force structure throughout the Navy is such that an increased commitment anywhere necessitates reduction of operational tempo, or a quality of life impact due to increased operational tempo.”

Vice Adm. Charles Moore, commander of the U.S. Fifth Fleet, operating in the Arabian Sea and Persian Gulf, told the House Armed Services procurement subcommittee Feb. 29 that “Although I am receiving the necessary forces to meet Fifth Fleet obligations, the fleet is stretched, and I am uncertain how much longer they can continue to juggle forces to meet the varied regional requirements, including the Fifth Fleet’s.”

“I am uncertain that we have the surge capability to a major theater contingency, or theater war. Eventually, the increased operational tempo on our fewer and fewer ships will take its toll on their availability and readiness.”

The reality is that numbers matter, particularly for naval forces. This is due in part to the tyranny of distance that is imposed on every ship, whether or not it is steam-powered in the Persian Gulf, 8,000 miles from the Navy’s home ports on both coasts, mean ships must travel from 10 to 14 days just to reach their forward deployed areas.

Even deployments from Norfolk, Va., to the Caribbean take several days. The conventional wisdom is that in order to provide adequate rotation and maintain a tolerable operational tempo, an inventory of three ships is required for every one deployed forward.

However, when the time required for steaming to and from global deployment areas, maintenance and overhaul, and training and shake-downs on ships is included, the ratio rises to four, five and even six ships to one.

As a result of recent events such as Kosovo, in which U.S. naval forces in the western Pacific were stripped of their aircraft carrier in order to support naval operations in the Adriatic, public and congressional attention was focused on the inadequacy of the Navy’s inventory of aircraft carriers. The Joint Chiefs of Staff published a report in December that concluded the nation requires 68 attack boats instead of the 50 the Navy currently possesses.

Attention is particularly lacking on the Navy’s surface combatants. These are the destroyers and cruisers, the workhorses of the Navy. They are aging frigates and older destroyers that are aging frigates and lower performance standards. This also will expand significantly the number of vertical-launch system tubes available in the fleet. The Navy needs to add 15-20 more surface combatants to the fleet to meet the demands of the DDG-51 construction already planned, just to maintain its current operational tempo.

In order to meet immediate needs, the Navy would like to purchase an additional 16 ships beyond the 32 they are scheduled to buy.

It is time for the administration, Congress and the American people to realize that U.S. national security and global stability could be damaged by maintaining an adequate security.
a cross section of all ranks. The operational commanders provided convincing evidence that their commands do not have a sufficient number of ships and airplanes to carry out the National Security Strategy to shape the international environment and respond to the crisis within the required timeframe.

They further testified that the Navy has reduced the force structure to the extent that the brunt of the burden of this inadequate force structure is being born by the men and women in their commands.

Simply put, in the words of the Sixth Fleet commander,

Nine years ago, we never anticipated the environment in which we find ourselves operating. The sense that it was going to be a much easier load, that we might actually be able to take our pack off every now and again prevailed. And it for the most part underpinned the decline in defense spending in my estimation. We were wrong. And the facts have borne that out with ever increasing consistency in those nine years that have occurred.

And I quote the Second Fleet commander,

. . . back in the euphoric days at the end of the Cold War as we were drawing down, we actually figured that we would have a window of opportunity where we could afford to, in fact, decrease structure, turn some of that savings into a long-term recapitalization, maybe forego an upgrade or modernization here and there. And that just has not been the case.

In this article, Mr. Goure quotes Vice Admiral Charles Moore, commander of the U.S. Fifth Fleet, he states “I am uncertain how much longer they can continue managing forces to meet the varied regional requirements.”

And he further quotes Vice Admiral Dennis McGinn, commander of the Third Fleet, “that force structure throughout the Navy is such that an increment or decrement anywhere necessitates reduction of operations somewhere else, or a quality of life impact due to increased operating tempo.”

Again, those are the words of our commanders on the front lines charged with carrying out the day-to-day operations of our naval forces and to the challenges and requirements around the world.

It is noteworthy that these commanders state that the prediction of how we would operate if forces could be reduced does not represent the reality of what is going on in the world.

I have two charts which I think explain graphically the numbers that are consistent with the commander’s explanations and characterizations of the demands that have been placed on them as a result of a reduced force structure, while at the same time increasing the number of responses to contingency operations. Both charts use the same timeframe across the board. The charts track data in 4-year increments starting in 1980 and continuing through 1990. Each chart shows the 8 years before the cold war, 1980 through 1987, then the period between the end of the cold war and the beginning of the Quadrennial Defense Review in assessing exactly how many ships will be required to meet the security demands around the world. Here we have the ship force structure from 1980 to 1996.

I bring to my colleagues’ attention the last 8 years charted in the graphs, the time period between 1992 to 1996, which is before the Quadrennial Defense Review and the post Quadrennial Defense Review in terms of the number of ships we have. We have the ship force structure on the top chart, and on the bottom chart we have the number of contingency operations during these same time periods. These last two data points in these graphs are significant because they show the large force structure reductions of over 200 ships while at the same time the contingencies more than triple, from 31 to 105.

The QDR, we know, developed the exact force structure that was necessary for both the Navy and the Marine Corps in this instance to respond to the number of requirements around the world and what we anticipated carrying out, would be the number of operations around the world. The QDR has anticipated there would be a rise in contingency operations but not to the extent to which they have occurred.

The first chart showed the ship force structure, the dramatic decline in the number of ships, both in decommissioning and in the reduction, and the number of new constructions. At its peak during the cold war, we were up to 900, going towards a 600-ship Navy. We can see we had 500 ships in 1980 to 1983; up to 1988, we had 550 ships. We were building up to a 600-ship Navy. We declined to 417 ships at the end of the cold war and, prior to the development of the Quadrennial Defense Review, to a total of 316 ships. In those 8 short years where we declined from 500 ships to 316 ships, we had a dramatic increase in the number of contingency operations.

The second chart shows during the end of the cold war we had 31 contingency operations, when we had 550 ships. During 1992 and 1995, prior to the Quadrennial Defense Review in terms of assessing how many ships we would need for the new operations, we had 417 ships. In the post QDR, in 1996 to 1999, we had 103 contingency operations, tripling the number we had during the cold war. Yet we only had 316 ships during this period.

This is a dramatic increase in the number of contingency operations. While we had the highest number of ships, we had the lowest number of contingency operations. While we now have the lowest number of ships, we have the highest number of contingency operations. That is placing tremendous pressure on our Armed Forces and our personnel because of the lack of ships to meet those responses. So not only is it a problem in trying to meet the demands around the world, but it also is problematic for our men and women in uniform in terms of the quality of life, in terms of morale, in terms of recruitment and retention. That is the end result of what is happening and it may be very difficult to quantify. I think these charts illustrate very clearly the pressures that are being placed on our naval forces and the Marine Corps today.

It is noteworthy that these commands testify that we are being stretched too thin in responding to the increasing number of contingencies while reducing the number of ships. The assertion that a smaller number of more capable ships resulting in a stronger Navy is just not being borne out. Some would say it is quality that matters. That may well be true. In fact, we are moving to enhance the quality of the ships in the future.

The commanders state that the prediction has not been the case.

And I quote the Second Fleet commander, “that force structure due to increased operating tempo.”

And he further quotes Vice Admiral Murphy, who is commander of the 6th Fleet, who told us that: “If we had a Navy air wing—

And I am using his words—

in the fight from day one, we could only speculate as to the difference the naval air force would have made in the first 2 weeks but I believe it would have been substantial.

In his words, he said it would have been substantial. It could have made a difference, having that airpower there from day one of the Kosovo conflict.

But that did not happen. It took 2 weeks.

In the meantime, we left a gap in the Pacific command. We left the Pacific command without a carrier because we had to cover the Persian Gulf and, of course, meet the demands in Kosovo. That is what happens when we are stretched too thin and we do not have the number of ships to meet our responsibilities around the world.

As I said in the course of my discussion this morning, the fact is, the demands being placed on our naval forces and the Marine Corps are becoming greater and greater. Yet the number of ships to meet those demands is becoming fewer. So the question becomes, How many ships? That is a good question, one we are striving to answer. Have we gone too far in bringing down
the number of ships to 307. The operational commanders will tell us yes. Without a doubt, due to the high operational tempo that is reflected in this chart, as we have seen, tripling the number of contingency operations compared to what we were during the cold war, we would have to agree. We have had 103 contingency operations during the period of 1996 to 1999, with 316 ships. Yet during the cold war period, during a 9-year period, we only had 31. So obviously the demands are greater.

So these shortfalls become a concern, as I say, leaving gaps, for example, in the Pacific command, not being able to respond to the Supreme Allied Command, having an aircraft carrier for the duration of the entire conflict because we don't have enough ships; or because of the impact on the men and women because of the extended deployments, because of the quality of life, because of the recruitment and retention problems and the soaring cost of contingency operations—it is having an impact across the board. So, yes, there are higher risks in all respects. We have to address those risks.

We are trying. As chair of the Seapower Subcommittee and member of the overall committee, we have been asking for a report from the Pentagon as to what is their long-term shipbuilding plan that will ascertain exactly how many ships will be required to respond to these demands.

Senator Robb of Virginia had included an amendment to the Defense authorization last year that asked for this. The shipbuilding plan. The statutory requirement included a deadline of February of this year for the Pentagon to submit this report to the committee and to the Congress. They have failed to meet this prescribed statutory requirement of this analysis so the committee could make some decisions for the long term because it is not easy to shift these decisions when it comes to shipbuilding. It takes 5 to 6 years, on average, to construct a ship. If we get some evidence that these trends that are already inherent in the budgets that have been submitted by the Pentagon, and if we are going to respond to those shifts, it is going to take a required lead time to make those changes. Yet the Defense Department has not submitted this analysis that was required under the law by February of this year. We have asked time and again; we have submitted letters to the Pentagon. I plan to hold a hearing to find out exactly why this report has not been submitted to the committee so we, in turn, can make the decisions, evaluate the analysis, and make some changes for the future.

If we are being told by the top civilian and military leadership of the Navy and Marine Corps that they are being stretched too thin, even with today's force structure of about 316 ships, then we are required to make some decisions about the future. They have confirmed to the ODR, the Navy's Deputy for the operating tempo of the Quadrennial Defense Review upon which this force structure of 316 ships is being based is different, quite different from what is occurring around the world. In fact, in regards to the Navy's Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments testified:

prognostications for the future were different than the reality has turned out in the last few years. We need to build higher number of ships than we are building today.

Other witnesses have also confirmed the budget request that was submitted by the administration did not include the construction of 8.7 new ships required to recapitalize the fleet at a rate that would maintain 308 ships, let alone increasing the number above the 316 ships in the fleet today. We had testified a Congressional Research Service witness that a $10 billion to $12 billion investment on an annual basis, depending on the actual ship mix, to build an average of 8.7 ships per year is required just to maintain the 308 ships. However, as we said, the budget request submitted by the Pentagon and by the administration for future years was only 7.5 ships per year on average. So that exacerbates the force structure problem rather than addressing it with the required resources.

The fact is, the historical average for shipbuilding over the last 5 to 6 years has been 7.5 ships. That puts us on a course for 263 ships in the Navy. So it is obviously far below the 300-ship Navy that were determined to be necessary by the Quadrennial Defense Review, certainly less than the 316-ship Navy we have today, and certainly that is fewer ships than we need to be able to respond when it comes to the number of challenges around the world and the number of contingency operations that we have been engaged in and are responding to, just in a 4-year period between 1996 and 1999, which has been 103 contingency operations.

The submarine program has tried to respond to these challenges. We have tried to respond in a number of ways, at least to begin to reverse course until we get this analysis from the Pentagon. Again, as I said, we will demand that analysis from the Pentagon so we can make a decision whether it is going to be 300 ships or 263 ships—which we are on a course towards, given the request and given the previous budgets by the administration—or if we are required to change that course, increasing the number from 316 or 300 or whatever the number may be. But we need to have a realistic assessment of where we should go in the future.

We have tried in this budget before us today in the reauthorization to respond to some of the issues. We have decided to do it in a number of ways. First, we included a legislative provision that will provide for advanced procurement; but at the same time, we included an amendment to the Defense Department that will provide for additional $11 billion in taxpayers' dollars, if the Navy takes advantage of the opportunities that are provided in this reauthorization. To attain $500 million of the $1.1 billion in savings, the bill authorizes the Navy to build six DDG-51 ships under a multiyear agreement at an economic rate of three ships per year and provides $143 million in advanced procurement to achieve economies of scale.

An additional $700 million in savings will result from the Navy contracting for the LHD-8 with prior year funding, as well as $460 million in this bill, and future full funding.

These acquisition strategies are actions that leverage the ship construction funding. It also provides a number of other cost-saving provisions. We authorize dual block buy for economic order quantities for up to five Virginia class submarines and for aircraft carrier modeling for our Navy's aircraft carriers. Both of these initiatives will result in shipbuilding savings.

Over the long haul to sustain the minimum ship requirements, the Navy must fulfill the economies in all areas, including reducing operational costs for its entire fleet. The key to reducing these operating costs of ships lies in research and development for the design of future ships that can operate more efficiently and with less manning.

Our bill does approve ship design research and development which will directly result in reduced overall life cycle costs of the Navy's next generation of ships. The research and development investment includes $550 million for the DD-21 program, $38 million for the CVN-77, $236 million for the CVNX and $207 million for the Virginia class submarine technologies.

In addition to the ship structure issues, committee witnesses testified that capabilities must remain ahead of the threats designed to disrupt or deny maritime operations on the high seas and in the littorals.

We also had testimony that indicated air and sea strategic lift and support are absolutely important to support all warfighting commanders in chief and all services, as well as supporting other Government agencies.

We tried to address the requirements to modernize the equipment as soon as possible while continuing the research and development which has the potential to provide our forces with the future systems they need.

We also supported the Marine Corps requirements of two LPD-17 class amphibious ships, which is state-of-the-art advance transport ships, as well as 12 amphibious assault ships, including air cushion life extension, and an additional $27 million for the advanced amphibious assault vehicle research and development.
We tried to address a number of the requirements for both the Navy and the Marine Corps to address what we consider to be the deficiencies that were submitted in the budget request by the administration for the Navy and the Marine Corps. It is also an attempt to fill the gap that has been placed on both of those services with respect to demands that not only have been required of them in contingency operations, but also in terms of the reduced force structure that has been demonstrated by these charts and by the realities in the world today.

I hope in the future we will be able to have the kind of analysis upon which we can develop what will be an adequate force structure, what will be adequate number of ships, and other requirements for the Navy and the Marine Corps. Whether it is a 300-ship Navy, 308-ship Navy, a 316-ship Navy or beyond, or a 263-ship Navy, which has been in the trend, as I said, over the last 5 to 6 years and which this authorization is attempting to reverse, it is going to take more than that. Obviously, we need to have the numbers and the analysis upon which to base the numbers from the Defense Department so that Congress has the ability to analyze those numbers in terms of what is sufficient to meet the security challenges around the world.

As I said earlier, the Quadrennial Defense Review developed a number. They said a 300-ship Navy would be adequate to respond to the security challenges. They anticipated there would be an increase in contingency operations, but the problem is they did not anticipate the extent to which those operations would place demands on our naval forces and our Marine Corps.

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

Ms. SNOWE. Mr. President, I again thank the Chairman of the Armed Services Committee for his leadership and the ranking member of the Subcommittee on Seapower, Senator KENNEDY, and the professional staff: Gary Hall, Tom McKenzie, and John Barnes on the majority side, and Creighton Greene on the minority side. I also thank my personal staff: Tom Vecchiola, Sam Horton, and Jennifer Ogilvie, defense fellows in my office as well.

I thank the Chair and yield the floor.

Mr. WARNER. Mr. President, I thank our distinguished colleague for her contribution first as chairman of the Seapower Subcommittee, and for this very important message she has delivered to the Senate this morning.

I want to recognize our distinguished colleague from Michigan, Mr. LEVIN, and the Senator from Georgia have consulted, and the Senator from Georgia desires some time now.

Mr. LEVIN. I hope the Chair will now recognize the next person seeking recognition.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I thank Chairman WARNER and ranking member LEVIN for their hard work during the Department of Defense authorization process this year. They have done a tremendous job in enhancing the quality of life for military personnel and their families. I appreciate the support of Senators LEVIN, BINGHAM, REED, and ROBB, who have cosponsored my GI bill enhancements which we are about to adopt.

Specifically, I recognize the chairman of the Armed Services Committee, the distinguished Senator from Virginia, Mr. WARNER, who himself went to school on the GI bill after World War II. I thank him for his support and his encouragement in improving the GI bill for military personnel and their families.

My amendment will improve and enhance the current educational benefits and create the GI bill for the 21st century.

One of the most important provisions of my amendment would give the service Secretaries the authority to authorize a service member to transfer his or her basic Montgomery GI bill benefits to family members. It must be noted that the House, of course, already has this authority for their GI bill.

Another enhancement to the current Montgomery GI bill extends the period in which the members of Reserve components can use this benefit.

Other provisions of this amendment will allow the Service Secretaries to use the GI bill to pay 100 percent of tuition assistance or non-service members to use the Montgomery GI bill to cover any unpaid tuition and expenses when the services do not pay 100 percent.

This GI bill amendment is an important retention tool for the services, as well as a wonderful benefit for the men and women who bravely serve our country. I believe that education benefits education. We must continue to focus our resources in retaining our personnel and meeting their personal needs. It appears we are better all around to retain than to retrain.

I thank the Chair. I yield the floor.

Mr. LEVIN. Mr. President, I thank Senator CLELAND for making an extraordinary contribution, not just on this amendment but in so many ways on the Armed Services Committee and in the Senate. This will be an aid to recruitment and retention. I congratulate him for his unique perceptiveness of trying to improve the morale and conditions for the men and women in our armed services. He is a supreme leader in that regard. I thank him for his continuing leadership and look forward to the adoption of his amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join my distinguished colleague from Michigan. The Senator and I have been here 22 years, and we have seen a lot of Senators come and go on the Armed Services Committee. When this fine American stepped on to our committee, few of us expected he would take a position for which we all respect and value his guidance and judgment.

I will say, this man has a sense of humor. Now, it takes sometimes a little probing to get it out. He always combines his humor with history. He is a great student of military history and those who have been in public life in the past. He livens up the committee meetings and the markups. When things are sort of in a trough, he will inject himself.

But this is something he and I have discussed for a number of years. I am very hopeful that we, in the course of the conference, can achieve some measure of these goals, maybe the full measure, I say to the Senator, but I know what he's after.

As I have said, with great humility, what modest military career I have had in terms of periods of active duty, both at the end of World War II and during the Korean War, in no way compares to the heroic service that this fine Senator rendered his country.

But I will say, the greatest investment America made in post-World War II, in those years when this country was returning to normalcy—they were exciting years, 1946 to 1950—it was the GI bill, the investment by America in that generation of some 16 million men and women who were privileged to serve in uniform during that period, and I was a modest recipient of the GI bill. I would not be here today, I say to the Senator, had it not been for that education given to me.

My father had passed on in the closing months of World War II, and my mother was widowed. We were prepared to all struggle together to do the best we could in our family. Among the assets was not the money to go to college. Had it not been for the GI bill, I would not be here today.

So you have a strong shoulder at the weight with this Senator. But I salute you. We are going to do our very best. I thank you for working tirelessly on behalf of the men and women of the Armed Forces.

Mr. President, the distinguished ranking member and I are prepared to offer a number of amendments with our colleagues.

AMENDMENT NO. 326
(Purpose: To ensure that obligations to make payments under the CVN-69 contract for the Gerald R. Ford are paid in full on the due date and that the performance of work is not subject to the availability of appropriations)

Mr. WARNER. Mr. President, on behalf of Senator SNOWE and Senator
KENNEDY, I offer an amendment, which is a technical amendment to section 125 of the bill regarding the overhaul of CVN-69, the U.S.S. Eisenhower.

Mr. President, I believe this amendment has been cleared by the other side; am I correct?

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Virginia [Mr. WARNER] for Ms. S KOWE, for herself and Mr. KENNEDY, proposes an amendment numbered 3216.

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

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

The amendment as follows: On page 31, strike lines 16 through 18, and insert the following: "of the CVN-69 nuclear aircraft carrier."

(2) (c) Condition for Out-Year Contract Payments.—A contract entered into under subsection (b) shall include a clause that states that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2001 is subject to the availability of appropriations for that purpose for that later fiscal year."

The PRESIDING OFFICER. Is there further debate on the amendment? There being no further debate on the amendment, the amendment is agreed to.

The amendment (No. 3216) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3217

(Purpose: To repeal authorities to delay pay days at the end of fiscal year 2000)

Mr. WARNER. Mr. President, I offer an amendment which repeals authorities to delay pay days—that is, military and civilian—at the end of fiscal year 2000 and into fiscal year 2001. I believe this amendment has been cleared.

Mr. LEVIN. It has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Virginia [Mr. LEVIN], for Mr. ROBB, proposes an amendment numbered 3217.

The amendment as follows: On page 354, between the matter following line 13 and line 14, insert the following:

SEC. 1010. REPEAL OF CERTAIN PROVISIONS SHIFTING CERTAIN OUTLAYS FROM ANY FISCAL YEAR TO ANOTHER.

Sections 305 and 306 of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of Public Law 106-113 (113 Stat. 150A-306), are repealed.

The PRESIDING OFFICER. Is there any further debate on the amendment? There being no further debate, the amendment is agreed to.

The amendment (No. 3217) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3218

(Purpose: To require a report on the Defense Travel System and to limit the use of funds for the system)

Mr. LEVIN. Mr. President, on behalf of Senator ROBB, I offer an amendment which requires the Secretary of Defense to submit a report to the congressional defense committees concerning the management and funding of the defense travel system. I believe this has been cleared by the other side.

Mr. WARNER. Mr. President, it has been cleared. I commend the Senator from Virginia. This is a very important subject. Indeed, it is one on which we should have additional oversight. This report will be helpful.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Virginia [Mr. WARNER], for himself and Mr. ROBB, proposes an amendment numbered 3218.

The amendment as follows: On page 364, between the matter following line 13 and line 14, insert the following:

SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1990 PROJECT.

(a) Increase.—Section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261, 112 Stat. 2197), is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking "$351,354,000" and inserting "$359,854,000".

(b) Conforming Amendment.—Section 2401(b)(2) of the Military Construction Authorization Act for Fiscal Year 1999 and 1991, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1999, is amended by striking "$342,854,000" and inserting "$351,354,000".

Mr. WARNER. The RECORD reflects it has been cleared on both sides.

Mr. LEVIN. We support the amendment.

The PRESIDING OFFICER. The amendment is agreed to.

The amendment (No. 3219) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3220

(Purpose: To authorize the payment of $7,975 for a fine for environmental permit violations at Fort Sam Houston, Texas)

Mr. WARNER. Mr. President, I offer an amendment to section 345 of S. 2549 that would authorize the Secretary of the Army to pay the fine of $7,975 to the Texas Natural Resources Conservation Commission for permit violations assessed under the Resource Conservation and Recovery Act at Fort Sam Houston, Texas.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3220.
The amendment is as follows:
On page 94, between lines 6 and 7, insert the following:

(6) $7,975 for payment to the Texas Natural Resource Conservation Commission of a cash fine for permit violations assessed under the Solid Waste Disposal Act.

Mr. LEVIN. The amendment has been cleared on this side.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3221) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3221
(Purpose: To strike section 344, relating to a modification of authority for indemnification of transferees of closing defense properties.

Mr. WARNER. Mr. President, I offer an amendment to strike all of section 344 of S. 2549.

I believe this amendment has been cleared.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3221.

The amendment is as follows:
On page 88, strike line 11 and all that follows through page 92, line 19.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3221) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3222
Mr. WARNER. Mr. President, I offer an amendment which makes technical corrections to the bill. This has been cleared on the other side.

Mr. LEVIN. It has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3222.

The amendment is as follows:
On page 147, line 6, strike "section 573(b)" and insert "section 573(c)".

On page 303, strike line 10 and insert the following:

SBC. 901. REPEAL OF LIMITATION ON MAJOR.

On page 356, beginning on line 11, strike "Defense Finance and Accounting System" and insert "Defense Finance and Accounting Service".

On page 356, beginning on line 12, strike "contract administration service" and insert "contract administration services system".

On page 359, beginning on line 5, strike "Defense Finance and Accounting System" and insert "Defense Finance and Accounting Service".

On page 359, beginning on line 6, strike "contract administration service" and insert "contract administration services system".

On page 403, in the table following line 10, strike "136 units" in the purpose column in the item relating to Mountain Home Air Force Base, Idaho, and insert "119 units".

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without further debate on the amendment, the amendment is agreed to.

The amendment (No. 3222) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3223
Mr. WARNER. Mr. President, I offer a technical amendment in relation to the mixed oxide fuel construction project.

The legislative clerk will report the amendment.

The amendment is as follows:
On page 359, beginning on line 6, strike "contract administration service" and insert "contract administration services system".

On page 403, in the table following line 10, strike "136 units" in the purpose column in the item relating to Mountain Home Air Force Base, Idaho, and insert "119 units".

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without further debate on the amendment, the amendment is agreed to.

The amendment (No. 3222) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3224
Mr. WARNER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3224.

The amendment is as follows:
On page 584, line 13, strike "3101(c)" and insert "3101(a)(1)(C)".

Mr. LEVIN. Mr. President, the amendment has been cleared on this side.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the amendment is agreed to.

The amendment (No. 3223) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3225
Mr. WARNER. Mr. President, I offer a technical amendment in relation to the mixed oxide fuel construction project.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3225.

The amendment is as follows:
On page 554, line 25, strike "$31,000,000." and insert "$20,000,000.".

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3225) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3226
(Purpose: To enhance and improve educational assistance under the Montgomery GI Bill in order to enhance recruitment and retention of members of the Armed Forces.

Mr. LEVIN. Mr. President, on behalf of Senator CLELAND, for myself, Mr. ROBB, and Mr. REED, proposes an amendment numbered 3226.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. CLELAND. Mr. President, I come before you today to offer an amendment that addresses the educational needs of our men and women in uniform and their families. I appreciate the support of my colleagues who have supported my provisions to enhance the GI bill, Senators LEVIN, BINGAMAN, REED, and ROBB. I also like to recognize the chairman of the Senate Armed Services Committee, Senator WARNER, who himself went to school on the GI bill. I want to thank him for his support and encouragement in improving the GI bill for military personnel and their families.

I call this measure the HOPE—Help Our Professionals Educationally—Act of 2000. This measure is the same at my original legislation, S. 2402.

Last year, Time magazine named the American GI as the Person of the Century. That alone is a statement about the value of our military personnel. They are recognized around the world for their dedication and commitment to fight for our country and for peace in the world. This past century has been the most violent century in the
In talking with our military personnel, we know that money alone is not enough. Education is the number one reason why service members come into the military and the number one reason its members are leaving. Last year the Senate began to address this issue by supporting improved education benefits for military members and their families. Since last year, we have gone back and studied this issue further. In reviewing the current Montgomery GI bill, we found several disincentives and basic benefits not offered by the services. These conflicts make the GI bill, an earned benefit, less attractive than it could be. My amendment will improve and enhance the current educational benefits and create the GI bill for the 21st century.

One of the most important provisions of my amendment would give the Service Secretaries the authority to authorize a service member to transfer his or her basic MGIB benefits to family members. Many service members tell us that they really want to stay in the service, but do not feel that they can stay and provide an education for their families. This will give them an incentive to stay in the service. Along with this lighter force, our military professionals must be highly educated and highly trained.

Our nation is currently experiencing the longest running peacetime economic expansion has been a boon for our nation. However, there is a negative impact of this growing economy. With the enticement of quick prosperity in the civilian sector it is more difficult than ever to recruit and retain our highly skilled force.

In fiscal year 99, the Army missed its recruiting goals by 6,291 recruits, while the Air Force missed its recruiting goal by 1,732 recruits. Pilot retention problems for all services; the Air Force ended FY99 1,200 pilots short, the Army is having problems recruiting captains, while the Navy ended FY99 500 pilots short. The Air Force ended FY99 1,200 pilots short and the Navy ended FY99 500 pilots short. The Army is having problems recruiting captains, while the Navy ended FY99 500 pilots short. The military is the most effective response. In order to meet these challenges, we are retooling our forces to be lighter, leaner and meaner. This is a positive move. Along with this lighter force, our military professionals must be highly educated and highly trained.

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Our nation is currently experiencing the longest running peacetime economic expansion has been a boon for our nation. However, there is a negative impact of this growing economy. With the enticement of quick prosperity in the civilian sector it is more difficult than ever to recruit and retain our highly skilled force.
On promotion to grades E-5 through E-8, the gap between military and civilian pay begins to widen. Last year’s pay table reform, which helped to alleviate this gap, increased the pay of mid-grade officers, but is lacking for the mid-grade enlisted force. My amendment would alleviate this inequity by increasing the pay for E-5s, E-6s and E-7s to the same level as those of officers with similar lengths of service. The amendment is estimated to cost approximately $200-300 million a year as a result of legislation recently introduced in the House.

Second, this amendment will authorize National Guard and reserve servicemembers to travel for duty or training on a space-required basis on military airlift between the servicemember’s home of record and their place of duty.

Third, it will authorize National Guard and reserve servicemembers who travel more than 50 miles from their home of record to attend their drills to be able to stay at Bachelor Quarters on military installations.

Fourth, it will increase from 75 to 90 the maximum number of reserve retirement points that may be credited in a year for reserve service.

Finally, it will authorize legal/JAG services be extended for up to twice the length of period of military service after active duty recall for National Guard and reserve servicemembers to handle issues or problems under the Sailor and Soldier Act.

In conclusion, I would like to emphasize the importance of enacting meaningful improvements for our servicemembers; our Soldiers, Sailors, Airmen, Marines, their families and their survivors. They risk their lives to defend our shores and preserve democracy and we can not thank them enough for their service. But we can pay them more, improve their benefits to their survivors, and support the Total Force in a similar manner as the active forces. Our servicemembers past, present, and future need these improvements, and these three amendments are just one step we can take to show our support and improve the quality of life for our servicemembers and their families.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3228) 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. LEVIN. Mr. President, I ask unanimous consent to be added as a cosponsor to amendment No. 3228.

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

AMENDMENT NO. 329

(Purpose: To provide for additional increase in military basic pay for enlisted members of the uniformed services in pay grades E-5, E-6, or E-7)

Mr. WARNER. Mr. President, on behalf of Senator Mccain, I offer an amendment that would provide an additional increase in the military basic pay for enlisted personnel in grades E5, E6, E7, and I ask unanimous consent to
be listed as a cosponsor of the amendment.

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

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. McCAIN, for himself, and Mr. WARNER, proposes an amendment numbered 3299.

The amendment is as follows:

On page 206, between lines 15 and 16, insert the following:

SEC. 610. RESTRUCTURING OF BASIC PAY TABLES FOR CERTAIN ENLISTED MEMBERS.

(a) IN GENERAL.—The table under the heading "ENLISTED MEMBERS" in section 603(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 105-66; 113 Stat. 648) is amended by striking the amounts relating to pay grades E-7, E-6, and E-5 and inserting the amounts for the corresponding years of service specified in the following table:

<table>
<thead>
<tr>
<th>Pay Grade</th>
<th>2 or less</th>
<th>Over 2</th>
<th>Over 3</th>
<th>Over 4</th>
<th>Over 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>E-7</td>
<td>1,765.80</td>
<td>1,927.80</td>
<td>2,081.00</td>
<td>2,073.00</td>
<td>2,148.80</td>
</tr>
<tr>
<td>E-6</td>
<td>1,593.50</td>
<td>1,742.80</td>
<td>1,810.00</td>
<td>1,811.40</td>
<td>1,890.40</td>
</tr>
<tr>
<td>E-5</td>
<td>1,332.60</td>
<td>1,494.00</td>
<td>1,556.00</td>
<td>1,556.00</td>
<td>1,640.40</td>
</tr>
<tr>
<td>E-4</td>
<td>2,377.80</td>
<td>2,550.70</td>
<td>2,643.20</td>
<td>2,495.90</td>
<td>2,570.90</td>
</tr>
<tr>
<td>E-3</td>
<td>2,022.60</td>
<td>2,096.40</td>
<td>2,168.00</td>
<td>2,241.90</td>
<td>2,294.80</td>
</tr>
<tr>
<td>E-2</td>
<td>1,821.00</td>
<td>1,893.00</td>
<td>1,967.60</td>
<td>1,967.60</td>
<td>1,967.60</td>
</tr>
<tr>
<td>E-1</td>
<td>2,644.20</td>
<td>2,717.50</td>
<td>2,844.40</td>
<td>2,856.00</td>
<td>3,134.40</td>
</tr>
<tr>
<td>E-0</td>
<td>2,332.00</td>
<td>2,332.00</td>
<td>2,332.00</td>
<td>2,332.00</td>
<td>2,332.00</td>
</tr>
<tr>
<td>E-2</td>
<td>1,967.60</td>
<td>1,967.60</td>
<td>1,967.60</td>
<td>1,967.60</td>
<td>1,967.60</td>
</tr>
</tbody>
</table>

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall take effect as of October 1, 2000, and shall apply with respect to months beginning on or after that date.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3299) 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.

AMENDMENT NO. 3230

(Purpose: To improve the benefits for members of the reserve components of the Armed Forces and their dependents)

Mr. WARNER. Mr. President, on behalf of Senators Grams, McCaIN, Sessions, Allard, Ashcroft, and myself, I offer an amendment that would improve benefits for members of the reserve components of the Armed Forces and their dependents.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. McCaIN, for himself, and Mr. Sessions, Mr. Allard, Mr. Ashcroft, and myself, I offer an amendment that would improve benefits for members of the reserve components of the Armed Forces and their dependents.

The amendment is as follows:

On page 239, after line 22, add the following:

Subtitle F—Additional Benefits For Reserves and Their Dependents

SEC. 671. SENSE OF CONGRESS.

It is the sense of Congress that it is in the national interest for the President to provide the funds for the reserve components of the Armed Forces (including the National Guard and Reserves) that are sufficient to ensure that the reserve components meet the requirements specified for the reserve components in the National Military Strategy, including training requirements.

SEC. 672. TRAVEL BY RESERVES ON MILITARY DUTY STATIONS INCONUS AND OCONUS.—(1) Subsection (a) of section 18505 of title 10, United States Code, is amended to read as follows:

"(a) A member of a reserve component traveling to a place of annual training duty or inactive-duty training (including a place where the member's unit training assembly if the member is performing annual training duty or inactive-duty training in another location) may travel in a space-required status on draft of the armed forces between the member's home and the place of such duty or training."

(2) The amendment of such section is amended to read as follows:

"18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel.

(b) SPACE-AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE, GRAY AREA RETIREES, AND DEPENDENTS.—Chapter 185 of such title is amended by adding at the end the following new section:

"18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents.

"(a) Eligibility for Space-Available Travel.—The Secretary shall prescribe regulations to allow persons described in subsection (b) to receive transportation on aircraft of the Department of Defense on a space-available basis under the same terms and conditions (including terms and conditions applicable to travel outside the United States) as apply to members of the armed forces entitled to retired pay.

"(b) Persons Eligible.—Subsection (a) applies to the following persons:

"(1) A person who is a member of the Selected Reserve in good standing (as determined by the Secretary concerned) or who is a participating member of the Individual Ready Reserve of the Navy or Coast Guard in good standing (as determined by the Secretary concerned).

"(c) Dependents.—A dependent of a person described in subsection (b) shall be provided transportation under this section on the same basis as dependents of members of the armed forces entitled to retired pay.

"(d) Limitation on Required Identification.—Neither the 'Authentication of Reserve Status for Travel Eligibility' form (DD Form 1853), nor any other form, other than the prescription of military identification and duty orders upon request, or other methods of identification required of active duty personnel, shall be required of reserve component personnel using space-available transportation within or outside the continental United States under this section.

(c) CLERICAL AMENDMENTS.—The table of the sections at the beginning of such chapter is amended by striking the item relating to section 18505 and inserting the following new items:

"18505. Reserves traveling to annual training duty or inactive-duty training: authority for space-required travel.

"18506. Space-available travel: Selected Reserve members and reserve retirees under age 60; dependents."

(d) IMPLEMENTING REGULATIONS.—Regulations under section 18506 of title 10, United States Code, as added by subsection (b), shall be prescribed not later than 180 days after the date of the enactment of this Act.

SEC. 673. BILLETING SERVICES FOR RESERVE MEMBERS TRAVELING FOR INACTIVE DUTY TRAINING.

(a) IN GENERAL.—(1) Chapter 1217 of title 10, United States Code, is amended by inserting after section 12603 the following new section:

"12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training

"(a) Authority for Billeting on Same Basis as Active Duty Members Traveling Under Orders.—The Secretary of Defense shall prescribe regulations authorizing a Reserve traveling to inactive-duty training at a location more than 50 miles from that Reserve's residence to be eligible for billeting in Department of Defense facilities on the same basis and to the same extent as a member of the armed forces on active duty who is traveling under orders from the member's permanent duty station.

"(b) Proof of Reason for Travel.—The Secretary shall include in the regulations the means for confirming a Reserve's eligibility for billeting under subsection (a).

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12603 the following new item:

"12604. Billeting in Department of Defense facilities: Reserves attending inactive-duty training."
I support the total force concept, but I don’t believe we can afford to balance DoD’s budget on the backs of our citizen soldiers and airmen. That’s why I introduced this amendment to the Defense Authorization bill, along with Senators McCain, Alfonse M. Enos, Sessions, Ashcroft, Warner, and Levin.

My amendment addresses quality of life issues. It extends space required travel to the National Guard and Reserves for travel to duty stations both inside and outside of the United States. It also provides the same space available travel privileges for the Guard, Reserves, and dependents that the armed forces provides to retired military and their dependents. My amendment gives them the same priority status and billeting privileges as active duty personnel when traveling for monthly drills. It raises the annual reserve retirement point maximum, upon which retirement pensions are based, from 75 to 90. Finally, it will extend the cycle to be carried out by Reservists by Judge Advocate General officers for a time equal to twice the length of their last period of active duty service.

I believe the dramatic increase in overseas active-duty assignments for reserve members extends the extension of military benefits for our Nation’s citizen soldiers. It is only fair to close these disparities. This amendment would restore fairness to Guard and Reserve members, and it would strengthen our national defense and increase our military readiness by alleviating many of the recruitment and retention problems.

These are difficult days, without clear and easy answers. But I’m glad that, as we often have during trying times, we’re able to turn to the men and women of the National Guard and Reserves to help ease the way. We must not forget their sacrifices. For in the words of President Calvin Coolidge, “the nation which forgets its defenders will itself be defenseless.”

THE PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3230) 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. LEVIN. Mr. President, I ask unanimous consent to be added as a co-sponsor of amendment No. 3230.

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

The amendment no. 3231 (Purpose: To authorize the President to award the gold and silver medals on behalf of the Congress to the Navajo Code Talkers, in recognition of their contributions to the Nation)

Mr. LEVIN. Mr. President, on behalf of Senator BINGAMAN, I offer an amendment that would authorize the President to award gold and silver medals on behalf of Congress to the Navajo Code Talkers in recognition of their contributions to the Nation during World War II.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. Levin], for Mr. BINGAMAN, for himself and Mr. WARNER, proposes an amendment numbered 3231.

The amendment is as follows:

At the end of title X, insert the following:

SEC. 10.--CONGRESSIONAL MEDALS FOR NAVAJOS.

(a) FINDINGS.--Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress on the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Japanese, and a search was made by United States Intelligence to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the “Navajo Code Talkers”, were used to develop a code of their native language to communicate military messages in the Pacific;

(7) to the enemy’s frustration, the code developed by these Native Americans proved to be an unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discovered in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed more than 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow Marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo Code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b) CONGRESSIONAL MEDALS AUTHORIZED.—To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(1) to award to each of the original 29 Navajo Code Talkers, or a surviving family on behalf of one of these, a gold medal of appropriate design, honoring the Navajo Code Talkers; and
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(2) to award to each person who qualified as a Navajo Code Talker (MOS 624), or a sur-
viving family member, on behalf of the Cong-
gress, a silver medal of appropriate design, honoring them for gallant service during World War II and to thank Senator BINGAMAN for remembering them and having us as a body remember them. That is a real service, too. We are both grateful to Senator BINGAMAN.

Mr. WARNER. In other words, the enemy simply did not, if they picked up this language with their listening systems, have the vaguest idea. There are stories of the confusion of the enemy: They didn't know who it was on the beach, what was coming at them. It was remarkable.

Mr. LEVIN. It is a great bit of his-
tory, and it is great to be reminded of it.

Mr. WARNER. Indeed.

Mr. LEVIN. I hope it has been writ-
ten up because it is not familiar to me. I am now going to become familiar with it.

Mr. WARNER. There were quite a few stories written about them. They were self-effacing, humble people, proud to be identified with their tribes. They went back into the sinews of America, as so many of the men and women did, to take up their responsibilities at home.

AMENDMENT NO. 323

(Purpose: To revise the fee structure for resi-
dents of the Armed Forces Retirement Home.

Mr. WARNER. Mr. President, on be-
half of Senator LOTT, I offer an amend-
ment that would revise the fee struc-
ture for residents of the Armed Serv-
ces Retirement Home.

The PRESIDING OFFICER. The clerk will report the amendment.

The amendment is as follows:

On page 236, between lines 6 and 7, insert the following:

SEC. 464. FEES PAID BY RESIDENTS OF THE ARMED FORCES RETIREMENT HOME.

(a) NAVAL HOME.—Section 1514 of the Armed Forces Retirement Home Act of 1961 (24 U.S.C. 414) is amended by striking subsection (d) and inserting the following:

"(d) MONTHLY FEES.—The monthly fee re-
quired to be paid by a resident of the Naval Home under subsection (a) shall be as fol-
loving:

"(1) For a resident in an independent living status, $500.

"(2) For a resident in an assisted living status, $750.

"(3) For a resident of a skilled nursing facility, $1,250.

(b) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—(c) of such section is amended—

(1) by striking "(c) FIXING FEES.— and inserting "(c) UNITED STATES SOLDIERS' AND AIRMEN'S HOME.—;"

(2) in paragraph (1)—

(A) by striking "the fee required by sub-
section (a) of this section" and inserting "the fee required to be paid by residents of
the United States Soldiers' and Airmen's Home under subsection (a)"; and

(B) by striking "needs of the Retirement Home" and inserting "needs of that estab-
lishment";

and

(3) in paragraph (2), by striking the second sentence.

(c) SAVINGS PROVISION.—Such section is further amended by adding at the end the following:

"("e") RESIDENTS BEFORE FISCAL YEAR 2001.—
A resident of the Retirement Home on Sep-
tember 30, 2000, may not be charged a mon-
thly fee under this section in an amount that
exceeds the amount of the monthly fee charged that resident for the month of Sep-
tember 2000.";

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on Oc-
tober 1, 2000.

The PRESIDING OFFICER. Without further debate, the amendment is agreed to.

The amendment (No. 3232) was agreed to.

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

Mr. LEVIN. I move to lay that mo-
tion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, let me expand on this and say how much I re-
spect Senator BINGAMAN for bringing this to the attention of the Senate and
incorporating this most well-deserved recognition on behalf of these individ-
uals.

Again, with brief service in the con-
cluding months of the war, particularly while I was in the Navy, the Marine
Corps utilized these individuals a great deal. What they would do is get on the walkie-talkies in the heat of battle and in their native tongue communicate

to the professional performance of Admiral Kimmel and Lieutenant General Short were not provided necessary and critical intelligence that was available, that
foretold of war with Japan, that warned of imminent attack, and that would have alerted them to prepare for the attack, including such essential communiques as the Japanese Pearl Harbor Bomb Plot message of September 23, 1941, and the message sent from the Imperial Japanese Foreign Ministry to the Japanese Ambassador in the United States, from December 6 to 7, 1941, known as the Fourteen-Part Message.

(4) On December 16, 1941, Admiral Kimmel and Lieutenant General Short were relieved of their commands; their permanent ranks of rear admiral and major general.

(Admiral William Harrison Standley, who served as a member of the investigating commission known as the Roberts Commission that accused Admiral Kimmel and Lieutenant General Short of dereliction of duty” only six weeks after the attack on Pearl Harbor, later disavowed the report maintaining that “these two officers were martyred” and “if they had been brought to trial, both would have been cleared of the charge”.

(5) On October 19, 1944, a Naval Court of Inquiry investigated Admiral Kimmel on the grounds that his military decisions and the disposition of his forces at the time of the December 7, 1941, attack on Pearl Harbor were responsible for the imminence of war, that Admiral Kimmel had at hand which indicated neither the probability nor the imminence of an attack on Pearl Harbor; criticized the higher command for not sharing with Admiral Kimmel “during the very critical period of November 26 to December 7, 1941, important information...regarding the Japanese situation”; and, concluded that the Japanese attack and its outcome was attributable to no serious fault on the part of Admiral Kimmel or Major General Short.

(6) On June 15, 1944, an investigation conducted by Admiral Nimitz Foundation, the Naval Academy Alumni Association, the Retired Officers Association, and the Pearl Harbor Commemorative Committee, and other associations and numerous retired military officers have called for the rehabilitation of the reputations of two distinguished military officers who have unfairly borne the sole blame for the success of the Japanese attack on Pearl Harbor at the beginning of World War II—Admiral Kimmel and Lieutenant General Short.

(7) On July 21, 1947, Vice Admiral David C. Richardson (United States Navy, retired) responded to the Dorn Report with his own study confirming findings of the Naval Court of Inquiry into Pearl Harbor, the Board of Investigation and established, and, therefore, that the losses incurred by the United States in the attacks on the naval base at Pearl Harbor, Hawaii, and other targets on the island of Oahu, Hawaii, on December 7, 1941, were not a result of dereliction in the performance of those duties by the then Admiral Kimmel and General Short.

(8) On December 7, 1941, the U.S. Navy and General Walter C. Short of the United States Army.

(9) The reports by both the Naval Court of Inquiry and the Army Pearl Harbor Board of Investigation, the interim report and the final report of the committee that the two officers had not been guilty of dereliction of duty.

(10) The joint committee of Congress that was established to investigate the conduct of Admiral Kimmel and Lieutenant General Short completed, on May 31, 1946, a 1,075-page report which included the conclusion of the committee that the two officers had not been guilty of dereliction of duty.

(11) The then Chief of Naval Personnel, Admiral J. L. Holloway, Jr., on April 27, 1954, recommended that Admiral Kimmel be advanced in rank in accordance with the provisio
Justice for these men is long overdue. Wartime investigations after the attack concluded that our fleet in Hawaii under the command of Admiral Kimmel and our land forces under the command of General Short had been properly positioned, given the information they had. The findings of the wartime investigations also found that their superior officers in Washington had not passed on vital intelligence information that could have made a difference in America’s preparedness for the attack. These conclusions of the wartime investigations were kept secret, in order to protect the war effort. Clearly, there is no longer any justification for ignoring these facts.

Since these initial findings, numerous military, governmental, and congressional investigations have concluded that the blame for this attack should have been widely shared. This amendment, and the case for Admiral Kimmel and General Short, has received strong support from former Chiefs of Naval Operations, Army Chiefs of Staff, and Chairmen of the Joint Chiefs of Staff, including Admiral Thomas H. Moorer, Admiral Carlisle Trost, Admiral J. L. Holloway III, Admiral William J. Crowe, Admiral Elmo Zumwalt, General Andrew J. Goodpaster, and General William J. McCaffrey.

Our amendment recommends that the President posthumously advance Admiral Kimmel and General Short to their next higher wartime rank in accord with the Officer Personnel Act of 1947. Admiral Kimmel and General Short are the only two officers eligible under this act who did not receive advancement on the retired list. The amendment involves no monetary compensation. It simply asks that now, at this late date, these two military leaders finally be treated the same as their peers.

I first became interested in this issue when I received a letter 2 years ago from a constituent in Boston, who, for many years, has been one of the prominent lawyers in America, Edward B. Hanify. As a young Navy lawyer and Lieutenant J.G. in 1944, Mr. Hanify was assigned as counsel to Admiral Kimmel.

He accompanied Admiral Kimmel when he testified before the Army Board of Investigation, and he later heard the testimony in the lengthy congressional investigation of Pearl Harbor by the Roberts Commission. Mr. Hanify is probably one of the few surviving people who heard Kimmel’s testimony before the Naval Court of Inquiry, and he has closely followed all subsequent developments on the Pearl Harbor catastrophe and the allocation of responsibility for that disaster.

I would like to quote a few brief paragraphs from Mr. Hanify’s letter, because it eloquently summarizes the overwhelming case for justice for Admiral Kimmel and General Short.

The odious charge of “dereliction of duty” made by the Roberts Commission was the cause of almost irreparable damage to the reputation of Admiral Kimmel, despite the fact that the finding was later repudiated and found groundless.

I am satisfied that Admiral Kimmel was subject to criminal prosecution by his superiors who were attempting to deflect the blame ultimately ascribed to them, particularly on account of their strange behavior on the evening of December 7 in failing to warn the Pacific Fleet and the Hawaiian Army Department that a Japanese attack on the United States was scheduled for December 7.

The intercepted intelligence indicated that Pearl Harbor was a most probable point of attack. Washington had this intelligence and knew that the Navy did not have it, or any means of obtaining it. Subsequent investigation by both services repudiated the “dereliction of duty” charge. In the case of Admiral Kimmel, the Naval Court of Inquiry found that his plans and dispositions were adequate and competent in light of the information which he had from Washington.

Admiral Kimmel has been denigrated in the public more than any of his peers simply because he was one of the few of his generation who did not want to go to war. When his proposal that Japan be appeased was rejected by his superiors, he was removed from his post as Commander of the Pacfic Fleet. I urge the Senate to support this amendment.

In my opinion, Admiral Kimmel and General Short are the two final victims of Pearl Harbor. These men were doing their duty to the best of their ability.

The blame directed at these two WWII flag officers for nearly six decades is undeserved. Neither Admiral Kimmel nor General Short was notified before the attack that Washington had decoded top-secret Japanese radio intercepts that warned of the pending attack. Despite the fact that the charge of dereliction of duty was never proved against the two officers, that charge still exists in the minds of many people.

This perception is wrong and must be corrected by us now. History and justice argue for nothing less. Military, governmental, and congressional investigations have provided clear evidence that these two commanders were singled out for blame that should have been widely shared.

The following are several basic irrefutable facts about this issue:

- The intelligence made available to the Pearl Harbor commanders was not sufficient to justify a higher level of vigilance than was maintained prior to the attack.

- Neither officer knew of the decoded intelligence in Washington indicating the Japanese had identified the United States as an enemy.

- Both commanders were assured by their superiors that they were getting the best intelligence available at the time.

There were no prudent defensive options available for the officers that would have significantly affected the outcome of the attack.

On numerous occasions, history has vindicated the axiom that “victory finds a hundred fathers but defeat is an orphan.” Admiral Kimmel and General Short have been solely and unjustly rendered the “fathers of Pearl Harbor.”

Responsibility for this catastrophe is just not that simple. It is extremely perplexing that almost everyone accused Kimmel and Short escaped censure. Yet, we know now that civilian and military officials in Washington withheld vital intelligence information which could have more fully alerted the field commanders to their imminent peril.

The bungling that left the Pacific Fleet exposed and defenseless that day did not begin and end in Hawaii. In 1945, I held an in-depth meeting to review this matter which included the officers’ families, historians, experts, and retired high-ranking military officers, who all testified in favor of the two commanders.

In response to this review, Under Defense Secretary Edwin Dorn’s subsequent report disclosed officially—for the first time—that blame should be “broadly shared.” The Dorn Report stated members of the high command in Washington were privy to intercepted Japanese messages that in their totality “... pointed strongly toward an attack on Pearl Harbor on the 7th of December, 1941...” and that this intelligence was never sent to the Hawaiian commanders.

The Dorn Report went so far as to characterize the handling of critically important decoded Japanese messages in Washington as revealing “ineptitude, unwarranted and misestimates, limited coordination, ambiguous language, and lack of clarification and followup at higher levels.” They are eligible for this advance in rank under the Officer Personnel Act of 1947, which authorizes retirement at highest wartime rank. All eligible officers have benefited. All except for two: Admiral Kimmel and General Short. This advancement in rank would officially vindicate them. No retroactive pay would be involved.

The posthumous promotion of Admiral Kimmel and General Short will be a small step in restoring honor to these men.

It is time for Congress and the administration to step forward and do the right thing.

This year is the 50th anniversary of the Pearl Harbor attack. I urge the Senate to support this amendment and yield the floor.

Mr. THURMOND. Mr. President, I rise today with my colleague from Delaware, Senator Biden, and Senator Kennedy, and Senator Thurmond to sponsor an amendment whose intent is to
redress a grave injustice that haunts us from the tribulations of World War II.

On May 25 of last year, this body held an historically important vote requesting the long-overdue, posthumous advancement of two fine World War II officers—Admiral Husband Kimmel and General Walter Short. The Senate voted in support of including the Kimmel-Short resolution as part of the Defense Authorization Bill for Fiscal Year 2000, but the provision was not included in the final legislation. This year, we are again asking the Senate to support inclusion of this important resolution.

Admiral Husband Kimmel and General Walter Short were the two senior commanders of U.S. forces deployed in the Pacific at the time of the disastrous surprise attack December 7, 1941, attack on Pearl Harbor. In the immediate aftermath of that attack, these two officers were unfairly and publicly charged with dereliction of duty and blamed as singularly responsible for the success of that attack.

Less than 6 weeks after the Pearl Harbor attack, in a hastily prepared report to the President, the Roberts Commission—perhaps the most flawed and unfortunately most influential investigation of the disaster—levelled the dereliction of duty charge against Kimmel and Short—a charge that was immediately and highly publicized.

Admiral William Harrison Standley, who served as a member of this Commission, later disavowed its report, stating that these two officers were “martyred” and “if they had been brought to trial, they would have been cleared of the charge.”

Later, Admiral J.O. Richardson, who was Admiral Kimmel’s predecessor as Commander-in-Chief, U.S. Pacific Fleet wrote:

“In the impression that the Roberts Commission created in the minds of the American people, and in the way it was drawn up for that specific purpose, I believe that the report of the Roberts Commission was the most unfair, unjust, and deceptively dishonest document ever printed by the Government Printing Office.”

After the end of World War II, this scapegoating was given a painfully enduring life by the Army Pearl Harbor Board of Investigation, an Army Pearl Harbor Board of Inquiry, the 1944 Navy Court of Inquiry, the 1944 Joint Congressional Committee, and a 1946 Joint Congressional Committee, and a 1941 Army Board for the Correction of Military Records.

The 1995 Department of Defense report stated that the handling of intelligence in Washington during the time leading up to the attack on Pearl Harbor was characterized by, among other faults, ineptitude, limited coordination, ambiguous language, and lack of clarification and follow-up.

The War Warning message sent from the Army Intelligence to the Joint Chiefs of Staff in Washington prior to the attack on Pearl Harbor cannot be placed only upon the Hawaiian commanders. They all underscored significant failures and shortcomings of the senior authorities in Washington that contributed significantly—if not predominantly—to the success of the surprise attack on Pearl Harbor.

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myth that Kimmel and Short were singularly responsible for the disaster at Pearl Harbor. Admiral Spruance, one of our great naval commanders of World War II, shares this view. He put it this way:

"I have always felt that Kimmel and Short were held responsible for Pearl Harbor in order that the American people might have no reason to lose confidence in their government in Washington. This was probably justified under the circumstances at that time, but it does not justify forever damning those two fine officers."

Mr. President, this is a matter of justice and fairness that goes to the core of our military tradition and our nation's sense of military honor. That, above all, should relieve us of any inhibition to doing what is right and just.

Mr. President, this sense of the Senate has been endorsed by countless military officers, including those who have served at the highest levels of command. Include former heads of the Joint Chiefs of Staff Admiral Thomas H. Moorer and Admiral William J. Crowe, and former Chiefs of Naval Operations Admiral J.L. Holloway III, Admiral Elmo R. Zumwalt and Admiral J. Carlisle Trost.

Moreover a number of public organizations have called for posthumous advancement of Kimmel and Short. The VFW passed a resolution calling for the advancement of Admiral Kimmel and General Short. The American Legion passed a resolution by Minneapolis Post No. 43 calling for advancement of Adm. Kimmel and Gen. Short.

Yesterday, June 6, is a day that shall forever be remembered as a date of great sacrifice and great accomplishment for the men who took part of Operation Overload. D-Day marked the turning point in the allied war effort in Europe, and led to our victory in the Second World War. December 7, 1941, is also a date that will forever be remembered. That day will continue to be "a date which will live in infamy." It will serve as a constant reminder that the United States must remain vigilant to outside threats and to always be prepared.

However, this amendment is about justice, equity, and honor. Its purpose is to redress a historic wrong. I want to be clear that the two fine military officers, Admiral Kimmel and General Short, were held responsible for the Pearl Harbor disaster. After 50 years, this correction is long overdue. I urge my colleagues to support this amendment.

Mr. BIDEN. Mr. President, I and my colleagues—Senators ROTH, KENNEDY, and THURMOND—are reintroducing an amendment that the Senate passed last year to provide long overdue justice for the two fine military officers, Admiral Husband Kimmel and General Walter Short.

Last year the Senate voted to include this amendment in the Defense Authorization bill, but because the House had not considered such a provision, it was not included in the final conference report.

This year, having had time to consider the facts, the House Armed Services Committee included the exact same language that the Senate passed last year in their fiscal year 2001 Defense authorization bill, which passed the full House on May 18.

I also want to remind my colleagues that this resolution has the support of various veterans groups, including the Veterans of Foreign Wars (VFW) and the Pearl Harbor Survivors Association. It is also a move supported by former Chiefs of Naval Operations, including former Admirals Moorer, Crowe, and Elmo Zumwalt.

As most of you know, Admiral Kimmel and General Short commanded U.S. forces in the Pacific at the time of the attack. After the attack, instead of being rewarded, they were blamed as completely responsible for the success of that attack. I will not go through an exhaustive review of the reasons I think this is the right action to take.

For me, this issue comes down to basic fairness and justice. It was entirely appropriate for President Roosevelt to decide to relieve these officers of their command immediately following the attack. Not only was it his prerogative as Commander in Chief, he also needed to make sure the nation had confidence in its military as it headed into war. So, I can understand the need, at that time, to make them scapegoats for the devastating defeat. What I do not accept is that the decisions of this government in those extreme times have been left to stand for the past 59 years.

To be more specific, it was a conscious decision by the government to actively release a finding of "dereliction of duty" a mere month after Pearl Harbor. Not one of the many subsequent and substantially more thorough investigations to follow agreed with that finding. Even worse, the findings of the official reviews done by the military in the Army and the Navy Inquiry Boards of 1944—saying that Kimmel and Short's forces were properly disposed—were classified and kept from the public.

Think about it. We are a nation proud of a civilian-led military. The concept of civilian rule is basic to our notion of democracy. This means that the civilian leadership also has responsibilities to the members of its military. The families of Admiral Kimmel and General Short were vilified. They received death threats. Yet, Admiral Kimmel and General Short were denied their requests for a court martial. They were not allowed to properly defend themselves and their honor.

Moreover, whatever the exigencies of wartime, it is unconscionable that government actions which vilified these men and their families should continue to stand 59 years later. It is appropriate that government action be taken to rectify this. There are very few official acts we can take to rectify this. The one suggested by this amendment is to advance these officers on the retirement list. They were the only two officers eligible for such advancement after Congress passed the 1947 Officer Personnel Act, denied that advancement.

I also want to point out that I do not believe this is rewriting history or shifting blame, instead, it is acknowledging the truth. The 1995 report by the Undersecretary of Defense Dorn says, "Responsibility for the Pearl Harbor disaster should not fall solely on the shoulders of Admiral Kimmel and Lieutenant General Short, it should be broadly shared." To say that and then to say that the president was not responsible or to rectify the absolute scapegoating of these two officers is to say that military officers can be hung out to dry and cannot expect fairness from their civilian government.

With civilian leadership, comes responsibility. This advancement on the retirement lists involves no compensation. Instead, it upholds the military tradition that responsible officers take the blame for their failures, not for the failures of others. The unfortunate reality is that Admiral Kimmel and General Short were blamed entirely and forced into early retirement. As Members of Congress we face no statute of limitations on treatment of those who Undersecretary Dorn says share the blame, we have denied our military the opportunity to learn from the multiple failures that gave Japan the opportunity to so devastate our fleet.

This is not to say that the sponsors of this amendment want to place blame on anyone, but it certainly is aimed at those superior officers who were advanced in rank and continued to serve, despite being implicated in the losses at Pearl Harbor. Instead, it validates that the historic record, as it is becoming clearer and clearer, is correct to say that blame should be shared. This amendment validates the instincts of those historians who have sought the full story and not the simply black-and-white version needed by a grieving nation immediately following the attack.

So, I urge my colleagues to support this amendment again this year. Quite simply, in the name of truth, justice,
and fairness, after 59 years the government that denied Admiral Kimmel and General Short a fair hearing and suppressed findings favorable to their case while releasing hostile information owes them this official action.

Mr. W A R N E R . Without objection, the amendment is agreed to.

The amendment (No. 3233) was agreed to.

Mr. W A R N E R . Mr. President, Senator R O T H has worked tirelessly on the issue revisiting that chapter of our history, the attack on Pearl Harbor. Those listening to this debate will recall that Admiral Kimmel was the Navy Commander and General Short was the Army commander.

There has been a great deal of controversy throughout history as to their role and the degree of culpability they had for the actions that befell our Armed Forces on that day. This is an action of some import being taken by the Senate. I remember a debate on the floor last year's authorization bill when Senator R O T H sat right here in this chair for hour upon hour when we debated this issue.

Mr. L E V I N. Mr. President, I tip my hat in tribute to Senators K E N N E D Y and B I D E N, Senator R O T H and Senator T H U R M O N D, and others, who have brought this to our attention repeatedly over the years. Hopefully, this matter can now be resolved in the appropriate way. Senator K E N N E D Y and his colleagues have been absolutely tenacious in this matter. Hopefully, it will result in a good ending.

Mr. R E I D. Mr. President, 3 or 4 days ago, I received a letter from the grandson of Admiral Kimmel. It was a very moving letter. I wasn't personally familiar with this issue.

I ask unanimous consent that the letter written to me by the admiral's grandson be printed in the RECORD. Without objection, the letter was ordered to be printed in the RECORD, as follows:


H O N . H A N N Y R E I D ,
M C L E O R D

DEAR SENATOR REID: There is a matter of great interest to me that I would like to bring to your attention as a member of the Senate. I am particularly interested in your opinion because I know you as a man of great integrity.

Last year, May 25th, the Senate voted (52 years to 47, voting in favor of Amendment No. 386 to the Senate Defense Authorization Act of FY 2000 recommending to the President that he restore the rank of Admiral for my grandfather, Rear Admiral Husband E. Kimmel. Amendment No. 386 was subsequently deleted from the Joint Defense Authorization Act for FY 2000.

On May 18, 2000 the House voted (353 years, 63 days) in favor of the House Defense Authorization Act for FY 2001, which contains the same rank-restoration language for my grandfather that the Senate voted for last year.

It appears that the Senate will soon be asked to again vote on the rank-restoration matter for my grandfather. Since I have never talked to you about this subject, I do not know why you voted against the Amendment last year. I would very much appreciate the opportunity to discuss this issue with you. My interest in this matter goes beyond the familial. I spent ten years in the military, twice receiving in the line of duty an award for meritorious service. It is a lifetime of study, which I believe gives me unique perspective and insight into this seminal event.

I have enclosed a copy of Admiral Kimmel's Facts About Pearl Harbor, and thank you for your attention to this matter.

Respectfully,

THOMAS K. KIMMEL, J. R.

ENCLOSURE (1).

FACTS ABOUT PEARL HARBOR
(By Husband E. Kimmel)

GROTON, CONNECTICUT,
June 3, 1958.

Hon. CLARENCE CANNON,
Congressman from Missouri, House Office Building, Washington, DC.

SIR: Your remarks on the floor of the House of Representatives on May 6, 1958 were recently called to my attention. They included the following passages which I quote from the Congressional Record of May 6, 1958:

"A subcommittee of the Committee on Appropriations held hearings in which it was shown that the attack on the Pearl Harbor Fleet was not even on speaking terms. And the exhaustive investigation conducted by the President and by the Joint Committee of the House and Senate showed that both had been repeatedly alerted over a period of weeks prior to the attack. They did not confer on the matter at any time."

"At one of the most critical periods in the defense of the nation, there was not the slightest cooperation between the Army and the Navy."

"Had they merely checked and compared the official message, received by each, they could not have failed to have taken the precautions which would have rendered the attack futile and in all likelihood have prevented the Second World War and the situation in which we find ourselves today. . . ."

"It was not the Japanese superiority winning the victory. It was our own lack of cooperation between the Army and the Navy throwing victory away. . . ."

"When the Japanese naval code was broken and when for some time we were reading all official messages sent from Pearl Harbor to Japanese fleet, much of this information came to Admiral Kimmel at his Hawaiian headquarters."

From your remarks I have learned for the first time the origin of the lie that General Short did not even on speaking terms with the Japanese attack. I would like very much to know the identity of the individual who gave this testimony before a subcommittee of the Appropriations Committee. In my opinion the alleged lack of cooperation between General Short and me your statement is completely in error. We did consult together frequently. As a man in your position and with the charges you have made, the Naval Court of Inquiry which was composed of Admiral Orin G. Murfin, Admiral Edward C. Kalbfus and Vice Admiral Adolphus Andrews, all of whom had held high commands aloft, made an exhaustive investigation and reached the following conclusion:

"Finding of Fact Number V.

"Admiral Kimmel and Lieutenant General Short were personal friends. They met frequently, both socially and officially. Their relations were cordial and cooperative in every respect and, in general, this is true as regards their subordinates. They frequently conferred with each other on official matters of common interest, but invariably did so when messages were received by either which had any bearing on the development of the United States-Japanese relations or their general plans in preparing for war. Each was mindful of his own responsibility and the responsibilities vested in the other. Each was in charge of measures taken by the other to a degree sufficient for all practical purposes."

Your statement that the actions of the 1941 Hawaiian Commanders might have prevented the Second World War and the situation in which we find ourselves today is utterly fantastic. The Hawaiian Commanders had no part in the exchange between the two governments and were never informed of the terms of the so-called ultimatum of November 26, 1941 to Japan, nor were they notified that the feeling of informed sources in Washington was that the Japenese reply to this ultimatum would trigger the attack on the United States. To blame the Hawaiian Commanders of 1941 for the situation in which we find ourselves today is something out of Alice in Wonderland.

In regard to the Japanese messages intercepted and decoded, exhaustive testimony before the Naval Court of Inquiry and the Joint Congressional Committee of Investigation shows that several decoded messages received after July 1941 were supplied to me and none were supplied to General Short.

My book, Admiral Kimmel's Story, contains a collection of documented facts which support this statement and give the text of important decoded intercepts which were withheld from me and from General Short. These decoded intercepts were in such detail that they made the Japanese intentions clear. Had they been supplied to the Hawaiian commanders the attack would have been far different if indeed the attack would ever have been made.

I know the other part of this military history where vital information was denied the commanders in the field.

To make unfounded charges against me and General Short to support your argument is grossly unfair and a misrepresentation of facts. The success of the attack on Pearl Harbor was not the result of inter-service rivalry at Pearl Harbor, it was caused by the deliberate failure of Washington to give the Commanders in Hawaii the information available in Washington to which they were entitled. This information which was denied to the Hawaiian Commanders was supplied to the American Commanders in the Philippines and to the British.

I request you insert this letter in the Congressional Record.

Yours very truly,

HUSBAND E. KIMMEL.

GROTON, CONNECTICUT,

Hon. CLARENCE CANNON,
House of Representatives, Committee on Appropriations, Eighty Fifth Congress, Washington, DC.

SIR: You have failed up to the present time to provide me with the name of the individual whom you quoted in your remarks appearing in the Congressional Record of May 6, 1958 as authority for your statement that General Short and I were not on speaking terms when the Japanese attacked Pearl Harbor. I know that to be wholly false and believe I am entitled to the name of the person so testifying. Whether or not he testified under oath and his qualifications. Moreover I would appreciate a definite reference to the hearing of the Sub-Committee of the appropriations Committee if printed and if not a
transcript of that part of the record to which you refer.

The receipt of your remarks in the Congressional Record of 18 June is acknowledged, without the accompanying letter in a franked envelope bearing your name and I presume sent by your direction.

Your remarks are a continuation of the frantic efforts of the Roosevelt Administration to divert attention from the failures in Washington and to place the blame for the catastrophe on the Commanders at Pearl Harbor. You claim that the testimony that General Short and I were not on speaking terms at the time the Pearl Harbor was effectively publicized though sixteen years later I am still denied the name of the individual who perpetrated this lie.

For four years, from 1941 to 1945, the administration supporters and gossip peddlers had a field day making statements which the wall of government war time secrecy prevented me from answering.

One of the most persistent and widespread was to the effect that General Short and I were not on speaking terms at the time of the attack. Another was that the uniformed services in Hawaii were all drunk when the attack came. This is the reason the Naval Court of Inquiry was given under moderate language expressed by Admiral Murfin, the President of the Court, years ago.

I reaffirm the personnel of the Army and Navy stationed in Hawaii in 1941, many of whom gave their lives in defense of this country.

It is astounding to me that you should charge General Short and me of falsely testifying by the simple expedient of attacking the integrity of the investigators and witnesses who reached conclusions or gave testimony which does not suit you.

You have slandered the honorable, capable, and devoted officers who served as members of the Army Board of Investigation and the Navy Board of Investigation. You have slandered the personnel of the Army and Navy stationed in Hawaii in 1941, many of whom had been friends when they should have been friends.

The testimony on this matter given before the Naval Court of Inquiry was given under the most stringent conditions. It was forwarded without appended sworn statements.

You, yourself, refer to the statements in the Roberts Report to the effect that I repeated my request the Secretary of the Navy be advised that time did not permit. When I wrote regarding Admiral Kimmel—"He was permitted no counsel and had no right to ask questions or to cross examine witnesses as the whole proceeding was one of a defendant. Thus both Short and Kimmel were denied all of the usual rights accorded to American citizens appearing before judicial proceedings as interested parties." Even the Hewitt Investigation found that the personnel of the Army and Navy stationed in Hawaii in 1941, many of them were not called to testify.

The testimony of Captain Safford was given under the most stringent conditions. It was forwarded without appended sworn statements.

You further state the Roberts Report to the effect that General Short and I were not on speaking terms at the time of the Pearl Harbor attack is an insult to the gallant men who died in the treacherous Japanese attack and to all the members of the Roberts Commission who had been friends when they should have been friends.

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You imply that my request to revise the transcript of my testimony before the Roberts Commission is censurable and completely rejected. The published statement of Admiral William H. Standley, USN, retired, a former Chief of Naval Operations and a member of the Roberts Commission. He wrote regarding Admiral Kimmel—"He was permitted no counsel and had no right to ask questions or to cross examine witnesses as to the whole proceeding was one of a defendant. Thus both Short and Kimmel were denied all of the usual rights accorded to American citizens appearing before judicial proceedings as interested parties." Even the Hewitt Investigation found that the personnel of the Army and Navy stationed in Hawaii in 1941, many of them were not called to testify.

The testimony of Captain Safford was given under the most stringent conditions. It was forwarded without appended sworn statements.

You refer to the information that had been found by both Short and Admiral Kimmel and more specifically to a message based upon information from our Ambassador in Tokyo, Mr. Grew, dated 27 January 1941 to the effect that the Japanese intended to make a surprise attack against Pearl Harbor. This message was not made no mention of the letter of the Chief of Naval Operations which forwarded this information to me on 1 February 1941 to the effect that the Japanese Division of Pearl Harbor was not ready for the attack. This places no credit in these rumors. Further based upon known data regarding the present disposition and employment of Japanese Naval and Army forces no move against Pearl Harbor appears imminent or planned for the foreseeable future.

The estimate was never changed. When you refer to—"A position so admirable defended as Pearl Harbor with every facility, submarine nets, radar, sonar, planes and ships of the line" you create a very false impression. Admiral Richardson was relieved because he so strongly held that the Fleet should not be based in the Hawaiian area.

You refer to the records of the attack and correctly state the personnel of the Army and Navy stationed in Hawaii in 1941, many of whom had been friends when they should have been friends. You refer to the statements in the Roberts Report to the effect that the Pearl Harbor attack is an insult to the gallant men who died in the treacherous Japanese attack and to all the members of the Roberts Commission who had been friends when they should have been friends.

On Advice of Counsel I declined to take the stand in the Hart Investigation because the known inefficiency of the Commission did finally authorize Admiral Kimmel's corrected testimony to be attached to the record as an addendum.

Your remarks with regard to the conduct of business as it relates to the messages that was sent to him and conversely that the Commanding General of the Hawaiian Navy Department without conferring with the Commanding General of the Hawaiian Department to determine what the Navy Department meant by the messages that were sent to him and conversely that the Commanding General Hawaiian Department had to confer with the Commander in Chief Pacific Fleet in order for him to know what the messages sent to him by the War Department meant. If the messages were so worded the fault lay neither with me or General Short.

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The testimony of Captain Safford was given under the most stringent conditions. It was forwarded without appended sworn statements.
The only planes in Hawaii suitable for long distance scouting were the patrol planes as signed to the fleet and they were totally inadequate to cover the approaches to Hawaii. The planes for long range bombing were the six B-17 Army planes and those attached to the two carriers. At the time of the attack the two carriers were on missions initiated by the Navy Department.

These and other deficiencies had been repeated in General Short and me as well as by our predecessors.

The messages of October 16, November 24 and November 27, 1941 from the Navy Department specifically directed the Japanese Consul in Honolulu to transmit reports on the berthing of ships in Pearl Harbor and the messages of November 27 and November 29, 1941 to General Short from the War Department stressed sabotage and that an attack made would be directed against ports in South East Asia or the Philippines.

With the benefit of the intercepted Japaneese messages, how they arrived at this conclusion will always be a mystery to me.

To add to our difficulties the messages also directed that, “If hostilities cannot, repeal cannot begin."

The messages of November 27, 1941 from the War Department to General Short specifically directed the Japanese Consul in Honolulu to transmit reports on the berthing of ships in those areas.

Recorded testimony shows this report was read by the Secretary of War, the Chief of Staff of the Army, the Chief of War Plans Army, the Chief of War Plans Navy. There can be no reasonable doubt that this report was read and understood by these responsible officials in Washington. For nine days the Japanese attack reports were demanded even when there were no ship movements. This detailed information obtained with such pains-taking effort had come from a source I considered military viewpoint except for an attack on Pearl Harbor.

No one had a more direct and immediate interest in the security of the fleet in Pearl Harbor than its Commander-in-Chief. No one had a greater right than I to know that Japanned harbor. No one was seeking and receiving reports as to the precise berthing in that harbor of the ships of the fleet. I had been sent Mr. Grew’s report earlier in the year with positive advice from the Navy Department that no credence was to be placed in the rumored Japanned plans for an attack on Pearl Harbor. I was told then, that no Japanned move against Pearl Harbor appeared, “imminent or planned for the forseeable future”. Certainly I was entitled to know what information in the Naval Department had been gathered and advice previously given to me. Surely I was entitled to know of the intercepted dispatches between Tokyo and Honolulu, on November 24, 1941, which indicated that a Japanned move against Pearl Harbor was planned in Tokyo.

Yet not one of these dispatches about the location of ships in Pearl Harbor was supplied to me.

Knowledge of these foregoing dispatches would have radically changed the estimate of Japanese plans which Secretary of War, MacArthur’s General Staff and my Staff situation at that time. "Whatever the case may be, the fact remains that the date set forth in my message #736 is an absolutely immovable one. Please, therefore, make the United States see the light, so as to make possible the signing of the agreement by that time."

The deadline was reiterated in a dispatch decoded in Washington on November 17.

"For your Honor’s own information.

1. I have read your #1009 and you may be sure that you have all my gratitude for the efforts you have put forth, but the fate of our Empire hangs by the slender thread of a few days, please fight harder than you ever did before."

2. I in you opinion we ought to wait and see what turn the war takes and remain patient. However, I am awfully sorry to say that the situation renders this out of the question. I set the deadline for the solution of these negotiations in my #736 and there will be no change. Please try to understand that, You see how short the time is; therefore, do not allow the United States to delay the negotiations any further. Press them for a solution on the basis of our proposals and do your best to bring about an immediate solution."

The deadline was finally extended on November 22 for four days in a dispatch decoded and translated on November 22, 1941. "It was awful hard for us to consider changing the date we set in my #736. You should know this, however, I know you are working hard. Stick to our fixed policy and do your best. Spare no efforts and try to bring about the solution we desire. There are reasons beyond your ability to guess why we want to settle Japanned-American relations by the 29th, but the next three or four days you can finish your conversations with the Americans; if the signing..."
...
Mr. REID. The letter was very moving, about what the whole family has gone through as a result of this incident. It affected the life of not only the admiral but his entire family. I also extend my appreciation to the Senators who have been so tenacious in allowing this matter to move forward.

Mr. WARNER. Mr. President, I ask unanimous consent that Senator McCain be listed as a cosponsor on the amendment by the Senator from Georgia on the Montgomery GI Bill.

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

Mr. WARNER. Mr. President, in the context of the Kimmel/Short matter, recently I have had an opportunity to be visited by the former Chief of Naval Operations, Adm. James Holloway, who would strongly endorse the action that is before the Senate with regard to these two officers.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator Reid of Nevada be added as a cosponsor of this amendment.

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

AMENDMENT NO. 3234

(Purpose: To require reports on the spare parts and repair parts program of the Air Force for the C-5 aircraft)

Mr. LEVIN. On behalf of Senators Biden and Roth, I send an amendment to the desk that would require reports on the spare parts and repair parts program of the Air Force for the C-5 aircraft.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BIDEN, for himself and Mr. ROTH, proposes an amendment numbered 3234.

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

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

The amendment is as follows:

SEC. 1027. REPORT ON SPARE PARTS AND REPAIR PARTS PROGRAM OF THE AIR FORCE FOR THE C-5 AIRCRAFT.

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

(1) There exists a significant shortfall in the Nation’s current strategic airlift requirement, even though strategic airlift remains critical to the nation’s current strategic airlift requirements.

(2) This shortfall results from the slow phase-out of C-141 aircraft and their replacement by C-17 aircraft, and from lower than expected mission capable rates for C-5 aircraft and parts backlogs.

(3) One of the primary causes of these reliability rates for C-5 aircraft, and especially for operating C-5 aircraft, is the shortage of spare repair parts. Over the past 5 years, this shortage has been particularly evident in the C-5 fleet.

(4) NMCS (Not Mission Capable for Supply) rates for C-5 aircraft have increased significantly in the period between 1997 and 1999. At Dover Air Force Base, Delaware, an average of 7 through 9 C-5 aircraft were not available during that period because of a lack of parts.

(5) Average rates of cannibalization of C-5 aircraft per 100 aircraft years have also increased during that period and are well above the Air Mobility Command standard. In any given month, this means devoting additional manhours and cannibalizing additional C-5 aircraft. At Dover Air Force Base, an average of 800 to 1,000 additional manhours were required for cannibalizations of C-5 aircraft during that period. Cannibalizations are often required for aircraft that transit through a base such as Dover Air Force Base, as well as for depot maintenance.

(6) High cannibalization rates indicate a significant problem in delivering spare parts in a timely manner and systemic problems within the repair and maintenance process that is a critical asset in air mobility and airlifting heavy equipment and personnel to both military contingencies and humanitarian relief efforts around the world.

(b) REPORTS.—Not later than January 1, 2001, and September 30, 2001, the Secretary of the Air Force shall submit to Congress reports on the adequacy of such funds to meet current and future parts and maintenance requirements for that aircraft; a description of current efforts to address shortfalls in parts for such aircraft, including an assessment of potential short-term and long-term effects of such efforts; an assessment of the effects of such shortfalls on readiness and reliability ratings for C-5 aircraft; a description of cannibalization rates for C-5 aircraft and the manhours devoted to cannibalization of C-5 aircraft; and an assessment of the effects of parts shortfalls and cannibalizations with respect to C-5 aircraft on readiness and retention.

Mr. BIDEN. Mr. President, I rise to offer amendments that addresses a problem that I have seen directly impact the moral and readiness of units at the base I am most familiar with, Dover Air Force Base. First, I want to thank the committee for all of its hard work on this issue and for accepting this amendment. Despite the fact that we in Congress have increased the funding levels for spare parts for the past three years, the supply of spare and repair parts for the C-5s at Dover has been inadequate.

What does this mean? It means maintenance crews must work two-to-three times as hard because they have to cannibalize parts from other airplanes.

Despite increased mission capability, and for accepting this amendment. Despite the fact that we Congress have increased the funding levels for spare parts for the past three years, the supply of spare and repair parts for the C-5s at Dover has been inadequate.

What does this mean? It means maintenance crews must work two-to-three times as hard because they have to cannibalize parts from other airplanes.

It means that planes spend between 250 and 300 days on average in depots, waiting for service. It means greater reliance on spare parts, the wrong parts, to do their jobs the right way.

In his testimony March 3, 2000 before the Readiness Subcommittee of the Armed Services Committee, Secretary of the Air Force F. Whitten Peters talked about the problem, pointing out that, “The C-5 related MICAP rate has increased over the last two quarters by 36 percent. “ I just to clarify, MICAP not defined by the Secretary’s office to be the total hours a maintenance technician waits for all the parts that have been ordered to fix an aircraft.”

In that same testimony, the Secretary also said, “The impact of these additional MICAP hours has been a decline in readiness.”

The problem is not just a Dover problem. On March 7, 2000, Major General Larry D. Northington, the Deputy Assistant Secretary (Budget) for the Air Force testified on the problem of parts shortages throughout the Air Force to the Readiness Subcommittee. He pointed out that we must look at all aspects of this problem. “We must, therefore, expect significant spares investments for all time to come and to understand that mission capable rates are not a product of spares funding alone. It requires dollars, deliveries of the right parts, trained and experienced technicians, and, over time, a sustained effort to upgrade the fleet to achieve higher levels of reliability and maintainability.”

In other words, this is not a problem that can be solved by increased funding alone. We must also look at the entire structure that is supposed to deliver parts and make sure we have adequate numbers of experienced people to maintain aircraft. In addition, we have to look at long-term modernization.

I am very pleased that the committee has fully supported the three C-5 modernization programs that are critical to improving reliability and maintainability—High Pressure Turbine Replacement, Avionics Modernization Program, and Reliability Enhancement and Re-engining Program.

Already, the High Pressure Turbine replacements that have occurred has meant that engines stay on their wings...
at least double the time they had in the past before needing to be removed for maintenance. This is an easy midterm fix that is already paying for itself. For the longer term, new engines are essential. The Committee authorized the Air Force to proceed with the necessary testing and design to put new engines on the C-5 and to replace antiquated parts that are particularly prone to breaking.

The C-5 engine was one of the first large jet engines ever made. Commercial planes are a good 5 generations of engines beyond the C-5. It is no wonder that there are no longer parts suppliers available. In fact, it can take up to two years to get parts because manufacturers no longer make those parts and so new versions must be created. Two years is not acceptable. With new engines, reliability will increase and operations and maintenance costs will go down. This not only means enhanced readiness, it also means that our military doesn’t have to work 20 to 25 extra weeks a year.

In addition, the committee fully supported the Avionics Modernization Program. This program will ensure that C-5’s can fly in operationally more efficient manner with the new Global Air Traffic Management System. In addition, this program improves the safety of aircrews by installing systems like Traffic Collision and Avoidance Systems (TCAS) and enhances all weather navigation systems. Clearly, as the committee recognized, we cannot justify delaying these important upgrades to the entire C-5 fleet.

Until these modernization programs are completed, though, the immediate problem is the day-to-day maintenance needs. Foremost among those needs is that parts be available to keep planes flying and that the cannibalization rates be reduced.

The current situation cannot continue. It daily hurts the morale of our personnel and lowers the readiness of our military force. The C-5 is the long-legged workhorse of our strategic airlift fleet. It carries more cargo and heavier cargo further than any other plane in our inventory. It is what gets our warfighters and their heavy equipment to the fight. It is also what gets humanitarian assistance to needy victims quickly enough to make a difference.

My amendment simply requires the Secretary of the Air Force to provide two reports to Congress, one by January 31 and one by September 30 of next year on the exact situation of C-5 parts shortages, what is being done to fix this problem, what the impacts of the problem are for aircraft readiness and reliability ratings, and what the impacts of the problem are for personnel readiness and retention. It is my hope that such a thorough review will allow us to take the necessary steps to fix this problem, what for all I know that the Air Force is concerned and taking steps to improve the parts shortage problem. I want to make sure that those efforts are comprehensive and that the hardworking men and women at Dover Air Force Base get some relief.

Mr. ROTH. Mr. President, I rise to discuss an amendment offered by my colleague from Delaware, Senator JOE BIDEN, and myself. This amendment deals with the vital importance of the C-5 Galaxy to our nation’s strategic airlift capability. No other aircraft has the capabilities of this proven workhorse. We propose that the military for the future we must not overlook the need to ensure the Galaxy has the parts necessary to perform safely and effectively.

I would like to commend the chairman and the ranking member for accepting this very important amendment, which requires the Secretary of the Air Force to report on “the overall status of the spare and repair parts program of the Air Force for the C-5 aircraft.”

The C-5 is the largest cargo transport plane in our Air Force. It is proven, and we depend on it to perform a vital role in our nation’s Strategic Airlift. In addition, it is currently, shortages have resulted in the grounding of nearly one quarter of the C-5 fleet. Needless to say, this is a serious problem.

The report required by this amendment will detail the funds currently allocated to parts for the C-5, the adequacy of those funds to meet future requirements for the C-5, the descriptions of current efforts to address short-term and long-term shortfalls in parts, an assessment of the effects of these shortfalls on readiness and retention.

I believe this report will shed light on a problem of which my colleague from Delaware and I are painfully aware. Dover Air Force Base, in my state, is home to over 30 C-5 Galaxies. At Dover, the spare parts shortage has truly hit home.

“Cann Birds”, or C-5 Galaxies that have been cannibalized for their parts, is an unfortunate sight on the base. Men and women at Dover must spend long hours cannibalizing aircraft to find parts necessary for other C-5s. These long hours have led to increased frustration and lowered morale among some of the hardest working and most valuable people in our Air Force and civilian personnel. We are losing expertise in this area due to this decreased morale.

The lack of spare parts is not the only issue. Often, when the need for a part is recognized, there is a long lag-time between requests for parts and delivery. I hope that this amendment, by shining light on these problems and requiring the Air Force to examine the issues, will result in greater understanding of how to reach a solution.

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

The amendment (No. 3234) 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, there are several colleagues desiring to be recognized for debate on this bill. Senator LEVIN and I will proceed to ask of the Chair that a group of amendments be adopted en bloc.

Mr. LEVIN. Mr. President, that is fine with this Senator.

AMENDMENTS NOS. 3235 THROUGH 3251, EN BLOC

Mr. WARNER. Mr. President, I send a series of amendments to the desk that have been cleared by the ranking member and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. WARNER. Mr. President, I ask unanimous consent that the amendments are agreed to en bloc, the motions to reconsider be laid upon the table, and that any statements relating to these individual amendments be printed in the RECORD.

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

The amendments (Nos. 3235 through 3251) were agreed to en bloc, as follows.

(Purpose: To authorize a land conveyance, Fort Riley, Kansas)

On page 539, between lines 7 and 8, insert the following:

SEC. 2836. LAND CONVEYANCE, FORT RILEY, KAN.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Kansas, all right, title, and interest of the United States in and to a parcel of real property, including all improvements thereon, consisting of approximately 70 acres at Fort Riley Military Reservation, Fort Riley, Kansas. The preferred site is adjacent to the Fort Riley Military Reservation boundary, along the north side of Huebner Road across from the First Territorial Capitol of Kansas Historical Site Museum.

(b) CONDITIONS OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the following conditions:

(1) That the State of Kansas use the property conveyed solely for purposes of establishing and maintaining a State-operated veterans cemetery.

(2) That all costs associated with the conveyance, including the cost of relocating water and electric utilities should the Secretary determine that such relocations are necessary, be borne by the State of Kansas.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Director of the Kansas Commission on Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.
(A) To authorize, with an offset, an additional $1,500,000 for the Air Force for research, development, test, and evaluation on weathering and corrosion on aircraft surfaces and parts.

SEC. 1061. AEROSPACE INDUSTRY BLUE RIBBON COMMISSION.

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

(1) The United States aerospace industry, composed of manufacturers of commercial, military, and business aircraft, helicopters, missiles and rocket systems, space systems, space systems, and related components and equipment, has a unique role in the economic and national security of our Nation.

(2) In 1999, the aerospace industry continued to produce, at $37,000,000,000, the largest trade surplus of any industry in the United States.

(3) The United States aerospace industry employs 800,000 Americans in highly skilled positions associated with manufacturing aerospace products.

(4) United States aerospace technology is preeminent in the global marketplace for both defense and commercial products.

(5) History since World War I has demonstrated that a superior aerospace capability usually determines victory in military operations and that a robust, technologically innovative aerospace capability will be essential for maintaining United States military superiority in the 21st century.

(6) Federal Government policies concerning investments in aerospace research and development, and controls on export of services and goods containing advanced technologies, and other aspects of the Government-industry relationship will have a critical impact on the ability of the United States aerospace industry to retain its position of global leadership.

(7) Recent trends, including the United States' diminished responsibility in aerospace research and development, in changes in global aerospace market share, and in the development of competitive, non-United States aerospace capability, undermine the future role of the United States aerospace industry in the national economy and in security of the Nation.

(8) Because the United States aerospace industry stands at an historical crossroads, it is advisable for the President and Congress to appoint a blue ribbon commission to assess the future of the industry and to make recommendations for Federal Government actions to ensure United States preeminence in aerospace in the 21st century.

(b) AVAILABILITY OF FUNDS. — The amount authorized to be appropriated by this section shall be managed by the Director of the Bureau of the Comptroller and the Director of the Office of Management and Budget.

(c) OFFSET. — The amount authorized to be appropriated by this section shall be composed of 12 members appointed, not later than March 1, 2001, as follows:

(1) The President shall designate one member appointed by the President.

(2) Two members appointed by the Majority Leader of the Senate.

(3) One member appointed by the Minority Leader of the Senate.

(4) One member appointed by the Majority Leader of the House of Representatives.

(5) One member appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed from among:

(A) persons with extensive experience and national reputations in aerospace manufacturing, economics, finance, national security, international trade or foreign policy;

(B) persons who are representative of labor organizations associated with the aerospace industry;

(C) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(7) The Commission shall meet at the call of the Chairman. A majority of the members shall constitute a quorum, and a quorum may hold hearings for the Commission.

(d) DUTIES. — (1) The Commission shall—

(A) study the issues associated with the future role of the United States aerospace industry in the global economy, particularly in relationship to United States national security; and

(B) assess the future importance of the domestic aerospace industry for the economic and national security of the United States.

In order to fulfill its responsibilities, the Commission shall study the following:

(A) The budget process of the Federal Government, particularly with a view to assessing the adequacy of proposed budgets of the Federal Government agencies for aerospace research and development and procurement.

(B) The acquisition process of the Federal Government, particularly with a view to assessing—

(i) the adequacy of the current acquisition process of Federal agencies; and

(ii) the procedures for developing and fielding aerospace systems incorporating new technologies in a timely fashion.

(C) The policies, procedures, and methods for the financing and payment of government contracts.

(D) Statutes and regulations governing international trade and the export of technology, particularly with a view to assessing—

(i) the extent to which the current system for controlling the export of aerospace goods, services, and technologies reflects an adequate balance between the need to protect national security and the need to ensure unhindered access to the global marketplace; and

(ii) the adequacy of United States and multilateral trade laws and policies maintaining the international competitiveness of the United States aerospace industry.

(E) Policies governing taxation, particularly with a view to assessing the impact of current tax laws and practices on the international competitiveness of the aerospace industry.

(F) Programs for the maintenance of the national space launch infrastructure, particularly with a view to assessing the adequacy of current and projected programs for maintaining the national space launch infrastructure.

(G) Programs for the support of science and engineering education, including current programs for supporting aerospace science...
CONGRESSIONAL RECORD – SENATE

AMENDMENT NO. 3241

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-3) is amended—

(1) by inserting “(F) Each State shall—” before “Each State shall—”; and

(2) by adding at the end the following:

“(d) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

“(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and run-off elections for State and local offices; and

“(2) accept any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.”;

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking “FEDERAL OFFICES.”

(AMENDMENT NO. 3241)

(Purpose: To modify authority for the use of certain overseas mailing privileges in the Port of Oakland (Oakland Harbor District, Port Hueneme, California) on page 543, between lines 19 and 20, insert the following:

The modern aerospace industry fulfills vital roles for our nation. It is a pillar of the business community that employs 800,000 skilled workers. It is an engine of economic growth that generated a net trade surplus of $37 billion in 1996, larger than any other industrial sector. It is a working model of private-public partnership, yielding commercial and military benefits that have enhanced our communication and transportation capacities, and enabling the aerospace dominance demonstrated in both Kosovo and the Gulf War. And its well-known products, from the Boeing 777 to the Blackhawk helicopter to the Space Shuttle, serve as fitting symbols of America's preeminence in an inter-connected world that thrives on speed and technology.

Unfortunately, this key industrial sector is facing new challenges to its leadership role in the global economy. Since 1985, foreign competition has cut the American share of the worldwide aerospace market from 72 percent to 56 percent. In order to remain competitive, we must reevaluate industrial regulations enacted during the Cold War, that might hamper innovation, flexibility, and growth. We must also consider our defense research priorities, to counteract the 50% decline in domestic funding for aerospace research and development during the last decade. We must reexamine the rules that govern the export of aerospace products and technologies, and develop policies that permit access to global markets while protecting national security. We must assess all of these areas in light of new trade agreements that may require adaptations to existing laws and policies. Ultimately, we must assess the future of the aerospace industry and ensure that government policy plays a positive role in its development.

To accomplish this goal, this amendment calls for the creation of a Presidential commission empowered to recommend action to the federal government regarding the future of the aerospace industry. The commission shall be composed of experts in aerospace manufacturing, national security, and related economic issues, as well as representatives of organized labor. The commission is directed to study economic and national security issues confronting the aerospace industry, such as the state of government funding for aerospace research and procurement, the rules governing exportation of aerospace goods and technologies, the effect of current taxation and trade policies on the aerospace industry, and the adequacy of aerospace science and engineering education in institutions of higher learning. I urge the Congress to support the creation of the Commission and the next President to support its active involvement and heed its counsel. By creating such a commission and through careful consideration of these complex issues, we can ensure that this valuable American industry soars into the 21st century, turbulence-free.

AMENDMENT NO. 3242

(Purpose: To guarantee the right of all active duty military personnel merchant mariners, and their dependents to vote in Federal, State, and local elections)

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Voting Rights Act of 2000.”

SEC. 2. GUARANTEE OF RESIDENCY.

(a) REGISTRATION AND BALLOTING. Section 110 of the Uniformed and Overseas Absentee Voting Act (22 U.S.C. 2204) is amended by striking paragraphs (1), (2), and (3) and inserting the following:

“(1) be deemed to have lost a residence or domicile in that State;

“(2) be deemed to have acquired a resident or domicile in any other State; or

“(3) be deemed to have become resident in or a resident of any other State.”

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 1 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-3) is amended—

(1) by inserting “Any Federal, State, and local elections)” after “FEDERAL OFFICES.”; and

(2) by inserting at the end the following:

“(A) The Commission’s findings and conclusions shall be detailed to the Commission without reimbursement for transportation, travel expenses, and per diem in lieu of subsistence, as authorized by law for persons serving intermittently in government service under subsection (c).

“(B) The Commission shall terminate 30 days after the submission of the report under subsection (c).

“(C) A discussion of the appropriate means for implementing the recommendations of the Commission shall consider the implementation of those recommendations in accordance with regular administrative procedures. The Director of the Office of Management and Budget shall coordinate the consideration of the recommendations among the heads of the departments and agencies.

“(D) ADMINISTRATIVE REQUIREMENTS AND AUTHORITY.—(1) The Director of the Office of Management and Budget shall ensure that the Commission considers necessary to carry out the provisions of this Act. Upon the request of the Commission, the head of any department or agency shall furnish such information to the Commission.

“(2) The Commission may hold hearings, sit and act at times and places, take testimony, and require evidence that the Commission considers advisable to carry out the purposes of this Act.

“(3) The Commission may seek directly from any Federal, State, or local agency any information that the Commission considers necessary to carry out the provisions of this Act. Upon the request of the Commission, any department or agency shall furnish such information to the Commission.

“(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(5) The Commission is an advisory committee for the purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

“(6) PERSONNEL MATTERS.—(A) Members of the Commission shall serve without additional compensation for their service on the Commission, except that members of the Commission authorized by law for service as mariners, and their dependents to vote in Federal, State, and local elections) on page 543, between lines 19 and 20, insert the following:

“(B) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

“(C) The Chairman may fix the compensation of the staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 55 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rates of pay fixed by the Chairman shall be in compliance with the guidelines under section 7(d) of the Federal Advisory Committee Act.

“(D) Any Federal Government employee may be detailed to the Commission without reimbursement for transportation, travel expenses, and per diem in lieu of subsistence, or loss of civil status or privi-
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SEC. 2855. MODIFICATION OF AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE MILITARY PROPERTY.

(a) ADDITIONAL RESTRICTIONS ON JOINT USE.—Subsection (c) of section 2843 of the Military Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3067) is amended to read as follows:

"(c) RESTRICTIONS ON USE.—The District's use of the property covered by an agreement under subsection (a) is subject to the following:

"(1) The District shall suspend operations under the agreement upon notification by the commanding officer of the Center that the property is needed to support essential naval vessel support requirements or Navy contingency operations, including combat missions, natural disasters, and humanitarian missions.

"(2) The District shall use the property covered by the agreement in a manner consistent with Navy operations at the Center, including comment, receipt, removal, or reuse of the property for the purpose of assisting the Navy to meet its through-put requirements at the Center for the expeditious movement of military cargo.

"(3) If the commander of the Center may require the District to remove any of its personal property at the Center that the commanding officer determines may interfere with operations at the Center, and if the District cannot expeditiously remove the property, the commanding officer may provide for the removal of the property at District expense.

(b) CONSIDERATION.—Subsection (d) of such section is amended to read as follows:—

"(d) CONSIDERATION.—(1) As a consideration for the use of the property covered by an agreement under subsection (a), the District shall pay to the Navy an amount that is mutually agreeable to the parties to the agreement, taking into account the nature and extent of the District’s use of the property.

"(2) The Secretary may accept in-kind consideration under paragraph (1), including consideration in the form of—

"(A) the District’s maintenance, preservation, improvement, protection, repair, or restoration of all or any portion of the property covered by the agreement;

"(B) the construction of new facilities, the modification of existing facilities, or the replacement of facilities vacated by the Navy on account of the agreement; and

"(C) the covering of relocation of the operation or the maintenance facilities from the vacated facilities to the replacement facilities.

"(3) All cash consideration received under paragraph (1) shall be deposited in the special account in the Treasury established for the purpose of section 2667(d) of title 10, United States Code. The amounts deposited in the special account pursuant to this paragraph shall be available, as provided in appropriation Acts, for general supervision, administration, overhead expenses, and Center operations and for the maintenance of the reservation, improvement, protection, repair, or restoration of property at the Center.

(c) CONFORMING AMENDMENTS.—Such section and the heading for subsections (a), (b), and (c) of such section are further amended—

"(1) by striking subsection (f); and

"(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

AMENDMENT NO. 2343

(Purpose: To amend title 10, United States Code, to increase the minimum Survivor Benefit Plan annuity for surviving spouses age 62 and older.)

In title VI, at the end of subtitle D, add the following:

SEC. 2. COMPUTATION OF SURVIVOR BENEFITS.

(a) INCREASED BASIC ANNUITY.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount," and inserting "the product of the base amount and the percent applicable for the month. The percent applicable for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 40 percent for months beginning after that date and before October 2004, and 45 percent for months beginning after September 2004."

"(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and inserting "the percent specified under subsection (a)(1)(B)(ii) as being applicable for the month."

"(3) Subsection (c)(1)(B)(i) of such section is amended—

"(A) by striking "35 percent" and inserting "the applicable percent"; and

"(B) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month."

"(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: "COMPUTATION OF ANNUITY.

(b) ADJUSTED SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

"(1) by striking "5, 10, 15, or 20 percent" and inserting "10, 15, or 20 percent"; and

"(2) by inserting after the first sentence the following: "The percent used for the computation shall be 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2001, 15 percent for months beginning after that date and before October 2004, and 10 percent for months beginning after October 2004."

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2),

"(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as so amended, had been used for the initial computation of the annuity; and

"(B) each supplemental survivor annuity under section 1457 of that title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

"(2) The recomputation of annuities under paragraph (1) apply with respect to the following months:

"(A) The first month that begins after the date of the enactment of this Act.


"(C) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessary by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

Mr. THURMOND. Mr. President, last year, I introduced S. 763, a bill that would correct a long-standing injustice to the widows of our military retirees. Although my bill was accepted by the Senate as an amendment to the fiscal year 2000 defense authorization bill, it was dropped during the conference at the insistence of the House conferees.

Today, I am again offering S. 763 as an amendment to the national Defense Authorization Bill. The amendment would immediately increase the minimum Survivor Benefit Plan annuity from 35 percent to 40 percent of the Survivor Benefit Plan for survivors age 62. The bill would also provide a further increase to 45 percent of covered retired pay as of October 1, 2004.

Mr. President, I am confident that each senator has received mail from military spouses expressing their dismay that they are not receiving the 55 percent of their husband’s retirement pay as advertised in the Survivor Benefit Plan literature provided by the government. Those who do not receive the 55 percent of retired pay is that current law mandates that at age 62 this amount be reduced either by the account of the Survivors Social Security benefit or to 35 percent of the SBP. That is particularly true of those retirees who joined the plan when it was first offered in 1972. These service members were never informed of the age-62 reduction until they had made an irrevocable decision to participate. Many retirees and widows, as the constituent mail attests, believed their premium payments would guarantee 55 percent of retired pay for the life of the survivor. It is not hard to imagine the shock and financial disadvantage these military spouses and widows, who served our Nation in troubled spots throughout the world undergo when they learn of the annuity reduction.

Mr. President, uniformed services retirees pay too much for the SBP benefit both, compared to what is promised and what is offered to other federal retirees. When the Survivor Benefit Plan was enacted in 1972, the Congress intended that the government pay as much as 50 percent of the SBP benefit for survivors age 62. The amendment would parallel the government subsidy of the Federal civilian survivor benefit plan. That was short-lived. Over time, the government’s cost-sharing has declined to about 26 percent. In other words, the retiree’s premiums now cover 74 percent of expected long-term program costs versus the intended 60 percent. Contrast this with the federal civilian SBP, which has a 42 percent subsidy for those personnel under the Federal Employees Retirement System, a 50 percent subsidy for those under the Civil Service Retirement System. Further, Federal civilian survivors receive 50 percent of retired pay with no offset at age 62. Although Federal civilian premiums are 10 percent retired pay compared to 6.5 percent for military retirees, the difference in the percent of contribution is offset by the fact that our service personnel retire at a much younger age than the civil servant and, therefore, pay premiums longer than the federal civilian retiree.

Mr. President, the bill that we are currently considering contains several
initiatives to restore to our military retirees benefits that they have earned, but which gradually were eroded over the past years. My amendment would add a small, but important, earned ben-
nefit for our military retirees, especially their survivors.
Mr. President, I want to thank Senators LOTT, CLELAND, COCHRAN, LANDRIEU, SNOWE, MCCAIN, SESSIONS, INOUYE, and DODD for joining me as co-
sponsors of this amendment and ask for its adoption.

AMENDMENT NO. 3244
(Purpose: To eliminate an inequity in the ap-
plicability of early retirement eligibility require-
ments to military reserve techni-
cians)
On page 236, between lines 6 and 7, insert the fol-
lowing:
SEC. 614. EQUITABLE APPLICATION OF EARLY RETIREMENT ELIGIBILITY REQUIRE-
MENTS TO MILITARY RESERVE TECHNICIANS.
(a) TECHNICIANS COVERED BY FERS.—Para-
graph (1) of section 8414(c) of title 5, United States Code, is amended by striking “after becoming 50 years of age and completing 25 years of service” and inserting “after completing 25 years of service or after becoming 50 years of age and completing 20 years of service”.
(b) TECHNICIANS COVERED BY CSRS.—Sec-
tion 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:
“(p) Section 8414(c) of this title applies—
“(1) under paragraph (1) of such section to a military reserve technician described in that paragraph for purposes of determining entitlement to an annuity under this sub-
chapter; and
“(2) under paragraph (2) of such section to a military technician (dual status) described in that paragraph for purposes of deter-
mining entitlement to an annuity under this subchapter.”.
(c) TECHNICAL AMENDMENT.—Section 1109(a)(2) of Public Law 105-261 (112 Stat. 2143) is amended by striking “adding at the end” and inserting “inserting after sub-
section (n)”.
(d) APPLICABILITY.—Subsection (c) of sec-
tion 8414 of such title (as amended by sub-
section (a) of section 8336 of title 5, United States Code (as added by subsection (b)), shall apply according to the provisions thereof with respect to separa-
tions from service referred to in subsections that occur on or after October 5, 1999.

AMENDMENT NO. 3246
(Purpose: To provide space-required eligi-

AMENDMENT NO. 3247
(Purpose: To require a study of the advis-

AMENDMENT NO. 3249
(Purpose: To increase the end strengths au-

Mr. BOND. Mr. President, my amend-
ment affects every State in the Na-
tion—the Bond-Bryan amendment to S. 2549. As co-chair of the Senate Guard Caucus, I firmly believe that this im-
portant piece of legislation is critical to meeting the number one priority of the National Guard. As you know, the National Guard relies heavily upon full-time employees to ensure readiness. By performing their critical duties on a daily basis, these
hard-working men and women ensure drill and annual training remain focused on preparation for war fighting and conducting peacetime missions.

During the cold war, Guard and Reserve forces were underutilized. During the 1980’s, for example, they numbered more than one million personnel but contributed support to the active forces at a rate of fewer than 1 million work days per year.

At the end of the cold war, force structure and personnel end strength were drastically cut in all the active services. Almost immediately, the nation discovered that the post-cold-war world is a complex, dangerous, and expensive place. Deployments for contingency operations, peacekeeping missions, humanitarian assistance, disaster relief and counter-terrorism operations increased dramatically. Most recently, our forces have been called upon to destroy the capability of Saddam Hussein and his forces, bring peace and stability to the Balkans, and free Yugoslavia from Milosevic and his forces out of Kosovo, ensure a safe, stable and secure environment in the Balkans, and rescue and rebuild from natural disasters at home and abroad.

Because of this increased deployments and the reduction in the active force, we became significantly more dependent on the Army and Air National Guard. In striking contrast to cold war levels of contributory support, today’s Guard and Reserve forces are providing approximately 13 million work days of support to the active components on an annual basis—a thirteen-fold increase and equivalent to the addition of some 3.5 million personnel to active component end strength, or two Army divisions. For example, the 49th Armored Division from the Lone Star State is currently leading operations in Kosovo, and the Army just identified four more Guard units for deployment to Kosovo.

With this shift in reliance from the active force to the Guard came the obligation to increase Guard staffing to keep pace with the expanded mission. The Army and Air National Guard established increased full-time staffing as their number one priority. We agreed with them, but we have not yet held up our end of the bargain. We gave them the mission; we must now give them the personnel resources to accomplish it.

The Department of Defense has identified a shortfall in full-time manning of 1,052 “AGRs” (Active Guard/Reserves) and 1,543 Technicians. Frankly, I agree with their numbers, but I do not see how we can afford immediately to increase their staffing to those levels. Accordingly, the Bond-Bryan amendment proposes an incremental increase in the number of full-time positions. We ask that S. 2549 be amended to provide for an additional 526 “AGRs” (Active Guard/Reserves) and 771 Technicians. As you can see, this is about half of what the Guard requested, and far less than what was requested in the past. We believe these additional positions will give the Guard the minimum it needs to do the job, while providing the opportunity to reexamine the situation during the next fiscal year.

When we expand the mission, when we increase training tempo and when we ask for greater effort; we have to realize that increased funding is often necessary and appropriate. In this case, we have attempted to provide the minimum additional personnel to accomplish the mission and did not fully resource. Your support for this amendment sends a strong message to your constituents and the Guard units in your state that you support the National Guard in its significant role in our Nation’s defense, and that you are willing to give the men and women in its ranks the resources to do the job.

Mr. President, I thank Senator WARNER, Senator LEVIN, my co-chair, Senator BRYAN, and our esteemed colleagues for your support of this critical issue.

Mr. BRYAN. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee, as well as the distinguished ranking member, for the critical support of this amendment relating to full-time manning for the National Guard. Both of these leaders have been strongly supportive of our efforts, past and present, to ensure that the National Guard has the proper personnel to perform its dual missions, and I want to express my personal gratitude for their leadership and support of the National Guard over the course of several years. As co-chairman of the Senate National Guard Caucus, there is clearly no higher priority for the National Guard in this fiscal year than the need to provide sufficient resources for full-time operational support. These full-time personnel are the backbone of the National Guard, the people that I’m most worried about if, if we fail to provide sufficient full-time support, there will be a noticeable and precipitous decline in the ability of the National Guard to fulfill its mission both to the states and as part of the National Force Structure.

The amendment we are offering today will authorize $30 million to provide an additional 526 AGRs and 771 Technicians for the Army National Guard. Frankly, Mr. President, I would have liked to have gone further, and provided the Guard with the personnel they need to achieve the minimal personnel levels identified by the National Guard Bureau of 23,500 AGRs and 25,500 Technicians. But like the incremental increases that we’ve provided last year, this amendment represents an important step towards achieving that over-all goal.

Our amendment has well over 60 co-sponsors from both sides of the aisle. Not only does it attract this much support from across the ideological spectrum, and I interpret that as a Senate endorsement of the critical missions the National Guard performs, ranging from providing important emergency and other support services to their states, to participating in international peacekeeping missions across the globe, including Bosnia and Kosovo. It should be noted that both the Senate majority leader and the Senate minority leader are original co-sponsors, as are the chairman and ranking member of the Senate Appropriations Committee. The amendment is also supported by the National Guard Bureau, the National Guard Association of the United States, the Adjutants General Association of the United States, and other organizations.

The National Guard represents 34 percent of our Total Force Army Strength and 19 percent of our Total Air Force Strength. Nearly half a million Americans serve in the National Guard, playing a critical complementary role to their active duty counterparts, and we have an obligation and a responsibility to make sure every American who helps defend the country has the support personnel it requires to function efficiently and effectively.

I am hopeful that with such broad, bipartisan support from the members of Senate and the Armed Services Committee, we can continue to provide the resources required by the National Guard that will allow these dedicated Americans to perform our mission in support of the Armed Forces of the United States.

Finally, Mr. President, I want to thank my fellow co-chairman of the Senate National Guard Caucus, Senator BOND, for his authorship and leadership on this amendment. Senator Bond continues to demonstrate an unbridled commitment to the National Guard, our reserve components, and all of our Armed Forces. I also wish to recognize and thank Mr. James Pitchford and Ms. Shelby Bell of Senator Bond’s staff for their hard work on this successful, bipartisan effort.

AMENDMENT NO. 3250

(Purpose: To provide compensation and benefits to Department of energy employees for exposure to beryllium, radiation, and other toxic substances)

(The text of the Amendment is printed in today’s RECORD under “Amendments Submitted.”)

Mr. KENNEDY. Mr. President, I strongly support this important step to compensate workers who became sick from occupational exposure to beryllium, radiation, and other toxic substances as part of the Cold War buildup. I commend my colleagues Senator THOMPSON, Senator VEDVELT, Senator DEWINE, and Senator BINGAMAN for their leadership on this issue.

During the cold war, thousands of men and women who worked at the nation’s atomic weapons plants were exposed to unknown hazards. Many were exposed to dangerous radioactive and chemical materials at far greater levels than their employers revealed. The debilitating, and often fatal, illnesses...
suffered by these workers came in many forms of cancer, as well as other illnesses that are difficult to diagnose. This provision brings long overdue relief to these workers and their families. The Department of energy investigated this issue. It found that workers who served for years to maintain and strengthen our defenses during the Cold War were not informed or protected against the health hazards they faced at work. Only during the Clinton Administration has the evidence been openly acknowledged that these workers were exposed to materials that were much more radioactive—and much more deadly—than previously revealed.

I commend Secretary Richardson for his leadership in bringing this issue to light, and for his efforts to close this tragic chapter in the nation's history for the thousands of workers and their families whose lives were affected.

Some of the earliest radiation experiments conducted were at the Manhattan Project and the Atomic Energy Corporation. Many of the first cases of beryllium disease occurred among these scientists.

We have an opportunity today to remedy the wrongs suffered by these Department of Energy workers. Our amendment creates a basic framework for compensation. It is the least we can do for workers who made such great sacrifices for our country during the cold war. They have already waited too long for this relief.

Mr. THOMPSON. Mr. President, I rise to offer an amendment along with a bipartisan group of Senators, including Senator BINGAMAN, Senator Voinovich, Senator Kennedy, Senator DeWine, Senator Reid, Senator Thurmond, Senator Bryan, Senator Feist, Senator Murray, Senator Murkowski, Senator Harkin, and Senator Stevens.

Mr. President, watching President Clinton's summit meeting with Russian President Vladimir Putin last weekend, I think we were all reminded of how far our two nations have come over the past decade, since President Reagan imploded President Gorbachev to "tear down (the Berlin) Wall," and President Bush presided over its destruction. With the end of the cold war, the Cold War that dominated the politics of our Cold War for four decades is over, and the United States won. We should be proud of that victory and we should never forget the strength and resolve through which it was achieved.

But it has become clear in recent months that that victory came at a high price for some of those who were most responsible. I am talking about workers in our nuclear weapons facilities run by the Department of Energy or their contractors. We now have evidence that, in at least some instances, the federal government that had dedicated itself to serving these workers in harm's way without their knowledge.

I first became concerned about this issue three years ago when my hometown newspaper, the Nashville Tennessean, published a series of stories describing a pattern of unexplained illnesses in the Oak Ridge, Tennessee area. Many of the current and former Oak Ridge workers profiled in the stories believed that their illnesses were related to their service at the Department of Energy sites. In 1997, I asked the Director of the Centers for Disease Control to send a team to Oak Ridge to assess the situation and to try to determine if what we were seeing there was truly unique. Unfortunately, in the wake of the report, the DOE did not take a broad enough look at the situation to really answer the questions that had been raised.

And that, of course, has been a pattern at various and all DOE sites over the years. Countless health studies have been done, some on very narrow populations and some on larger ones, some showing some correlations and some not able to reach any conclusions at all. The data is mixed, some of it is flawed, and we are left with a situation that is confusing and from which it is very difficult to draw any definite conclusions.

And yet, there is a growing realization that there are illnesses among current and former DOE workers that logic tells us are related to their service at these weapons sites. For example, hundreds of current and former workers in the DOE complex have been diagnosed with Chronic Beryllium Disease. The only way to contract either of these conditions is to be exposed to beryllium powder. The only entities that use beryllium powder are those that are related to their service at the Department of Energy and the Department of Defense.

And there are other examples, perhaps less clear cut, but certainly worthy of concern. Uranium, plutonium, and a variety of heavy metals found in people's bodies. Anecdotes about hazardous working conditions where people were unprotected against both exposures they knew were there and exposures of which they were not aware. It's time for the federal government to stop avoiding any responsibility and face up to the fact that it appears as though it made at least some people sick.

The question now is: what do we do about it? And how do we make sure it never happens again?

This amendment attempts to answer the first of those two questions. It would set up a program, administered by the Department of Labor, to provide compensation to employees who are suffering from chronic beryllium disease, or from a radiation-related cancer that is determined to likely have been caused by exposures received in the course of their service at a DOE facility. The aim would also provide a mechanism for employees suffering from exposures to hazardous chemicals and other toxic substances in the workplace to gain access to state workers' compensation benefits, which are general denied for such illnesses at present.

Mr. President, our amendment takes a science-based approach. It is not a blank check. It does not provide benefits to anyone and everyone who worked at a DOE facility who has taken ill.

In the case of beryllium, we can say with certainty that if someone has chronic beryllium disease and they worked around beryllium powder, their illness is work-related; there is no other way to get it.

The same is not true of cancer, of course. A physician cannot look at a tumor and say with certainty that it was caused by exposure to a chemical, or by smoking, or by a genetic disposition, or by any other factor. However, we do know that radiation in high doses has been linked to certain cancers, and we now know that some workers at DOE facilities were exposed to radiation, often with inadequate protections.

What this amendment does is employ a mechanism developed by scientists at the National Institutes of Health and the National Cancer Institute to determine whether a worker's cancer is at least as likely as not related to exposures received in the course of their employment at a DOE facility. The model takes into account the type of cancer, the dose received, the worker's age at the time of exposure, sex, lifestyle factors such as whether the worker smoked, and other relevant factors.

In many, if not most, cases, it should be possible to determine with a sufficient degree of accuracy the radiation dose a particular worker or group of workers received. However, in some cases—because the Department of Energy kept inadequate or incomplete records, altered some of its records, and even tampered with the dosimetry badges that workers were supposed to wear—it may not be possible to estimate with any degree of certainty the radiation dose a certain worker received. For these workers, who are really the victims of DOE's bad behavior, our amendment provides an expedient way for a particular worker or group of workers to gain access to a specified list of radiation-related cancers.

Mr. President, the Governmental Affairs Committee, which I chair, held a
The third group of workers are those who had dangerous doses of radiation on the job. These workers were employed at numerous current and former DOE facilities. We have included a general definition of facilities in the legislation, in lieu of including a list that might be incomplete, but for purposes of helping in the implementation of this amendment, if enacted into law, I would like to ask unanimous consent that a non-exclusive list of the facilities to be covered under this amendment be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 1.]

Mr. BINGAMAN. For beryllium workers, there are tests today that can detect the first signs of trouble, called beryllium sensitivity, and also the actual impairment, called chronic beryllium disease. If you have beryllium sensitivity, you are at a higher risk for developing chronic beryllium disease. You need annual check-ups with tests that are expensive. If you develop chronic beryllium disease, you might be disabled for life.

This amendment sets up a federal workers’ compensation program to provide medical benefits to workers who acquired beryllium sensitivity as a result of their work for DOE. It provides both medical and lost wage protection for workers who suffer disability or death from chronic beryllium disease.

For radiation, the situation is more complex. Radiation is proven to cause cancer in high doses. But when you look at a cancer tumor, you can’t tell for sure whether it was caused by an alpha particle of radiation from the workplace, a molecule of a carcinogen in something you ate, or even a stray cosmic ray from outer space. But scientists can make a good estimate of which of the types of radiation doses that make it more likely than not that your cancer was caused by a workplace exposure.

This amendment puts the Department of Health and Human Services (HHS) in charge of making the causal connection between specific workplace exposures to radiation and cancer. Within the HHS, it is envisioned by this amendment that the National Institute for Occupational Safety and Health (or NIOSH) take the lead for the tasks assigned by this amendment. Thus, the definition section of the amendment specifies that the Secretary of HHS act with the assistance of the Director of NIOSH. This assignment follows a decision made in DOE during the Bush Administration, and ratified by the National Defense Authorization Act for Fiscal Year 1993, to give NIOSH the lead in identifying levels of exposure at DOE sites that present employees with significant health risks.

HHS was also given a Congressional mandate, in the Orphan Drug Act, to develop and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation-related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of those doses. I would like to ask unanimous consent that a more detailed discussion of how the bill envisions these guidelines would be used be included as an exhibit at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 2.]

Mr. BINGAMAN. Under guidelines developed by the HHS and used in this amendment, if your radiation doses was high enough to make it at least as likely as not that your cancer was DOE-work-related, you would be eligible for compensation for lost wages and medical benefits.

The HHS-based method will work for most of the workers at DOE sites. But it won’t work for a significant minority who were exposed to radiation, but for whom it would be infeasible to reconstruct their dose.

There are several reasons why reconstructing a dose might be infeasible. First, relevant records of dose may be lacking, or might not exist altogether. Second, there might be a way to reconstruct the dose, but it would be prohibitively expensive to do so, and it might take so long to reconstruct a dose for a group of workers that they will all be dead before we have an answer that can be used to determine their eligibility.

One of the workers who testified at my Los Alamos hearing might be an example of a worker who could fall into the cracks of a system that operated solely on dose histories. He was a supervisor at what was called the “hot dump” at Los Alamos. All sorts of radioactive materials were taken there to be disposed of. It is hard to reconstruct who handled what. And digging up the dump to see what was there would not only be very expensive, it would expose new workers to radiation risks that could be large.

There are a few groups of workers that we know, today, belong in this category. They are specifically mentioned in the definition of Special Exposure Cohort. For other workers to be placed in this special category, the definition indicates that it was infeasible to reconstruct their dose would have to be made both by HHS and by an independent external advisory committee of radiation, health, and workplace safety experts. We allow groups of workers to petition to be considered by the advisory committee for inclusion in this group. Once a group of workers was placed in the category, it would be eligible for compensation for a fixed list of radiation-related cancers.

The program in this amendment also allows for the special 855 program, a lump-sum payment, combined with ongoing medical coverage under section 8103 of title 5, United States Code. This could be
helpful, for example, in settling old cases of disability. It may be a good deal for survivors of deceased workers whose deaths were related to their work at DOE sites.

The provisions of the workers' compensation program in this amendment are largely modeled after the Federal Employee's Compensation Program or FECA, which is found in chapter 81 of title 5, United States Code. In many parts of the amendment, entire sections of FECA are incorporated by reference. Other sections, portions of FECA are restated in more general language to account for the fact that the specific language in FECA would cover only Federal employees, while in this amendment we are covering Federal contractor and subcontractor employees, as well. In some instances, we modified provisions in FECA to address known problems in its current implementation or to reflect current standards of administrative law. One example of this is a decision not to incorporate section 8122(b) of title 5, United States Code, into this amendment. That section absolutely precludes judicial review of decisions concerning a claim by the Department of Labor. Since such decisions involve the substantial rights of individuals being conferred by this amendment, and since they are made through an informal administrative process, it seems appropriate to the sponsors of this amendment that there be external review of such a decision, for example, arbitrary and capricious conduct in processing a claim.

The amendment also had numerous administrative provisions to ensure a fair process and to guard against double compensation for the same injury. As the sponsors were developing this amendment, we received a lot of interest in federal compensation for exposure to other toxic substances. This amendment does not provide federal compensation for other chemical hazards in the DOE workplace, but does authorize DOE to work with States to get workers with adverse health effects from their exposure to these substances into State worker compensation programs. It also would commission a GAO study of this approach so that we can evaluate, in the context of a future bill, whether such an approach is effective.

We have a duty to take care of sick workers from the nuclear weapons complex today. It is a doable task, and a good use of our national wealth at a time of budget surpluses. I urge my colleagues to support this bipartisan amendment.

**EXHIBIT 1**

Examples of DOE and Atomic Weapons Employer Facilities that Would Be Included Under the Definitions in This Amendment

(Not an Exclusive List of Facilities)

Atomic Weapons Employer Facility: The following facilities that provided uranium conversion to or manufacturing services would be among those included under the definition in section 3503(a)(4):

- Allied Signal Uranium Hexafluoride Facility, Metropolis, Illinois.
- Linde Air Products facilities, Tonawanda, New York.
- Mallinckrodt Chemical Company facilities, St. Louis, Missouri.
- Nuclear Fuels Services facilities, Erwin, Tennessee.
- Reactive Metals facilities, Ashland, Ohio.
- Department of Energy Facility: The following facilities (including any predecessor or successor facilities to such facilities) would be among those included under the definition in section 3503(a)(15):
  - Amchitka Island Test Site, Amchitka, Alaska.
  - Argonne National Laboratory, Idaho and Illinois.
  - Brookhaven National Laboratory, Upton, New York.
  - Chupadera Mesa, White Sands Missile Range, New Mexico.
  - Fermi Nuclear Laboratory, Batavia, Illinois.
  - Fernald Feed Materials Production Center, Fernald, Ohio.
  - Idaho National Engineering Laboratory, Idaho Falls, Idaho.
  - Iowa Army Ammunition Plant, Burlington, Iowa.
  - Kansas City Plant, Kansas City, Missouri.
  - Latty Avenue Properties, Hazelwood, Missouri.
  - Lawrence Berkeley National Laboratory, Berkeley, California.
  - Lawrence Livermore National Laboratory, Livermore, California.
  - Los Alamos National Laboratory, Los Alamos, New Mexico, including related sites such as Acid/Pueblo Canyons and Bayo Canyon.
  - Marshall Islands Nuclear Test Sites, but only for period after December 31, 1958.
  - Maywood Site, Maywood, New Jersey.
  - Middlesex Sampling Plant, Middlesex, New Jersey.
  - Mound Facility, Miamisburg, Ohio.
  - Niagara Falls Storage Site, Lewiston, New York.
  - Nevada Test Site, Mercury, Nevada.
  - Oak Ridge Facility, Tennessee, including the K-25 Plant, the Y-12 Plant, and the X-10 Plant.
  - Paducah Plant, Paducah, Kentucky.
  - Pantex Plant, Amarillo, Texas.
  - Pinellas Plant, St. Petersburg, Florida.
  - Portsmouth Gaseous Diffusion Plant, Ohio.
  - Rocky Flats Plant, Golden, Colorado.
  - Sandia National Laboratories, New Mexico.
  - Santa Susana Facilities, Santa Susana, California.
  - Savannah River Site, South Carolina.
  - Waste Isolation Pilot Project, Carlsbad, New Mexico.
  - Weldon Spring Plant, Weldon Spring, Missouri.

**EXHIBIT 2**

Determining "Causation" for Radiation and Cancer

Different cancers have different relative sensitivities to radiation.

In 1988, the White Office of Science and Technology Policy endorsed the use by the Veterans Administration of the concept of "probability of causation" (PC) in adjudicating claims of injury due to exposure to ionizing radiation. Given that a radiogenic cancer cannot be differentiated from a "spontaneously" occurring one or one caused by other dietary, environmental and/or lifestyle factors, the PC—that is, the "likelihood" that a diagnosed cancer has been "caused" by a given radiation exposure or dose—has to be determined indirectly.

To this end, the National Institutes of Health (NIH) was tasked to develop radioepidemiology tables. These tables, which are currently being updated by the NIH, include data on the lifetime incidence of the 13 cancers in the original tables from 1985. These tables account for the fact that different cancers have different relative sensitivities to ionizing radiation.

The determination of a PC takes into account the radiation dose and dose rate, the types of radiation exposure (external, internal), age at exposure, sex, duration of exposure, elapsed time following exposure, and (for lung cancer only) smoking history. Because a calculated PC is subject to a variety of other factors, and methodological uncertainties, a "confidence interval" around the PC is also determined.

Thus, a PC is calculated as a single, "point estimate," along with a 99% confidence interval which bounds the uncertainty associated with that estimate. If we have 99% certainty that the upper bound of a PC is greater than or equal to 0.5 (i.e., a 50% likelihood of causality), then the cancer is considered at least as likely as not to have been caused by the radiation dose used to calculate the PC. For example, if a particular cancer and radiation exposure history, the PC may be 0.38 with a 99% confidence interval of 0.21 to 0.55. This means that 38% likely that this worker's cancer was caused by their radiation dose, and we can say with 99% confidence that this estimate is between 21% and 55%. Since the bound, 21%, is less than 50%, this person's cancer would be considered to be at least as likely as not to have been caused by exposure to radiation, and the person would be eligible for benefits under the proposed program.

Mr. VOINOVICH. Mr. President, I rise today to join my colleagues, Senators DeWINE, THOMPSON, FRIST, THURMOND, MURkowski, Bingaman, Reid, BRYAN, KENNEDY, HARKIN, and MURRAY in support of an important amendment that will provide financial and medical compensation to Department of Energy workers who have been made ill while working to provide for the defense of the United States.

Since the end of World War II, at facilities all across America, tens of thousands of dedicated men and women in our civilian federal workforce helped keep our military fully supplied and our nation fully prepared to face any threat from our adversaries around the world. The success of these workers in meeting this challenge is measured in part with the end of the Cold War and the collapse of the Soviet Union.

However, for many of these workers, their success came at a high price. They sacrificed their health, and even their lives—in many instances without knowing the risks they were facing—to ensure our liberty. I believe these men and women have paid a high price for our freedom, and one of need, this nation has a moral obligation to provide some financial and medical assistance to these Cold War veterans.

Last month, I introduced legislation, along with many of the Senators who have co-sponsored this amendment, that would provide financial compensation to Department of Energy workers whose impaired health has been caused
by exposure to beryllium, radiation or other hazardous substances. Our bill, S. 2519, the “Energy Employees Occupational Illness Compensation Act of 2000,” also provides that compensation be paid to survivors of workers who have died and suffered from an illness resulting from exposure to these substances.

Need for this type of legislation was further solidified when on May 25th, Energy Secretary Bill Richardson released a report on safety and management practices at the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio. The report, which was based on an independent investigation authorized by Secretary Richardson, highlighted unsafe conditions at Piketon and deemed past management practices as shoddy and in many cases, inadequate to protect the health and safety of worker's job. This amendment creates a federal program for workers suffering from beryllium disease, silicosis and cancer due to radiation exposure. Workers suffering from illnesses due to other chemical exposures would be covered under state workers compensation programs. The Department of Energy's Office of Workers’ Compensation Advocate—created by this amendment—will help employees apply for compensation with the federal government or their state’s worker compensation program.

In addition, S. 2519 allows a broad burden of proof to be placed on the government, one that provides a greater number of Department of Energy workers who have cancer related to radiation exposure to receive federal compensation benefits. This amendment maintains that burden of proof for workers at the nation’s three Gaseous Diffusion Plants, but, the amendment assures workers that they will be able to find records showing whether or not their federal service made them sick. If it is not possible for the Department to find an employee’s records, or, adequately estimate dose history, then the burden of proof threshold established for workers at the Gaseous Diffusion Plants will apply to that particular employee.

Some of my colleagues may question whether or not the Federal Government is asking an unreasonable amount of money. Some may ask how we will know which worker or family member has a bona fide claim for compensation. These are legitimate concerns. However, the nature of the illnesses involved suggests more than a coincidental relationship with their victims.

For example, beryllium disease is a “fingerprint” disease. That means it is distinctive and cannot be mistaken for any other disease, leaving no doubt as to what caused the illness of the sufferer. Additionally, the processing of the beryllium metals that cause Chronic Beryllium Disease is singularly unique to our nuclear weapons facilities.

In cases of radiation exposure at DOE facilities, it is understandable that some may question whether a person was exposed to radioactive materials from another source, primarily because records may not reflect that an employee was exposed to such materials. The Department of Energy’s independent investigation at Portsmouth showed that, in some cases, the destruction and alteration of DOE workers’ records occurred. There have been anecdotes indicating similar occurrences at other DOE facilities around the nation.

Additionally, dosimeter badges, which record radiation exposure, were not always recorded when worn by DOE workers. And when they were required, they were not always worn properly or consistently. Workers at the Piketon plant also have stated that plant management not only did not keep adequate records, but in some cases, they chanted the dosimetry records to show lower levels of radiation exposure. There have been reports that DOE plant management would even change dosimeter badges to read “zero”—which means the level of exposure to radiation would be officially recorded as zero, regardless of the exposure level that actually registered on the badge.

In too many instances, records do not exist, and where they do exist, there is reason to doubt their accuracy. The amendment recognizes that this is the case at the Department of Energy’s three Gaseous Diffusion Plants—Piketon, Ohio, Paducah, Kentucky and Oak Ridge, Tennessee—and takes the unusual step of placing the burden of proof on the government to prove that an employee’s illness was not caused by workplace hazards.

This amendment allows for sound science where it is available, specifically, a reason to doubt the accuracy of dosimetry records, or, their ability to adequately and accurately estimate radiation doses, and scientifically assure that a worker’s cancer is work-related or not. However, if it is not reasonably possible to adequately and accurately reconstruct doses, then ill workers covered under this amendment would be eligible for compensation that is based on criteria that exists for workers at our nation’s Gaseous Diffusion Plants.

To be clear, Mr. President, under normal circumstances, I am not one who would advocate a “guilty until proven innocent” approach. I firmly believe that we should use sound science to determine exposure levels and relationship to illness. Yet, these are not normal circumstances, and the reason we are offering this amendment today is because in too many instances, sound science either does not exist in DoE facility records, or it cannot be relied upon for accuracy.

For example, in my own state of Ohio, at the Portsmouth Gaseous Diffusion Plant—a plant that processes high-quality nuclear material—workers had little or no idea that they had been exposed to dangerous levels of radioactive material. A Department of Energy’s own independent investigation has shown, such exposure went on for decades.

The independent investigation at Portsmouth, also demonstrated that until recently, proper safety precautions at Piketon were rarely taken to adequately protect workers’ safety. Even when precautions were taken, the use of protective standards was inconsistent and in some instances were deemed only “moderately effective.”

Inconsistent, reliable, and factual data is not available. Mr. President, then it will be quite difficult if not impossible to utilize sound science in order for employees to prove their claims.

Similar situations like those that have been documented at Piketon have been reported at other Ohio facilities including the Fernald Feed Materials Production Center in Fernald, Ohio and the Mound Facility in Miamisburg, Ohio, not to mention a host of other facilities nationwide. At this time, the Department of Energy is only acknowledging these situations at the Gaseous Diffusion Plant.

In addition to shoddy or non-existent record keeping, the DoE has admitted that at some facilities, workers were not told the nature of the substances they were handling. They weren’t told about the ramifications that these materials may have on their future health and quality of life. It is truly unconsionable that DoE managers and other individuals in positions of responsibility could be so insensitive and uncaring.

Last year, the Toledo Blade published an award-winning series of articles outlining the plight of workers suffering from Chronic Beryllium Disease (CBD). While government standards were met in protecting the workers from exposure to beryllium dust, many workers still were diagnosed with CBD. Were the standards too low? Was the protective equipment faulty? Whatever the cause, it is estimated that 1,200 people across the nation have contracted CBD, and hundreds have died from it, making CBD the number-one disease directly caused by our cold war effort.

Mr. President, there may be some who think that this amendment costs too much, so we shouldn’t do it. I strongly disagree.

Congress appropriates billions of dollars annually on things that are not
the responsibility of the federal government—and I have voted against most of the bills that include this kind of funding. Here we have a clear instance where the actions of the federal government is responsible for the actions that have been taken, and the negligence that has been shown against its own people. People’s health has been compromised and lives have been lost. In many instances, these workers didn’t even know that their health and safety were in jeopardy. It is not only a responsibility of the government to provide for these individuals, it is a moral obligation.

My belief that we have a moral obligation to these people was strengthened last October when I attended a public meeting of workers from the Portsmouth Gaseous Diffusion Plant. I learned an incredible amount about the integrity of the hard-working men and women and what they have been through.

I heard heart-wrenching stories from people like Ms. Anita George, a 25-year employee at Piketon who testified that “I only know of one woman that works in my department that has not had a hysterectomy and other reproductive problems.” Ms. George describes a situation where she and two of her colleagues were exposed to an “outgassing” on a “routine” decontamination job.

After the exposure, the women started to experience health problems, including heavy bleeding, elevated white blood cell counts and kidney infections. Plant physicians told them that they should “just lie down and rest” if they had any problems while they were working. Three years after the exposure, all three women had hysterectomies. The plant denied their workers’ compensation claims.

I also heard from people like Mr. Jeff Walburn, another 25-year plant employee with the Portsmouth plant. He is the mayor of the city of Portsmouth, who testified that while working in one of the buildings, he became so sick that his lungs “granulated.” When he went to the infirmary, they said he was “okay for work.” Later that day, he went to the hospital because in his words, “my face was peeling off.” According to Mr. Walburn, he couldn’t speak, his hair started falling out, his lungs started “coming out” and his bowels failed to function for more than 6 days. When he tried to get his records to file his worker’s compensation claim, he was told that his diagnosis had been “changed, been altered.”

The Department of Energy has held similar public meetings at facilities across the nation—these stories are not unique to the Portsmouth Gaseous Diffusion Plant.

Mr. President, it is unfortunate that this amendment is necessary in the first place. I am certain that we will provide little consolation for the pain, health problems and diminished quality of life that these individuals have suffered. These men and women won the cold war. Now, they simply ask that their government acknowledge that they were made ill in the course of doing their job and recognize that the government must take care of them.

Until recently, the only way many of these employees believed they would ever receive proper restitution for what the government has done to them is to file a lawsuit against the Department of Energy or its contractors. But, in the time that I have been involved in this legislation, the Department of Energy has come a long way from its decades-long stance of stonewalling and denial of responsibility. Today, they admit that they have wronged our cold war heroes. Still, we must do more.

I believe that all those who have served our nation fighting the cold war have a right to know if the federal government was responsible for causing them illness or harm, and if so, to provide them compensation that they need and deserve. That is the purpose of our amendment, and I am pleased to join with my colleagues in support of its acceptance in this bill.

Mr. MURKOWSKI. Mr. President, I rise today in support of this amendment, and thank all the sponsors for their work in this area.

The purpose of this amendment, put simply, is to provide compensation to workers who have gotten sick as a result of hazardous materials in the course of their efforts to build and test nuclear weapons. We must do right by these workers. They were instrumental in winning the cold war. Their efforts deterred hostile attack and safeguarded our security.

I want to highlight a small group of those workers who toiled on a remote island in Alaska to test the largest underground nuclear weapons test ever conducted—Amchitka.

Amchitka is an island in the Aleutian arc 1340 miles southwest of Anchorage. As I mentioned, it is the site of the largest underground nuclear test in U.S. history—the so-called “Cannikin” test of 1971. This 5-megaton test was preceded by two prior tests: “Long Shot,” an 80 kiloton test in 1965, and “Milrow,” a 1-megaton test in 1969.

According to an independent investigator, Dr. Rosalie Bertell, the ionizing radiation exposure above normal background levels experienced by Amchitka workers ranged from 160 to 17,246 milirem/year.

Workers exposures at Amchitka were primarily due to:

- Groundwater transport of tritium from the Longshot test;
- Radionuclides stored on site or used in the shaft, including scandium 46, cesium 137, and other radioactive diagnostic capsuled sources;
- Radioactive thermonuclear generator (RTG) use;
- Masts that emitted from the Cannikin re-entry operations in 1972.

Unfortunately, it appears that The Atomic Energy Commission—the predecessor of today’s Department of Energy—did not provide for the proper protection of these workers. According to Dr. Bertell:

Although the workers were apparently told that their work was not ‘hazardous,’ they were actually classified as reactors workers and were exposed to levels of ionizing radiation from non-natural and/or non-normal sources, above the level which at that time was permitted yearly for the general public, namely 500 mrem/year. . . . Dosages received by the men during special assignments and during the post-Cannikin cleanup, exceeded the permissible quarterly dose of 5000 mrem and the maximum permissible yearly dose of 5000 mrem.

I would note that the allowable exposure standards for both workers and the general public are much lower today.

The actual amount of radiation the Amchitka workers were exposed to is difficult to quantify, Mr. President. These workers generally did not have the protection of radiation safety training or instruction in the proper use of Thermoluminescent Dosimeters (TLDs). To make matters worse, exposure records were not kept in many cases by the AEC. Some of the records that were kept by AEC were later lost. While this was not unusual in the very early years of the nuclear age, radiation protection formalities were well established by the late 1960s and 1970s at the time of the Amchitka tests. Yet the proper procedures were not followed and the proper records were not kept.

Although these were some likely exposures, the records that could help these workers make a claim under existing authority do not exist through no fault of their own. That is the reason that Amchitka workers are included in the “Special Exposure Cohort” with the workers at the Gaseous Diffusion Plants in Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee. If a member of the special exposure cohort gets a specified disease listed in the amendment that is known to be associated with ionizing radiation, her or she is entitled to appropriate compensation.

I appreciate the work of Senator Thompson and others, and the consideration given us by the floor managers. Mr. President, I yield the floor.
managers of this bill. Also, I want to briefly focus on one amendment that was adopted.

The fact that these amendments were agreed to en bloc doesn’t take away from the importance of this legislation. But there are others who worked at the test site for over three decades. One of his duties was to go in after the blast was set off in one of these tunnels and bring out the devices. He had protective equipment on, but of course it didn’t work. He did not know that at the time. This man, who literally gave his life for the country, developed numerous cancers and died a very difficult death.

This legislation would compensate people such as Dorothy Clayton’s husband and many others who worked at the Nevada Test Site and other nuclear complexes around the country. People such as this made the cold war something we now look back on saying that we won.

I want everyone to know that this legislation, which has been around for a long time, is now passed. Not only was the meeting in Las Vegas one where Mrs. Clayton talked about her husband’s death, but we had Assistant Secretary of Energy Michaels there, who came to express his apologies to Mrs. Clayton and all such people who have been injured and died over the years. He did this by saying that we, the Federal Government, didn’t know about the problem until it developed. It was a very moving occasion, where the Federal Government—looked upon by many as a big brother—stepped forth and said we made a mistake.

With this legislation, we hope to be able to compensate these people in a minimal way for their efforts. So the veil of secrecy in existence for many years is lifted. People have attempted through litigation to have a right to protect themselves, and they could not because we didn’t know that at the time. Through this legislation, other things we are doing will be made part of the law, and through the appropriations process we will be able to compensate these people.

I very much appreciate the managers agreeing to this amendment. It is extremely important to the thousands and thousands of people in America today, some of whom have lost loved ones.

Mr. WARNER. I thank my colleague. I assure you that on this side I have the support of my leadership, and we can begin to exchange the lists. I urge the leadership to come to the body and get unanimous consent to have some cutoff at some point today.

Mr. REID. I also say to the chairman, the two leaders have been meeting. They have had discussions about this legislation.

Mr. WARNER. Indeed they have. There has been strong support.

Mr. President, I see our distinguished colleague, a member of the Committee on Armed Services, about to address the Senate on a subject on which I have been privileged to work with him for some time.

Mr. REID. Indeed, I must say that in the many years I have been on this committee I have never seen a more diligent nor a more committed effort than that by the Senator from New Hampshire. It has been a matter of personal pleasure to me to work with him and to go back into the history of the U.S. Navy about an event of great tragedy. I think what he is proposing today will be well received by the Senate and, indeed, hopefully by the naval community which has labored with this burden for many, many years since the closing days of World War II.

I remember vividly at the time this particular ship was sunk, the Nation was absolutely shocked and just couldn’t believe it. Indeed, a famous Virginian, Graham Clayton, who came along as Secretary of the Navy shortly after me, was the naval officer on board a ship that arrived first on the scene. Graham Clayton used to recount to me his personal recollections about this.

I yield the floor.

Mr. SMITH of New Hampshire. Thank you very much, Mr. President.

Before addressing the Senate on the issue of the Indianapolis, I have an amendment to my amendment 3210 at the desk, and I ask unanimous consent that the modification which was previously shared with the minority. We have no objection to the pending Smith amendment being modified as follows:

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

The amendment (No. 3210), as modified, is as follows:

The appropriate place, add the following:

SECR. PERSONNEL SECURITY POLICIES.

No officer or employee of the Department of Defense or any contractor thereof, and no member of the Armed Forces, shall be granted a security clearance if that person—

(1) has been convicted in any court within the United States of a crime and sentenced to imprisonment for a term exceeding 1 year;

(2) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(3) is currently mentally incompetent; or

(4) has been discharged from the Armed Forces under dishonorable conditions.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleague from Michigan for working with me. I wish to clarify that he is not necessarily in agreement with all of it, but he has agreed to the modification allowing me to modify my amendment, which he did not have to do. I appreciate it very much.

Before getting into the detail of the tragedy of the U.S. Indianapolis, which happened so many years ago in 1945, I commend my colleague and the chairman of this committee, Senator John WARNER, a former Secretary of the Navy. When I first approached Senator WARNER on this topic, he was somewhat skeptical, as I was frankly, when I first learned of it. But he took the time to listen to the details and the facts that came forth. He granted a hearing at my request on the U.S.S. Indianapolis matter. We heard from survivors and we heard from the Navy. We heard from all sides. As a result of that hearing and the information provided, Senator WARNER worked with me to draft language in this bill to correct an egregious mistake.

Some have said that we are rewriting history in this debate. I am a history teacher. I don’t believe you can rewrite
enjoyed his role as a naval aviator, was killed just 4 months before that my own
father, a naval aviator, was killed just prior to the end of the Second World
War after having served in that war. This incident happened just days before
the end of the war in which over 1,200 men went down and only 300 and some
survived.

These tragedies happened. It is terrible. It is part of the war.

I wish to share with my colleagues what happened and why we are doing what I believe that a grievous wrong was committed 55 years ago, and it stained the reputation of an outstanding naval officer. I refer to the late Capt. Charles Butler McVay, III, who was tried and convicted at a court-martial, unjustly I believe. I believe that that belief is shared by many, and 55 years later, we are still trying to come to grips with the facts. He was tried and convicted unjustly as a result of the sinking by a Japanese submarine of his ship, the U.S.S. Indianapolis, shortly before the end of the Second World War. The Indianapolis was sunk by a Japanese submarine attack happened on July 30, 1945. It remains without question the greatest sea disaster in the history of the U.S. Navy. Eight-hundred and eighty men perished. Of the 1,197 men aboard, 880 died at sea. An estimated 900 men, however, survived the actual sinking, but they were left, in some cases, without lifeboats, without food, and without water. And they faced shark attacks for 4 days and 5 nights before they were rescued.

If you can, imagine the horror of that experience of being thrown into the sea in a matter of minutes after a torpedo attack by an enemy submarine and to be in the water with sharks for 4 days and 5 nights without lifeboats, in some cases, and without food and without water. Only 317 of those men remained alive when they were discovered by accident 5 days later, because when their ship failed to arrive on schedule, believing she was not missed after a ship that was scheduled to arrive in port 4 or 5 days before was never even missed. The Navy had completely lost track of this cruiser, the U.S.S. Indianapolis, and its entire crew. When it didn’t come into port, nobody missed it. The U.S.S. Indianapolis usually stayed at sea for 4 or 5 days. The only hope they had was the fact that an SOS had been sent out and somebody had heard it, and they would be found.

This is an embarrassment to the U.S. Navy. It was such an embarrassment to the Navy with a ship going down that the news was not given to the public until the day that President Truman announced the surrender of Japan. Thus, lessening its coverage by the media, and as a result its impact on the American people.

Let me frame this again: In the same day that Japan announced the surrender of Japan and then this footnote that the U.S.S. Indianapolis was sunk with 317 survivors. Today, only 130 men still live who survived from the U.S.S. Indianapolis. In April of 1996, I went for the first time with 12 of those survivors. I might add that, sadly, as the months go by survivors pass away. Most of these men are in their seventies and eighties. Every day that goes by and we don’t get this issue resolved is another day that we lose survivors.

But they were in Washington to plead for legislation for one simple reason: To clear their captain’s name. They were accompanied by a young boy, which is where I believe that that belief is shared by many, and 55 years later, we are still trying to come to grips with the facts. He was tried and convicted unjustly as a result of the sinking by a Japanese submarine of his ship, the U.S.S. Indianapolis, shortly before the end of the Second World War. The Indianapolis was sunk by a Japanese submarine attack happened on July 30, 1945. It remains without question the greatest sea disaster in the history of the U.S. Navy. Eight-hundred and eighty men perished. Of the 1,197 men aboard, 880 died at sea. An estimated 900 men, however, survived the actual sinking, but they were left, in some cases, without lifeboats, without food, and without water. And they faced shark attacks for 4 days and 5 nights before they were rescued.

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poor. Chief Warrant Officer Hines, for example, stated he could hardly see the outlines of the turrets on the ship. His and other similar depositions were not made available to Captain McVay's defense counsel.

Again, what's wrong? The Navy maintains and does today, that the visibility was good when the Indianapolis was spotted and subsequently torpedoed and sunk that night, ignoring the sworn statements of those who were there when it happened; ignoring them.

Why is this important? It is important because there were no Navy directives in place then, or today, which either ordered or even recommended zigzagging at night in poor visibility. The order to zigzag was discretionary even if the weather was poor.

Moreover, in voicing opposition to Captain McVay's court-martial, Admiral Nimitz, in charge of the Pacific Fleet, pointed out:

The naval direction to zigzagging would not have applied, in any event, since Captain McVay's orders gave him discretion on that matter and thus took precedence over all other instructions.

This is a point, I might add, which Captain McVay's inexperienced defense counsel never even addressed at the court-martial.

To bolster its case against McVay, the Navy brought two witnesses to the court-martial. I have to say this has to be in the category of the unbelievable. One of the witnesses at Captain McVay's court-martial, brought in by the U.S. Navy, was a man by the name of Hashimoto, who was the captain of the Japanese submarine which sank the U.S.S. Indianapolis. The captain of the submarine which sank the U.S.S. Indianapolis, the enemy sub, the captain was brought in to testify against a naval captain. That, my colleagues, was uncalled for. It was the height of an American submarine captain during World War II. It is apparent that the old Navy simply denied logic.

In truth, McVay's orders gave him discretion to make a judgment, but when he relied on the best information he had, which indicated his path was safe, and exercised that discretion on a dark night, he ended up with a court-martial and humiliation.

Nobody told him there were enemy submarines in the area. Nobody told him the Underhill was sunk days before. No one told him any of that. They also told him he had discretion to zigzag.

In spite of that, they court-martialed him. They humiliated him for making a judgment call under circumstances which any one of us would have done the same, including those who court-martialed him.

Captain McVay's judgment call to zigzag was not responsible for this disaster, period. Other judgment calls may have been. Let's review some of those.

There was a judgment that his passage was safe; to deny him destroyer escort; to deny him the intelligence about the sinking in his path of the Underhill; to ignore the Japanese submarine's report that it had sunk an American battleship along his route; to ignore the failure of the Indianapolis to arrive on schedule; if they were, indeed, received, to ignore the distress signals which were reported to be sent out; and to deny Captain McVay the vital intelligence that the Japanese submarine which sank his ship was operating in its path.

Those responsible for these judgment calls were far more responsible for the loss of the Indianapolis and its crew than its captain. Guess what happened to them. Nada. No court-martial. Nothing. Nothing happened to those who ignored the intelligence. Nothing happened to those who did not tell the captain about the Underhill. Nothing happened to those who even reported the loss of the ship. Nothing.

Recently, my distinguished colleague and chairman, Senator WARNER, received a personal letter from Hashimoto, the captain of the Japanese submarine.

The PRESIDENT OFFICER (Mr. Fitzgerald). The Senator's 30 minutes have expired.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I follow the Senator from New Hampshire. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, in his letter, Hashimoto conceded that he had made this admission by stating that he could have sunk the Indianapolis whether it had zigzagged or not. Then he went on to say:

Our peoples have forgiven each other for that terrible war and its consequences. Perhaps it is time that your people (to) forgive Captain McVay for the humiliation of his unjust conviction.

That came from the man who sank McVay's ship. He was a dedicated, committed Japanese officer who, if you read Mr. Kurzman's book, was glad at the time he sank the ship and, in fact, was looking for a ship to sink.

Hashimoto attended that court-martial. In the English translation of a recent interview Hashimoto gave to a Japanese journalist, here are some excerpts about the court-martial of McVay:

I wonder (if) the outcome of that court-martial was set from the beginning... because at that time, I had a feeling it was contrived...

That came from Hashimoto. There are other comments Hashimoto makes, Mr. President.

There is one direct quote I want to give from his interview:

I understand English a little bit even then, so I could see at the time I testified that the translator did not tell fully what I said. I mean it was not because of the capacity of the translator. I would say the Navy side did receive some testimony that were inconvenient to them.

As I conclude, I repeat, I love the Navy. I served the Navy in Vietnam, and I would do it again. My father was a naval aviator and a graduate of the Naval Academy. He was killed at the end of the Second World War after serving in the Pacific and in the North Atlantic. I have no intention of embarrassing the Navy. That is not my purpose in sponsoring this legislation.

It is apparent that the old Navy made a mistake when they court-martialed Captain McVay to divert attention from the many mistakes which led to the sinking of the Indianapolis, mistakes beyond McVay's control and responsibility.

It is important to note that at least 350 ships were sunk by enemy action during World War II. No other captain was court-martialed. Only McVay. Tell me, after listening to this testimony, how hard and convincing was the evidence that he deserved to be court-martialed? The answer is no hard evidence that he deserved to be court-martialed.

Captain McVay was a graduate of the Naval Academy in 1920. He was a career naval officer who had a decorated combat record, which included participation in the landings in North Africa and an award of the Silver Star for courage under fire earned during the
Mr. WARNER. I did not know that order was entered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, if my colleague wants the floor right now, I ask unanimous consent that after the Senator from Virginia, I follow him.

Mr. WARNER. I am not hearing the Senator. The Senator is recognized, is that the order of the Chair? Unusual. I do not know how it happened, but the Senator got it. What is the Senator advising me?

Mr. WELLSTONE. I am saying to my colleague, I am recognized. I intend to offer an amendment. I heard my colleague from Virginia seeking recognition, and if there are a few things he wants to say right now, I will yield for that. Otherwise, I will yield forward.

Mr. WARNER. Will the Senator from Minnesota advise the Chair and the Senator from Virginia exactly how much time he wants and for what purpose? The time being consumed now can be charged to the managers. Mr. WELLSTONE. I do not intend to take a long time. I intend to lay out a case for an amendment. I cannot give a time. I cannot do it in 5 minutes. There is no time limit, but I do not intend to be long.

Mr. WARNER. I understand that. Of course, we have an order at 1 o'clock to go straight to an amendment. Mr. WELLSTONE. I intend to be finished before that.

Mr. WARNER. I am trying to finish other things from now until 1 o'clock. This is most unusual. I do not realize how we got to this. I am not sure how we got here, but it is here. Mr. WELLSTONE. We all come and wait, and we all seek recognition. Mr. REID. Would the Senator yield without losing his right to the floor? Mr. WELLSTONE. I am pleased to yield.

Mr. REID. I want to explain to the Senator from Virginia, Senator Smith asked to be recognized for an additional 5 minutes. Senator WELLSTONE was standing here and said: I ask unanimous consent that I be recognized after Senator Smith. That is how it happened.

Mr. WARNER. What is done is done. You have it open-ended, I say to the Senator, until 1 o'clock. What can you do to help us?

Mr. WELLSTONE. I say to my colleague from Virginia two things. No. 1, there are two other Senators out here who want to speak briefly. I would be pleased for them to do so—but I do not want to yield the floor—after which I will have the floor.

I say to the Senator from Virginia, I do not think I will take a long time. I will help the manager and try to do it in—

Mr. WARNER. If you can give us a time, then we can help our colleagues. How about 10 minutes?

Mr. WELLSTONE. I say to the Senator from Virginia—

Mr. WARNER. Ten minutes?

Mr. WELLSTONE. I say to the Senator from Virginia, 10 minutes will not be sufficient. I will try to move forward expeditiously. All of us think our amendments are important. I did not come here to plow through. I have planned to speak for 1 hour, but I need to take about 20 minutes to make my case. I do not want to be—

Mr. WARNER. If that is the case, it leaves very little time for the managers to recognize others who are waiting.

Mr. WELLSTONE. We all come and wait, and we all seek recognition.

Mr. WARNER. Fine. Would you settle for 20 minutes?

Mr. WELLSTONE. I will not because I do not know how long it will take.

Mr. WARNER. I yield the floor.

Mr. WELLSTONE. I will try to keep it in that timeframe.

Mr. BIDEN. Mr. President, will the Senator yield to me for a comment without he losing his right to the floor?

Mr. WELLSTONE. I am pleased to yield to the Senators from Delaware and Utah, without losing my right to the floor.

Mr. BIDEN. I say to the managers of the bill—if I can get Senator WARNER's attention—as Senator WARNER knows, the manager of the bill, the chairman of the committee, and Senator LEVIN knows. I have planned to offer the Violence Against Women Act as an amendment. In the meantime, the fellow with whom I have worked most on this legislation, and who has played the most major part on the Republican side of the aisle on the violence against women legislation has been Senator HATCH.

He and I have been working to try to work out a compromise. We think we have done that on the violence against women II legislation, reauthorization of the original legislation. Because of his cooperation and his leadership, actually, I am prepared to not offer my amendment. But I do want the RECORD to show why. It is because of Senator HATCH's commitment and leadership for us to move through the Judiciary Committee with this and find another opportunity to come to the floor with it.

With the permission of the managers, I will yield—without the Senator from Utah losing his right to the floor—to my friend from Utah to comment on the Violence Against Women Act.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I join Senator BIDEN this afternoon. We passed the original Violence Against Women Act in 1994. He deserves a great deal of credit for that. I would like to move forward with the passage of the violence against women reauthorization this year.

For almost 10 years, we have stood with my colleague from Delaware, Senator BIDEN, on this particular issue. He and I have worked for almost a year
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now to try to resolve any disagreements regarding specific provisions in our respective bills on this issue, S. 245 and S. 51.

What we want to do is combat violence against women. I believe we have a good product. It is the Biden-Hatch Violence Against Women Act of the year 2000

I have committed to Senator BIDEN that we plan to move this legislation in the Judiciary Committee. I plan to have it on the committee markup for next week. Any member of the committee can put it over for a week. I hope they will not. Before the Fourth of July recess, I hope we can pass the bill out of the Judiciary Committee. Hopefully, the leadership will allow us some time on the floor to debate it. It is a very important piece of legislation.

Millions and millions of women, men, and children in this country will benefit by the passage of this bill. I am going to do everything in my power to help Senator BIDEN in getting it passed.

Mr. BIDEN. I ask unanimous consent to proceed for 30 more seconds.

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

Mr. WELLSTONE. Mr. President, first of all, I wish to talk about what this amendment is about. Then I want to also make a couple of other comments. I will try to stay within a reasonable time limit.

There have not been very many vehicles out here on the floor—if I say that back in Minnesota, people look for cars or trucks, but what I am saying is that we have not had a lot of opportunity to bring amendments out here that we think are important as they affect the lives of people we represent. This amendment has been passed by the Senate, but every time it gets passed by the Senate, it gets taken out in conference committee. This will be the third or fourth time. I think on the last vote there were over 80 Senators who voted for it.

The amendment calls for a policy evaluation, in which I think all of us should be interested. We should care enough to want to know about the welfare bill because this is going to be coming up for reauthorization in every single State in the country we are going to reach a drop-dead date certain where people are basically going to be off welfare. What this amendment calls for, and I will describe it more carefully in a moment, is for Health and Human Services to basically call on the States to aggregate the data and to get the data to us as to where these mothers and children are now. In the last few years, I have been hearing about how the rolls have been cut by 50 percent and that, therefore, represents success, but we do not know whether or not the poverty has been cut and we need to know where these mothers are. We need to know whether or not the families they have and what kind of wages. We need to know whether or not the families still have health care assistance. There have been some disturbing reports that have come out within the last several weeks that in too many States even though AFDC families—that is, aid to families with dependent children families—by law should be receiving the Medicaid coverage even when they are now working and off welfare, they are not getting that coverage.

We need to know why there has been such a dramatic decline in food stamp participation, which is the most important nutritional safety net program for children. In many cases, there has been in some States somewhere around a 20-percent cut in participation, and there has been nowhere near that kind of reduction in poverty. We need to understand what is happening.

Most importantly, I would argue, although one can never minimize the importance of whether or not these mothers are able to obtain even living-wage jobs, it is the whole child care situation. I recommend to colleagues a study that has recently been concluded by Yale and Berkeley which is devastating to me as a Senator. Basically, it is a study of what has happened to welfare children during this period of reform. There have been 1 million more children who have now been pushed into child care. But the problem is that the child care is woefully inadequate and the vast majority of these children are watching TV all day, without any real supervision, without any real education, and therefore, not surprisingly, colleagues, they are even further behind by kindergarten age.

What this amendment would do would be to require the Secretary of Health and Human Services to report to the Congress on the extent and severity of child poverty. In particular, what we are interested in is what is happening with the TANF legislation.

Let me sort of summarize. The amendment would require the Secretary of Health and Human Services to submit to Congress by June 1, 2001, or prior to any reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act—we ought to have this evaluation before we reauthorize the program. We ought to have a more accurate picture of what is extended child poverty in this country.

The report must include, A, whether the rate of child poverty has increased under welfare reform; B, whether children living in poverty have gotten poorer under welfare reform—that deals not with the extent of child poverty but the severity of child poverty—and, C, how changes in the availability of cash and noncash benefits to poor families have affected child poverty under welfare reform.

In considering the extent and severity of child poverty, the Secretary must also use and report on alternative methods for defining child poverty that will more accurately reflect families’ access to in-kind benefits as their work-related expenses as well as multiple measures of child poverty such as the extreme child poverty rate.

Finally, if the report does find that the extent or severity of child poverty has increased in any way since enactment of the welfare reform legislation, the amendment requires the Secretary to submit with the report a legislative proposal addressing the factors that have led to the increase.

Let me be clear as to what this amendment is about, why I introduce it to this bill, and why I hope for a strong vote.

First of all, what is it about? It is about poor children. Why have I focused on poor children? Because I think that should be part of our agenda. What is my concern? There has been a tremendous amount of gloating and a lot of boasting about how successful this welfare reform has been. I have traveled in the country and spent quite a bit of time with low-income families and with men and women who don’t get paid much money but try to work with these families. That is not the report I get at the grassroots level.

What reports have come out—I won’t even go through all of the reports today—should give all of us pause. Basically, what we are hearing is that there has perhaps been some reduction in the overall percentage of an increase in the poverty of the poorest families; that is to say, families with half the poverty level income.

What I also found out from looking at some of the data, much less some of the study, is that there are some real concerns; namely, in all too many cases when these mothers now leave and go from welfare to work, which is what this was supposed to be about, the jobs are barely above minimum wage. When they move from welfare to work, all too often they are cut off medical assistance. Families USA says there are 670,000 fewer people receiving Medicaid coverage and health care coverage because of the welfare bill. When they move from welfare to work, they go from welfare poor to working poor, but they are not being told that they still have their right to participate in the Food Stamp Program for themselves and their children and, therefore, are not participating in this program. When they move from welfare to work, since they were single parents at home, the child care situation is deplorable. It is dangerous.
When people keep talking about how great this bill is, and we haven't even done the policy evaluation, and it is coming up for reauthorization, I argue that it is a security issue for poor families in the United States of America.

Again, what this legislation calls for is a study of child poverty, both to look at the extent of it and the severity of child poverty, to make sure we get the data, to make sure we have the policy evaluation before reauthorization. There should be support for this bill because we should be interested in policy evaluation.

Again, pretty soon we are basically going to have almost everyone pushed off welfare. Before that happens, before a mother with a severely disabled child is pushed off welfare or before a mother who has been severely beaten and battered is pushed off welfare or before a mother who has struggled with substance abuse is pushed off welfare, and they are not able to take those jobs—they may not find the kind of employment with which they can support their families—we had better know.

I have quoted Gunnar Myrdal, the famous Swedish sociologist who once said that ignorance is never random; sometimes we don't know what we want to know.

This is the fourth time I have brought this amendment to the floor. The first time, it was defeated by one vote, although it was a different formulation. The second time, it was accepted on a voice vote. That was my mistake. Before that happened, before a conference, the third time, it passed by a huge vote on a bill that then went nowhere. This is the fourth time. The reason I keep coming back is, I am determined that we do this policy evaluation.

Let me give one other example of why I will send this amendment to the desk in a moment.

In focusing on this welfare bill, I know I was at a conference committee I attended. This was all about an amendment which, again, the Senate passed, but it was taken out in conference committee, where I was arguing that right now it is wrong not to enable a mother to at least have 2 years of college; that she and the State in which she lives should not be penalized on work participation, and that if the State of Minnesota or California or Michigan or Virginia decided it makes sense to let these mothers have 2 years of higher education, that they and their children will be better off; they should not be penalized.

I went to the conference committee; it was dropped in conference committee. A number of different members of the conference committee were saying: Wait a minute, this welfare bill is hallmark legislation. It is one of the greatest pieces of legislation passed in the last half a century. President Clinton tends to make the same kind of claim. We can agree; we can disagree. The point is, there ought to be a policy evaluation. There is a lot at stake. What is at stake is literally the health and well-being of poor women and poor children. We ought to at least have this data. We ought to at least make this policy evaluation. We ought to do it before we reauthorize this bill. That is why I am here to make the amendment, and that is why I will send this amendment to the floor.

Before I do, I also want to signal to colleagues that there is a report—I think we will have a debate; I don't know if it will be today or whether it will be tomorrow or when—on missile defense.

Mr. WARNER. Will the Senator yield for a minute? We want to try to accommodate him. It may well be we can accept the amendment. He has not shown me a copy of it.

Mr. WELLSTONE. I am getting ready to send the amendment to the desk.

Mr. WARNER. We only have 21 minutes. This is the Senator I would like to accommodate on a matter unrelated to the bill. Is there any harm in looking at it?

Mr. WELLSTONE. Mr. President, I just received the amendment. I will be pleased to send the amendment to the desk. I will say, my colleague has a copy.

Mr. WARNER. I have a copy?

Mr. WELLSTONE. The Senator does. I will also say to my colleague, I am actually trying to finish up in the next 4 or 5 minutes. It is just sort of a bad habit I have. When I keep getting pressed in the opposite direction, I tend to speak longer. I am not trying to take up time, I am just trying to argue my case, I say to the Senator.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered S294.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with. The amendment is as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 3264.

Mr. WELLSTONE. 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:

The amendment is as follows:

At the appropriate place add the following section:

(a) In General.—Not later than June 1, 2003, and prior to the beginning of the next fiscal year, the Secretary of Health and Human Services, after consultation with the President and the Congress, shall report to the Congress a study of the extent and severity of child poverty in the United States. Such report shall—

(1) determine for the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased or decreased over such period, the extent to which child poverty is based on consider- ation of factors other than family income and resources, including consideration of a family's work-related expenses; and

(2) identify alternative methods for defining child poverty that consider- ation of factors other than family income and resources, including consideration of a family's work-related expenses; and

(b) Legislative Proposal.—If the Sec- retary determines that during the period since the enactment of the Personal Respon- sibility and Work Opportunity Reconcili- ation Act of 1996 (Public Law 104-193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased, the Secretary shall include in the report to Congress required under subsection (a) a legislative proposal addressing the factors that led to such increase.

Mr. WELLSTONE. Mr. President, in many ways I have had to take an hour to talk about this because I happen to believe that what is happening right now with poor women and poor children is a terribly important issue. I have summarized this amendment. I think about 89 Senators voted for this amendment last time. I hope I will get a strong vote this time.

By way of concluding, while I have the floor, I will mention to colleagues, since we don’t have a thoughtful and careful debate on missile defense, there is an excellent study that has come out that I commend to every Senator, done by the Union of Concerned Scientists at the MIT Security Studies Program. The title of it is "Countermeasure Program of the Operational Effectiveness of the Planned U.S. National Missile Defense System."

These distinguished scientists argue that missile testing programs lack the baseline threat has realistically declined by having the Penta- gon’s work in that area reviewed by an independent panel of qualified experts; provide for objective assessment of the program, and results of the program by an independent standing review; conduct tests against the most effective countermeasures. It is an excellent analysis of the whole problem of countermeasures—that an emerging missile state could reasonably expect to build and to conduct enough tests against countermeasures to determine the effectiveness of the system with high confidence.

We will have an amendment that I plan to introduce with Senator DURBIN and other Senators, where we will have a very thoughtful debate about the whole question of the importance of having the testing. I just wanted to speak about this briefly.

I yield the floor.

Mr. WARNER. Mr. President, it is my understanding that the Senator from Minnesota will accept a voice vote. He wanted to address the Senate on that point. We will proceed to adopt the amendment.

Mr. LEVIN. Mr. President, perhaps Senator WELLSTONE will yield to me for 1 minute after he is recognized.
Mr. WELLSTONE. I will yield to the Senator from Michigan.

Mr. LEVIN. Does Senator WELLSTONE have the floor?

Mr. WARNER. I have the floor.

Mr. WARNER. Mr. President, I thank the Senator from Virginia and the Senator from Michigan for their support. We have had a resounding vote for this amendment before. I want to just keep this before the Senate. Somehow I want to get this policy evaluation right. So, thank a voice vote, which means this passes with the full support of the Senate, will suffice.

I thank my colleagues for their courtesy and graciousness. I thank the Senator from Virginia for allowing an unlimited amount of time.

Mr. LEVIN. Mr. President, I commend our good friend from Minnesota not just for his good nature but also for his continuing to bring to the attention of the Senate and the Nation the problem addressed in his amendment, and his determination that he get a review of the impact of the actions that we have taken on poor people in this country. He has been in the leadership of that effort continually. He raises this issue with an extraordinary powerful and eloquent voice. I commend him for that. We will be accepting the amendment.

Mr. WARNER. I think we are ready to agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3264) was agreed to.

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

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

The motion to lay on the table was agreed to.

Amendment No. 3267
(Purpose: To establish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senate from Virginia [Mr. WARNER], for himself and Mr. DODD, proposes an amendment numbered 3267.

Mr. WARNER. 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:

On Mr. 3267, between lines 2 and 3, insert the following:

SEC. 2. Establishment of National Bipartisan Commission on Cuba.

(a) Short Title. -- This section may be cited as the "National Bipartisan Commission on Cuba Act of 2000".

(b) Purposes. -- The purposes of this section are to:

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) build the necessary national consensus on a comprehensive United States policy with respect to Cuba.

(c) Establishment. --

(1) In General. -- There is established the National Bipartisan Commission on Cuba (in this section referred to as the "Commission").

(2) Membership. -- The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of whom two shall be appointed upon the recommendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recommendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representatives.

(C) Six individuals to be appointed by the President.

(3) Selection of Members. -- Members of the Commission shall be selected from a cross-section of United States interests, including representatives of the political strength of Fidel Castro; the relations of the United States with the United States-Cuban relations, particularly countries important to Cuba; and the condition of human rights, religion, public health, minimum standards, and the Cuban-American community.

(4) Designation of Chair. -- The President shall designate a Chair from among the members of the Commission.

(5) Meetings. -- The Commission shall meet at the call of the Chair.

(6) Quorum. -- A majority of the members of the Commission shall constitute a quorum.

(7) Vacancies. -- Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(d) Duties and Powers of the Commission. --

(1) In General. -- The Commission shall be responsible for an examination and documentation of the specific achievements of United States policy with respect to Cuba and an evaluation of:

(A) what national security risk Cuba poses to the United States and an assessment of any role the Cuban government may play in supporting international terrorism and the trafficking of illegal drugs;

(B) the indemnification of losses incurred by United States certified claimants with confiscations; and

(C) the domestic and international impacts of the 39-year-old United States economic, trade, and travel embargo against Cuba on:

(i) the relations of the United States with allies of the United States;

(ii) the political strength of Fidel Castro;

(iii) the condition of human rights, religious freedom, and freedom of the press in Cuba;

(iv) the health and welfare of the Cuban people; and

(v) the Cuban economy; and

(vi) the United States economy, business, and jobs.

(2) Consultation Responsibilities. -- In carrying out its duties under paragraph (1), the Commission shall consult with governmental leaders of countries substantially impacted by the current state of United States-Cuba relations, particularly countries impacted by the United States trade embargo against Cuba, and with the leaders of non-governmental organizations operating in those countries.

(3) Powers of the Commission. -- The Commission may, for the purpose of carrying out its duties under this subsection, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the provisions of this section.

(e) Report of the Commission. --

(1) In General. -- Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the President, the Secretary of State, and Congress outlining its findings for United States policy options based on its evaluations under subsection (d).

(2) Classified Form of Report. -- The report required by paragraph (1) shall be submitted in unclassified form, together with a classified annex, if necessary.

(3) Individual or Dissenting Views. -- Each member of the Commission may include the individual or dissenting views of the member in the report required by paragraph (1).

(f) Administration. --

(1) Cooperation by Other Federal Agencies. -- The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(2) Compensation. -- Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for their homes or regular places of business in the performance of services of the Commission.

(3) Administrative Support. -- The Secretary of State shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

(g) Applicability of Other Laws. -- The Federal Advisory Committee Act shall not apply to the Commission to the extent that the provisions of this section are inconsistent with that Act.

(h) Termination Date. -- The Commission shall terminate 60 days after submission of the report required by subsection (e).

Mr. WARNER. Mr. President, Senator DODD and I, in the 105th Congress, put in legislation to allow the sale of food and medicine to Cuba. Unfortunately, it was not accepted. We renewed that effort. That was in the 106th, and we renewed it in the 106th. Unfortunately, it was not able to be accepted by the Senate.

This Nation has experienced the Elian Gonzalez case. It is a most unusual chapter in history. I am not here to describe it because much of that case is clearly in the minds of Americans. But if there is some value out of that case, it is to be a warning to the serious nature of this problem between the relationship of our Nation and Cuba. We have had various policies in effect for some 30-plus years and, in my judgment, those policies have not moved Fidel Castro. But Fidel Castro is a leader who does not have my respect, and I think many in this Chamber would share my view, if not all.
There are certain ways we can bring to bear the influence of the money of America to try to help our friends, and to try to help the people to change their leadership.

While we may have put in these series of laws since the year, with the best of intentions, the simple fact is, there today Fidel Castro reigns, bringing down in a harsh manner on the brow of the people of Cuba deprivations for many basic human rights, deprivation from even the basic fundamentals of democratic principles of government.

One only needs to go to that country to see the low quality of life that the people of Cuba have to face every day they get up, whether it is food, whether it is medicine, whether it is job opportunity, or whether there is any certainty with regard to their future. It is very disgusting and depressing.

Referring back to the Gonzalez case again, the only point I wish to make is that it is important to bring our governmental policy in this country to the need for the policies of the United States of America in relation to Cuba to be reexamined.

It is my hope and expectation that the next President will take certain initiatives to bring our policy somehow into a relationship where we can be of help to the people of Cuba.

All I wish is to help the people of Cuba. We have tried with food and medicine unsuccessfully, although through various channels of Government on there is in some ways food and medicine going to those people.

I remember a doctor. Former Senator Malcolm Wallop brought an American doctor to my office with considerable expertise in medicine. He said to me that the medical equipment available to his colleagues in the performance of medicine in Cuba was of a vintage of 30 years old—lacking spare parts, almost nothing in the state-of-art medical equipment.

What a tragedy to be inflicted upon human beings right here so close to America in Central America.

In this amendment, Senator Dodd and I simply address the need for a commission to be put in place which would hopefully take an objective view of what we have done as a nation in the past with relation to Cuba and what we might do in the future. That commission would then report back to the next President of the United States and the Congress of the United States in the hopes that we can make some fundamental changes in our policy relationship with Cuba which would help—I repeat help—raise the deplorable quality of life for the people of Cuba.

I anticipate the appearance momentarily of my colleague from Connecticut. We weren't able to judge the exact time when he would arrive.

Mr. President, I commend Senators Warner and Dodd for their work on a bipartisan basis to establish a bipartisan commission on Cuba. It is important that we conduct a review of the achievements or lack thereof of the embargo. The amendment does not presume the outcome in any way of the commission's effort. It is not intended nor should it be interpreted for a substitute for any other legislative action that Congress might take.

It is constructive. It is bipartisan. It is modest. I think it is, frankly, long overdue. I hope we can adopt this amendment.

Mr. Warner. Mr. President, I thank my colleague. Would he be kind enough to be a cosponsor of the amendment?

Mr. Levin. I would be happy to be a cosponsor. I ask unanimous consent I be added as a cosponsor.

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

Mr. Warner. Mr. President, Senator Dodd and I wrote President Clinton in 1998—we had 22 Senators join us in that letter—recommending that he establish the very commission that is outlined in this legislation, but for reasons which are best known to him, he decided not to do it.

Senator Dodd and I recommend this action because there has not been a comprehensive review of U.S.-Cuba policy since 1960. It is an examination of its effectiveness or ineffectiveness in achieving the goals of democracy and human rights that the people of the United States wanted and which the people of Cuba deserve. We had a review in 40 years, since President Eisenhower first canceled the sugar quota July 6, 1960, and we imposed the first total embargo on Cuba on February 7, 1962.


Since the passage of both of these bills, there have been significant changes in the world's situation that warrant, in our judgment, a review of our U.S.-Cuba policy, including the termination of billions of dollars of annual Soviet economic assistance to Cuba and the historic visit of Pope John Paul II to Cuba in 1998.

In addition, in recent years numerous delegations from the United States have visited Cuba, including current and former Members of Congress, representatives from the American Association of World Health, and former U.S. military leaders.

These authoritative groups have analyzed the political, economic and human rights issues and the capabilities on the island and have presented their findings in areas of health, economy, religious view, freedom, human rights, and military capacity. Also, in May of 1998, the Pentagon completed a study on the security risk of Cuba to the United States. However, the findings and reports of these delegations, including the study by the Pentagon and the call by Pope John Paul II for the opening of Cuba by the world, have not been widely reviewed by all U.S. policymakers.

We believe it is in the best interests of the United States, our allies, the Cuban people, and indeed the nations in the Central American hemisphere with whom we deal in every respect.

We have a measure that will go through very shortly regarding a very significant amount of money to help Colombia in fighting the drug war.

We are constantly working with the Central American countries, except there sits Cuba in isolation.

We, therefore, believe that a national bipartisan commission on Cuba should be created to conduct a thoughtful, rational, objective—let me underline objective—analysis of our current U.S. policy toward Cuba and its overall affect in this hemisphere—not only on Cuba but how that policy is interpreted and considered by the other Central American countries.

This analysis would in turn help shape and strengthen our future relationships with Cuba. Members of the commission would be selected from a bipartisan list of distinguished Americans from the private sector who are experienced in the field of international relations. These individuals should include representatives from a cross-section of U.S. interests, including public health, military, religion, human rights, business, and the Cuban American community.

The commission's tasks would include the delineation of the policies—specifically achievements and the evaluation of:

No. 1, security risks, if any, Cuba poses to the United States, and an assessment of any role the Cuban Government may play in the international terrorism, or illegal drugs;

No. 2, the indemnification of losses incurred by U.S.-certified claimants with confiscated property in Cuba;

No. 3, the domestic and international impact of the nearly 39-year-old U.S.-Cuba economic trade and travel embargo; U.S. international relations with Cuba, including the economic and political strength of Cuba's leader; the condition of human rights; religious freedom; freedom of the press in Cuba; the health and welfare of the Cuban people; the Cuban economic policy and business, and how our relations with Cuba can be affected if we changed that.

More and more Americans from all sectors of our Nation are becoming concerned about the far-reaching effects of our present U.S.-Cuba policy on U.S. interests and the Cuban people.

Establishment of this national bipartisan commission would demonstrate leadership and responsibility on behalf of this Nation towards Cuba and the other nations of that hemisphere. I urge my colleagues to join Senator Dodd and myself.

I ask the amendment be laid aside.

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

Mr. Warner. Will the Presiding Officer state the exact parliamentary situation.

AMENDMENT NO. 3244

The PRESIDING OFFICER. There are 2 hours equally divided on amendment No. 3244.
Mr. WARNER. Do I understand that 1 hour of that is under the control of the Senator from Virginia.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Mr. President, I do not see Senator McCain here. I think perhaps he should lead off. Does Senator Feingold wish to lead off? Senator Feingold is a principal cosponsor, as I understand.

Mr. FEINGOLD. Correct.

Mr. President, I ask unanimous consent following the remarks of Senator Feingold the distinguished President pro tempore of the Senate be recognized.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the chairman of the committee.

Mr. President, I begin our side of the debate.

I am in favor of the McCain-Feingold-Lieberman amendment. I hope we will have an overwhelming vote later this afternoon in favor of full disclosure of the contributions and expenditures of 527 organizations. As we discussed yesterday on the floor, these organizations are the new stealth players in our electoral system. They claim a tax exemption under section 527 of the Internal Revenue Code, a provision that was intended to cover political committees such as party organizations and PACs. As the same time, they refuse to register with the Federal Election Commission and report their activities like other political committees because they claim they are not engaged in so-called express advocacy.

In other words, these groups admit they exist for the purpose of influencing elections for purposes of the tax laws, but deny they are political committees for purposes of the election laws. That, my colleagues, is the very definition of evading the law. If it is legal to have called it, the “mother of all loopholes.”

I make one point crystal clear because our debates on campaign finance reform often get bogged down in arguments over whether someone is engaged in electioneering or simply discussing issues. These groups cannot claim that their purpose is simply to raise issues or promote their views on issues to the public. Why is that? They can’t make that claim because to qualify for section 527 tax exemption, they have to meet the definition of a political organization in the tax code. And that definition is as follows:

The term “political organization” means a party, committee, association, fund, or other organization or group of individuals organized primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

And the term exempt function means:

The function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors.

These groups self-identify as groups whose primary purpose is to accept contributions or make expenditures to influence the outcome of an election by deftly influencing specific election-related groups. They refuse to register with the FEC, and they therefore can take any amount of money from anyone—from a wealthy patriotic American, or a multi-national corporation, or a foreign dictator, or a mobster.

Indeed the groups seem to revel in the fact that their activities are completely secret. This chart will be presenting in a moment shows a public statement by a 527 organization called “Shape the Debate.” This organization, according to news reports, is connected with our former colleague and the former Governor of California, Pete Wilson. On its webpage, Shape the Debate claims contributions. Contributions, it says, can be given in unlimited amounts, they can be from any source, and they are not political contributions and are not a matter of public record. They are not reported to the FEC, to any State agency, or to the IRS.

Mr. President, the amendment we will vote on this afternoon won’t change the fact that the contributions can be in any amount. It won’t change the fact that the contributions can come from any source, even from foreign countries, even the proceeds of criminal activity. I regret that all it will do is address this third claim—that the contributions are not a matter of public record. If a group is going to accept money from a foreign government, the American people should know that. That’s all we’re saying here.

This is something the Congress has to do. Now. It is clear that the FEC is going to take up this issue this year. It held a meeting on May 25 to discuss a proposal by Commissioner Karl Sandstrom to get a handle on all the secret money that is now flowing into elections. The FEC voted to have the proposal advertising contributions. Contributions, it says, can be given in unlimited amounts, they can be from any source, even from foreign countries, even the proceeds of criminal activity. I regret that all it will do is address this third claim—that the contributions are not a matter of public record. If a group is going to accept money from a foreign government, the American people should know that. That’s what we’re asking here.

As Commissioner Thomas said recently when the FEC deadlocked on whether it should pursue enforcement actions against the Clinton and Dole presidential campaigns for their issue ads in 1996: “You can put a tag on the top of the Federal Election Commission.” The Commission is moribund, it is powerless even to address the most serious loophole ever to arise. This is why Congress must act.

We don’t know just how big this problem is. We certainly don’t know how much money has come to put an end to secret money funding secret organizations. As I said yesterday, the combination of money, politics, and secrecy is a dangerous imitation to scandal. Without these organizations, we may have ended up with a brand new loophole ever to arise. This is why Congress must act.

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WASHINGTON, Mar. 28.—The tiny remnant of the movement that once was called Citizens for Better Medicare, a group created last summer under Section 527 by major drug makers and allied organizations, expects to spend as much as $30 million this year to oppose legislation the industry thinks will impose government price controls on medicines, the group’s officers say.

The group, one of national campaign of political advertising this fall, said Timothy C. Ryan, its executive director.

Peace Action, the antiwar group once known as SANE/Freeze, created a 527 organization called the Peace Voter Fund late last year to try to influence the debate this year in eight Congressional races, including the 3rd Congressional District in Michigan and contests for House seats in Michigan, California, Illinois, and the 3rd, 7th and 12th Congressional Districts in New Jersey. The fund’s $250,000 in seed money came from a handful of wealthy benefactors who insisted in remaining in the shadows, said Van Gosse, organizing director of Peace Action.

Mr. Gosse speaks rhapsodically of Section 527. It offers freedom from the requirements of filing and attack ads sponsored by the group, he noted, and relief from the Internal Revenue Service’s rules on political activity by charitable organizations.

Mr. Gosse said he would not reveal the names of his major donors. “That’s the whole point,” he said.

“The new Section 527 organizations are a campaign vehicle now ready for mass production,” Frances R. Hill, a professor of law at the University of Miami, wrote in a recent issue of Tax Notes, a publication for taxation specialists. The 1996 election was marked by concerns and scandals over the unregulated contributions known as soft money, she noted. “The 2000 federal election may be equally important in campaign finance history for the flowering of the new Section 527 organizations,” she said.

Mr. Gosse said the disclosure of the officers and finances of Section 527 organizations as part of his campaign finance proposal released this week. He called such organizations “the equivalent of Swiss bank accounts for a campaign vehicle ready for mass production.”

Representative Lloyd Doggett, a Texas Democrat, is preparing legislation to regulate these organizations, at a minimum, disclosure of contributors and expenditures.

Mr. Doggett said, “Congress’ bipartisan Joint Taxation Committee has recommended steps to open Section 527 groups to greater public scrutiny by publishing their tax returns, among other things. But Congress is not likely to act quickly on any proposal to rein in such groups.”

Representatives Tom Delay of Texas and J.C. Watts of Oklahoma, both Republicans, have established Section 527 funds to burnish their party’s image and promote conservative ideas on taxation, the military and education. Former Representative Pat Saiki of Hawaii has created Citizens for the Republic as another safe haven for anonymous big donors.

Scott Reed, who managed Bob Dole’s presidential campaign in 1996, said Section 527 group to attract Hispanic voters to the Republican Party. New Gingrich is affiliated with a 527 organization advocating Social Security reform and tax cuts.

Recently, attention has focused on the Section 527 operations of conservatives. But the Sierra Club was one of the first nonprofit organizations to set up a 527 subsidiary, in 1996, and the League of Conservation Voters, which is generally partial to Democrats, followed a year later.

“Donors were looking for a way to put large, anonymous money into organizations that would have a political effect,” he said. The money, Reed said, enabled his group to flex their political muscle beyond what was permissible under their tax-exempt status.
SPENDING FRAY

(A By Todd S. Purdum)

LOS ANGELES, Apr. 1—George Gorton is hardly a political novice.

For 30 years, since he was a college student supporting James L. Buckley's campaign for the United States Senate from New York, he has worked for candidates from Richard M. Nixon to Pete Wilson to Boris N. Yeltsin. But even he had not thought much about Section 527 of the Internal Revenue Code—until not least until last year.

"I was driven to accomplishing something that everybody that I could find about the amount of money that organized labor was spending on issue advocacy," said Mr. Gorton, who cut his teeth as national college coordinator for Nixon's Committee for the Re-election of the President in 1972. "And somebody said to me, 'George that's their First Amendment right.' And I decided labor wasn't wrong to do it; they were right to do it, and so I decided professional business people should do it, too."

So Mr. Gorton, who runs a Republican consulting business in San Diego, started the Shape the Debate, a nonprofit political organization that, under Section 527, can raise and spend unlimited amounts of money, with no disclosure requirements for donors, as long as it does not expressly advocate the election or defeat of any candidate. Its inaugural television advertisement, which began airing this week in California and New York, accuses Vice President Al Gore of political hypocrisy, in a mock game show in which contestants are asked questions on various political topics, including Mr. Gore's support for campaign finance overhaul despite his appearance at an illegal fund-raiser at a Buddhist temple.

"Shape the Debate strongly believes that free enterprise and conservative ideas are more likely to become public policy when candidates and public officials honestly and publicly discuss their positions on them," according to the group's credo, which can be found on its Web site, shapedebate.com.

"Shape the Debate will therefore use sting ads of rebuke, where appropriate, or gentle praise to remind leading candidates and public officials to honestly discuss our issues," the group's Web page reads. "And if free enterprise issues uppermost in the minds of the American public."

The group is among the latest entrants in a genre of independent candidate- and issue-related commercials, as opponents of campaign-finance laws, Common Cause and other activist groups have found new life as the perfect vehicle for concealing who is giving and how much.

"We've used a wide variety of different techniques, each suited to its own purpose," said Mr. Wilson. "But I think we've generally used the technique of simply stating the facts and letting the facts do the work for us.

"I think Peewee's trying to find a way that George Bush can't use that strategy," Mr. Wilson said. "I think we have to use the strategy of directly attacking George Bush, which is how we've been doing it with our ads.

"I do not think the vice president is going to let this issue go. I think he's going to continue to use the issue to drive home his message to the American people."

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About the only restriction on a 527 group is that it stop short of using explicit terms such as "vote for" or "vote against" in backing a candidate.

Immunity from disclosure won't continue for long, advocates of campaign-finance reforms say. A bipartisan coalition of Congress members, lawmakers, McCain among them, joined with Common Cause last month in denouncing S27 committees and pledging to press for legislation to make them accountable.

The committees are replicating as a pace that is impossible to track because of their secrecy. But the ones that have chosen to identify themselves are set to pour tens of millions of dollars—possibly more than $100 million—into political advertising this year. That, combined with more traditional forms of "soft money" controlled by political parties, is sure to produce a record volume of such spending.

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ads paid for by “Texans for Clean Air” were aired just before the Super Tuesday primaries in March. The ads assailed McCain’s environmental record and extolled that of his opponent, Texas Gov. George W. Bush.

Although nothing required them to do so, oil-rich brothers Sam and Charles Wyly revealed themselves as the backers of the ads.

[From The Hill, May 17, 2000]

**NEW VA-BASED “527” WILL TARGET 25 RACES; STLS IN IDAHOS, NJ.**
(By John Kruger)

The Council for Responsible Government joined the ranks of new “527” organizations two weeks ago when it incorporated in Virginia and immediately began running radio and television ads in Idaho against Republican candidate Butch Otter, accusing him of being soft on pornography. It also commenced a direct-mail campaign in New Jersey.

The group, based in Burke, Virginia, intends to use $2- to 2.5-million and target 25 races around the country this year, according to William Wilson, the group’s registered agent.

“We want to promote free market ideas and traditional moral and cultural issues,” Wilson said. “We want true accountability to voters,” which Wilson defined as making sure the public know what a politician’s true record is.

“They speak to different sides of an issue with different audiences,” he explained. “That’s developed a lot of cynicism among voters.”

Wilson said the group does not engage in issue advocacy or endorse candidates. “We engage in voter education,” Wilson said.

Section 527 of the tax code permits political committees to raise and spend unlimited funds, but having to disclose their contributors, provided that those funds are not used to expressly advocate the election or defeat of a candidate.

Organizations formed under Section 527 have come under fire from campaign finance groups and members of Congress for eliminating the line between issue advocacy and candidate support.

One such group, the Republican Majority Issues Committee, a group close to House Majority Whip Tom DeLay (R-Texas), was sued last month by the Democratic Congressional Campaign Committee (DCCC).

Wilson registered in Virginia because “there are some of the finest federal judges in the country, “alluding to their strong record on First Amendment issues.” Any time a group does something the “powers that be” don’t like, they are likely to be attacked in court.

“I think it’s wise to be afraid of the government,” he said.

Wilson said the group would not disclose its donors. “We have a lot of donors, but we want to keep that to ourselves,” Wilson said. “We want them to be able to give without the fear of retaliation.”

The group has also started a direct-mail campaign warning New Jerseyan voters that Republican candidate Joel Weingarten had cast votes in favor of tax increases.

Weingarten has said the group charging that the council is using soft money and coordinating its mailings with Jamestown Associates, a Princeton, N.J.-based media firm hired by Weingarten’s rival Mike Ferguson.

Larry Weitzmer, president of Jamestown Associates, said the council has a legal right to communicate with the public.

Mr. FEINGOLD. I am happy to yield.

Mr. WARNER. Mr. President, a number of colleagues are present on the floor seeking recognition. May we alternate?

Mr. FEINGOLD. Mr. President, I will simply say to the chairman, I shall be happy to do that. I ask in this instance that Senator SCHUMER go next because the understanding last night was that he start the process, and then after that alternate.

Mr. WARNER. The Senator from Virginia inquires as to the amount of time the Senator from New York wants.

Mr. SCHUMER. Mr. President, I inform the Senator I will take approximately 10 minutes, Will the Senator from Virginia yield?

Mr. WARNER. Mr. President, I recognize there is a unanimous consent agreement in effect, but I am trying as best I can to work this in a fair and equitable manner.

It is important, in your judgment, that Senator SCHUMER follow you for a period of 10 minutes.

Mr. FEINGOLD. It is not, in my view, essential.

Mr. SCHUMER. If somebody else has a pressing need and will speak for less than a half hour or so, I will be happy to yield.

Mr. WARNER. I did put in a request, of which I thought he was aware, that the President pro tempore will follow. Mr. SCHUMER. I am happy to yield and thank the Senator from Wisconsin.

Mr. WARNER. We will proceed under the unanimous consent agreement, after the Senator from South Carolina.

The PRESIDENT pro tempore. Mr. SCHUMER. I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise this afternoon not to speak about the specifics of the National Defense Authorization Bill, but to speak to the importance of the Senate passing a defense authorization bill. I am very concerned that this bill will be so burdened with non-germane amendments that our House colleagues may challenge the Senate’s right to conduct what is sometimes called the Blue Slip. If the Senate persists with these type of non-germane amendments there is the strong possibility that for the first time in my 41 years on the Armed Services Committee there will not be a National Defense Authorization Bill.

Mr. President, if there is no authorization bill we will deny the following critical quality of life and readiness programs to our military personnel, both active and retired, and their families;

- No 3.7 percent pay raise;
- No Thrift Savings Plan;
- No concurrent receipt of military retirement pay and disability pay;
- No comprehensive lifetime health care benefits;
- No military construction and family housing projects.

Mr. President, it is ironic that two days ago, members were commemorating D-Day and the sacrifices of the thousands of men who charged across the beaches of Normandy. Now only two days later, the Senate is jeopardizing the bill that would ensure that a new generation of soldiers, sailors, airmen and Marines have the same support as those heroes of World War II and the Korean War whose 50th anniversary we will be celebrating. I urge my colleagues to carefully consider the impact of their votes on this strong bipartisan defense authorization bill. We must not jeopardize our 40 year record of providing for the men and women who proudly wear the uniforms of the Nation and make untold sacrifices on a daily basis to ensure the security of our great Nation.

I yield the floor.

**AMENDMENT NO. 3254**

The PRESIDING OFFICER. The Senator from Wisconsin yields.

AMENDMENT NO. 3254

Mr. FEINGOLD. Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from Wisconsin yields.

Mr. FEINGOLD. Ten minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Wisconsin for yielding this time and for the leadership on this issue. I also praise my friend from Arizona who has, through-out, been courageous on this issue as on many others, as well as the Senator from Connecticut, whose proposal it is and who has stood as a beacon, in terms of reform.

If you wanted to design a corrupting statute that would blow over our body politic, you would consider with a statute like S2. Although it was inadvertantly drafted, and was never intended for this purpose, its effect eats at the very core of our Republic.
Imagine if someone came to you and said: Let’s make political contributions tax deductible, unlimited, and secret. Most people, if they were given that case de novo, would say: What? We could not do that. That would be the most pitiful distortion of the kinds of things we stand for in this democracy that one could imagine.

Yet that is where we stand today. If this statute is not changed, anyone can give unlimited amounts of money and get tax deductions for it. Organizations—corporate and organized crime—could contribute to a candidate—not to a candidate, but organized crime could contribute to one of these funds, put ads on the air, and dramatically influence elections.

Drug dealers, criminals, could set up funds and affect candidacies. Foreign governments, people from afar, could do this, and there would be no way to track them down or find it out. If the American people knew with some degree of precision what is happening with these 527 accounts, they would be shocked. Again, if you were to choose a way of corrupting this democracy, you would design a system similar to these accounts.

Here we are with the Senators from Arizona, Wisconsin, and Connecticut. Their amendment and mine and others simply says: Don’t limit the amount of money—although I would like to do that; don’t take away the tax deductibility—although I find it absurd that you should get a tax deduction for this, but the person who gives $25 aboveboard to the candidate he or she believes in gets no tax deduction, but a large special interest does and influences an election just as profoundly. But we are not doing that. All we are saying is disclose.

I am looking forward to hearing from my colleague from Kentucky. I respect his view on the first amendment, which is, from the point of view of this amendment, absolute than mine, but he put his money where his mouth is when he opposed, for instance, the flag burning amendment.

But disclosure does not violate free speech in any way. If it did, all the disclosure regulations that we have should be abolished. Why is it that, for these accounts which benefit politicians and political parties, there should be secrecy, but for any other kind of account there should not? It is clearly not a first amendment argument.

Mr. President, today is the 211th anniversary of the Bill of Rights. It is the most farsighted document dedicated to freedom and humanity that has been created. We should consecrate that birthday by cleaning up one part of the campaign finance system that would offend the Founding Fathers.

When we see what these accounts do, imagine a Jefferson or a Hamilton or a Madison looking down and saying: These accounts are being defended in the name of the Constitution and of free speech? The upshot of the crazy system we have, done by accident almost, is that anyone who can spend any amount of money can set up accounts designed to sway elections all with no disclosure of any kind.

The Judiciary Committee spent months examining whether the Chinese Government improperly funneled money into the 1996 elections. Many of my colleagues on the other side are saying this was improper. If they had used one of these accounts, they never would have known about it, and it would have been perfectly legal. The original loophole is an open invitation to foreign governments, or anyone else, to secretly pump as much money as they want into this election. To me, it would be contradictory—no, hypocritical—for those who correctly inveigh against the abuses of the 1996 election not to support the amendment offered by the Senator from Arizona because if my colleagues want to stop foreign government influence and have contributions open and not secret, we must close this loophole.

The amendment offered yesterday would end the system of secret expenditures, hidden identities, and sullied elections. It would prevent not only foreign governments but organized crime, money launderers, and drug lords from contributing.

When this election is over, the sad fact of the matter is that we will not even know if the Chinese Government sought to influence our elections through 527 accounts unless this amendment is adopted because there is no disclosure at all. All we want to do is let the people see the groups, who is paying the tab, and how the contributions are being spent.

The Supreme Court, on this anniversary of the Bill of Rights, has said the right to vote is the most important right we have because in a democracy, the right to vote guarantees all other rights. That basic freedom is tarnished when we prevent the American people from seeing if we are trying to influence their vote and how.

One of our great jurists, Justice Brandeis, wrote famously that sunlight is the best disinfectant. The bottom line is simple: Do we want to disinfect a system which has become worse each year, or do we want to, under some kind of contrived argument, keep the present system going for someone’s own advantage?

I stress this amendment is not an attempt to advance the fortunes of one party or another. It is bipartisan, and it is far more important than that.

Mr. SCHUMER. Mr. President, I ask for an additional 30 seconds to finish my point.

Mr. FEINGOLD. I yield 30 seconds.

Mr. SCHUMER. This is not a liberal or conservative amendment. All groups have availed themselves of this kind of loophole. All groups must be stopped. This is basic information that the people of America have a right to know, and we have a duty to see that they get it. I thank the Chair, and I thank the Senator from Wisconsin.

Mr. WARNER. Mr. President, I seek recognition and charge it to the time under my control.

Mr. SCHUMER. This is a list that goes back to 1961. The Senate of the United States unthinkingly has passed an authorization bill for the men and women of the Armed Forces. I say to my dear friend and colleague, a former distinguished naval officer, this amendment will torpedo this bill and send it to the bottom of the sea where only Davy Jones could resuscitate it.

To what extent have my colleagues who are proposing this thought about breaking 40 years of precedent of the Senate by sinking the annual authorization bill at a time when the threats facing the United States of America are far more diverse, far more complex than ever before? Is this a precedent in contemporary history; when the men and women of the Armed Forces of the United States are absolutely desperate in terms of pay and benefits to keep them in the jobs as careerists?

Yet we now have one of the lowest reten- tion rates ever. There are no lines of young men and women waiting to volunteer to be recruited. This bill goes a long way. This bill helps with the benefits they rightly deserve. For the first time in the history of the United States of America, we have provisions caring for the medical assistance of the retirees. First time, Mr. President. It is the first time in the history of this
country, and add on the ships and the aircraft.

I read the Constitution of the United States. What are the responsibilities of the Congress as delineated by our Founding Fathers? "To declare War," "To raise and support Armies..." "To provide and maintain a Navy," "To make Rules for the Government and Regulation of the land and naval Forces..." That is what this bill does. That is our constitutional fulfillment.

Yet my colleagues who are proposing this know well this bill is subject to what is known as the blue-slip procedure if it leaves this Chamber with this amendment and goes to the House of Representatives. The House will blue-slip it, and this bill is torpedoed.

I await reply of the sponsors of the amendment to the points I have raised and how it could jeopardize and end the fulfillment of the obligation of the Senate to the Constitution of the United States. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield to no one in my concern for the men and women in the military defense of this Nation. I yield to no one in this body.

I deeply regret that the distinguished chairman of the committee would be part of this red herring which has been raised so Members on both sides of the aisle who oppose disclosure, who have publicly stated time after time they are in favor of full disclosure—I see the Senator from Colorado on the floor.

Senator WAYNE ALLARD stated, in reference to campaign finance reform:

I strongly believe that sunshine is the best disinfectant.

That is from the CONGRESSIONAL RECORD, page 145, Monday, October 18, 1999. He will now be on the floor, I believe, in trying to cover up for that statement. I tell you what, I say to the distinguished chairman. Right now I will ask him to agree to an unanimous consent agreement—right now—that if this provision causes the House, the other body, to blue-slip this, on which they have no grounds to do so, the next appropriate vehicle that the Parliamentarian views is appropriate, this amendment will be made part of. I ask unanimous consent.

Mr. WARNER. I have the floor.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN. I have the floor, Mr. President.

Mr. ALLARD. Will the Senator from Arizona yield to me for a point of order?

Mr. McCAIN. I will not yield to the Senator from Colorado until I have finished my statement. Mr. ALLARD. I just restate the fact that the Senator suggests in some way—

Mr. McCAIN. I have the floor.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. The Senator from Arizona has the floor.

The Senator from Colorado said, on October 18, 1999

I strongly believe that sunshine is the best disinfectant.

Mr. ALLARD. That is correct.

Mr. McCAIN. Concerning campaign finance reform. So if the Senator from Colorado and the Senator from Virginia are basing their objections to this amendment on the grounds that it would harm the Defense authorization bill, then they should have no objection—no objection—to the unanimous consent agreement that this amendment be considered in the next appropriate vehicle by the Parliamentarian.

But instead, the Senator from Virginia is objecting—I take it the Senator from Colorado would object—clearly revealing that the true intentions here have a lot more to do with this amendment than with the defense of this Nation.

So the fact is, on blue slips, all revenue bills must originate in the other House. The precedents of the Senate on pages 1214 and 1215 know eight types of amendments. I ask unanimous consent that this be printed in the RECORD.

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

REVENUE

See also "Constitutionality of Amendments," pp. 52-54, 683-686.

Constitution, Article I, Section 7

Proposal to Raise Revenue

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Bills Raising Revenue Originated in the House

The House on various occasions has returned to the Senate bills which the Senate had passed which the House held violated its prerogatives to originate revenue measures.

The following types of proposals originating in the Senate were returned by the House after the House decided that the Senate's action was an infringement on the House's constitutional privilege with respect to originating revenue legislation.

In each of the eight noted examples in the precedents, it is clear that the Senate was seeking to raise revenue of one sort or another, from increasing postal rates to raising bonds or taxing fuel. This amendment in no way raises any revenue nor does it change in any way the amount of revenue collected by the Treasury pursuant to the Tax Code. It is simply a clarification in what information must be disclosed by entities seeking to claim status under section 527 of the Tax Code.

I say to my friend from Virginia, the American people will see through this. The American people will understand what is being done here—an effort to contravene what literally every Member of this body has said, that we need full disclosure of people who donate to American political campaigns. And if that were not the reason—if that were not the reason—then the Senator from Virginia and the Senator from Colorado would agree to my unanimous consent agreement, which I repeat.

Mr. President, I ask unanimous consent that on the next appropriate vehicle that is viewed appropriate by the Parliamentarian, this amendment be decided on in order for an up-or-down vote with no second-degree amendments.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN. We have just totally disclosed what this is all about. This is not about the defense of the Nation. This is a defense of a corrupt system which, in the view of objective observers, has made a mockery of existing campaign finance laws, which has caused Americans to become alienated from the system.

We were worried about Chinese money in the 1996 elections. Under the
present system of 527, Chinese money, drug money, Mafia money, anybody's money can come into American political campaigns, and there is no reason to disclose it.

So now here we are with 100 Members of the House regarding the constitutionality of the House in the course of resolutions. If this bill goes over, then they adopt a constitutional resolution. We know from consultation with the Senate that there are Members of the House who will absolutely take that resolution to the floor, and there is no doubt that this bill will be blue-slipped, and it will be turgidly referred to the bottom of Davy Jones' locker.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in support of the amendment offered by the Senator from Arizona to require the disclosure of donors to tax-exempt groups who engage in political activities. These groups use an obscure provision of the Tax Code—section 527—to shield the identity of contributors of large undisclosed money in the electoral process. There is no official public information about the number of such groups, who their officers are, where the money is coming from, and how it is being spent.

Section 527 of the Tax Code was enacted to provide candidates, political parties, and PAC's with special tax treatment. These groups are required to register with the Federal Election Commission and disclose contribution and expenditure information.

In recent years, however, the IRS has ruled that organizations which intend to influence the outcome of an election but do not expressly advocate the election of a candidate qualify as a political organization but are not required to file with the FEC. These groups can raise and spend as much money as they want to influence an election, but the public has no information on who or what they are.

This is precisely the sort of activity that makes the political process appear corrupt and undemocratic. The American public is becoming increasingly disenchanted and unhinged in electoral process because they feel their voices are being drowned out by soft money donations to political parties.

In the case of soft money, however, at least the amount of the contribution and the name of the group or person who is making the contribution must be registered with the Federal Election Commission. These groups spend unlimited amounts of money and none of it has to be disclosed. This insidious hijacking of the campaign finance system must be rooted out.

It is a simple fact that the American public believes that large contributions are made to influence decisions being made in Washington. They are becoming increasingly cynical of the process and feel the political system needs reform.

In 1996, voter turnout was 48.8 percent—the lowest level since 1924. Turnout for the 1996 midterm elections was 36 percent—the lowest for a nonpresidential election in 56 years. Congress has a responsibility to take steps to reverse this trend.

The first step should be to require the disclosure of contributors to tax-exempt organizations. The Senate must act to close this loophole and we must do it now. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as my distinguished colleague desires.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. ALLARD. I thank the Senator from Virginia.

Mr. President, I came to the floor to talk about the importance of the authorization of the Department of Defense. This is an important piece of legislation. I am not here to impugn the motives of some of the other Members of the Senate or to try to mischaracterize what their reasons might be for coming to the floor.

This is a good piece of legislation. Senator McCain from Arizona and certain Members in the Senate and I continue to be that. I know he is trying to do what he thinks is best for this country. I respect that. I think we have before us a very important piece of legislation. We should not put it at risk.

This is an authorization bill that increases, by some $4.5 billion, defense spending over what the President proposed. It is a 4.4 percent increase in real terms over what we spent last year. If there is anything we have neglected over the last several years in the budget, it is our defense.

We have been obliging our troops overseas. In fact, if we look at the record, between 1996 and 1992, our troops were deployed some 51 times. Between 1992 and today, we had the same number of deployments. At the same time we are increasing our reliability on our fighting men and women, we are cutting their budget. I think that is inexcusable.

It is time Congress recognized what the problem is that the President of the United States in particular recognizes: We are not appreciating the service of our men and women in the Armed Forces.

With this legislation, we begin to appreciate the dedication and hard work of the men and women who have been serving us in the Armed Forces. Again, I thank Chairman WARNER for allowing me another opportunity to speak in strong support of this essential bill for our men and women in the Armed Forces.

This bill is a fitting tribute for those who served, are serving, and will serve in the armed services in the future.

Between 1992 and today, we had the same number of deployments. At the same time we are increasing our reliability on our fighting men and women, we are cutting their budget. I think that is inexcusable.

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CONGRESSIONAL RECORD — SENATE
June 8, 2000

The fiscal year 2001 Defense Authorization Act is a bipartisan effort. For the second year in a row, we have reversed the downward trend in defense spending by increasing this year’s funding by $4.5 billion over the President’s request for a funding level of $309.8 billion.

As the Strategic Subcommittee chairman, we held four hearings. The first hearing was on our national and theater missile defense programs. The second hearing was on our national security space programs. We had a third hearing, the first congressional hearing on the newly-created and much-needed National Nuclear Security Administration, NNSA, and we had a fourth hearing on the environmental management programs at the Department of Energy.

In response to the needs we have heard during the hearings, the Strategic Subcommittee has a net budget authority increase of $265.7 million above the President’s budget. This includes an increase of $503.3 million to the Department of Defense account and a decrease of $263.3 million to the Department of Energy accounts.

There are two provisions I will highlight and relate to the future of our nuclear forces. The first relates to the great debate we had on Tuesday and Wednesday regarding the amendment by Senator KERREY and the second degree by Senator WARNER. The original proposal requires the Secretary of Defense, in consultation with the Secretary of Energy, to conduct an updated Nuclear Posture Review. It was in 1994 that we had the last Nuclear Posture Review. However, with the adoption of the Warner amendment, there is not in place a mechanism by which the President may waive the START I force level requirements.

The second provision requires the Secretary of Defense, in consultation with the Secretary of Energy, to develop a long-range plan for the sustainment and modernization of U.S. strategic nuclear forces. We are concerned that neither Department had a long-term vision about their current modernization efforts. Both of these provisions are important pieces of the puzzle for the future of our nuclear weapons posture.

A few budget items I will highlight include an increase of $92.4 million for the missile defense program; a $225 million increase for an environmental management program at the Nuclear Regulator Commission; an increase of $220 million for the Department of Energy’s environmental management account; a decrease of $1 billion for the Department of Energy’s national security space programs; and an extra $8 million for the Arrow system improvement program.

In the Department of Energy’s environmental management account, we decrease the authorization by $132 million. However, I will stress that this bill still increases the environmental management account by more than $250 million over last year’s appropriated authority.

Again, I will mention a few important highlights of the authorization bill outside of the Strategic Subcommittee. There are many significant improvements to the TRICARE program for military beneficiaries. The bill includes a comprehensive retail and national mail order pharmacy program for eligible beneficiaries, no enrollment fees or deductible, resulting in the first medical entitlement for the military Medicare-eligible population.

I am very happy with the extensions and expansions of the Medicare subvention program to major medical centers and the number of sites for the Federal Employees Health Benefits Program. On Tuesday, the Senate, by a vote of 96-1, supported Warner-Hutchinson, which eliminated the law that forced military retirees out of the military health care system when they became eligible for Medicare. Now they have all the rights and benefits of any other retiree.

With regard to the workers at the Department of Energy, we provide employee incentives for retention and separation of Federal employees at closure project facilities. These incentives and are needed in order to mitigate the anticipated high attrition rate of certain Federal employees with critical skills. Just today, we accepted a very important amendment which established an employee compensation initiative for Department of Energy employees who were injured as a result of their employment at Department of Energy sites.

As the Strategic Committee chairman, I believe this bill is the only vehicle to provide incentives for these workers and their families. I think that is very important. This bill is the only vehicle to provide such initiative for those workers and their families who work at the Department of Energy sites.

On Tuesday, this bill added an additional piece of funding for a memorial which should have already been built. The amendment added $6 million for the World War II memorial. I will include for the record a copy of the opinion editorial I wrote concerning the World War II memorial. I ask unanimous consent that that be printed in the RECORD.

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

TIME HAS COME TO HONOR THE “GREATEST GENERATION” WITH A GREAT MEMORIAL

(By Senator Wayne Allard)

June 6 marked the 56th Anniversary of D-Day, the greatest battle fought by what has become known as the “greatest generation”—the men and women who served our country in World War II.

Although it might seem incredible, there is no national monument to recognize those who served our country in Second World War. The Iwo Jima sculpture near Arlington is something of that distinction, but it actually commerates the Marine Corps alone. There has long been an effort to build something to serve as a point dedicated to the memory of what our entire country and its armed forces went through—the memory of what was lost and of what was won—and this project is finally nearing the completion stage.

I had the honor of listening to former U.S. Senator Bob Dole recently talk about his life time in the Congress and during World War II. To the many roles this undeniably great man has had over the years—Senate Majority Leader, president pro tempore of the Senate, chairman of the Senate Republican Conference, and W.W.II platoon leader—he has added fundraiser for the national World War II Memorial. As we remember those who sacrificed to make D-Day a success, I think it is entirely appropriate to pass along his request to me for support from my fellow Coloradans in raising the needed funds to complete this meaningful memorial.

Construction on the memorial is scheduled to begin soon on the National Mall in a powerful location between the Washington Monument and Lincoln Memorial. Veterans Day, 2000. But the $10 million goal has still not quite been reached, and that money needs to be raised to complete the memorial presently.

The memorial was conceived to be privately supported. This is how many other monuments that line the Washington Mall—the Vietnam and Korean War memorial, and the Washington and Lincoln memorials, for instance—were financed. The government took support in the form of land and will contribute operation and maintenance requirements as well, but the remaining funding still needs to be found.

The preliminary design features a lowered plaza surrounding a pool. The amphitheater-like entrance will be flanked by two large American flags. Within two granite arches at the north and south ends of the plaza, bronze American eagles hold laurels memorializing the victory of the W.W.II generation. Fifty-six stone pillars surrounding the plaza represent the 48 states and 8 territories that comprised the U.S. during W.W.II; collectively, they symbolize the unit and strength of our collective group.

If we look closely, everyone of us knows someone who served our country during World War II. Be it a father, uncle, brother, sister, neighbor or friend, I encourage you to contribute to this cause in their honor. It is time the “great generation” had a great memorial to honor their sacrifice and service to our country.

Information on the project can be obtained through the National World War II Memorial, 2300 Clarendon Blvd., Suite 501 Arlington, VA 22201, or on the Internet at wwwwwii.com and 1-800-639-4MW2.

Mr. ALLARD. Finally, I want to mention my strong support for the Smith amendment, of which I am a co-sponsor. This amendment would prohibit the granting of any clearances for DOD or contractor employees who have been convicted and sentenced for a felony, an unlawful user or addict to any controlled substance, and any other criteria. To be brief, our U.S. national security is too important to risk granting clearances to felons. We are all concerned about personal rights, but when it comes to security issues, these must override all others.
Mr. President, I thank Chairman Warner for the opportunity to point out some of the highlights in the bill which the Strategic Subcommittee has oversight of and to congratulate him and Senator Levin for the bipartisan way that this bill was developed. I ask all Senators to strongly support S-2549. One of Congress’s main responsibilities is to provide for the common defense of the United States. I am proud of what this bill provides for our men and women in uniform.

We must not be blinded by political motives when it comes to our men and women in the armed services. All of the issues that come before the Senate are critical, but I hope that when it comes to this bill, we will remember why we are doing this. This bill is not for us and our political goals, but for our young men and women in the armed services.

I see this bill as a tribute to the dedication and hard work of these young men and women—the same men and women I had the opportunity to visit a few weeks ago on the U.S.S. Enterprise.

At this time, I ask unanimous consent to extend the time regarding that visit and dedication be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

**ARMED FORCES DAY 2000—A TRIBUTE TO OUR MEN AND WOMEN IN UNIFORM**

(By U.S. Senator Wayne Allard)

Saturday, May 20th was Armed Forces Day and I can think of no better time to honor these heroes in the United States military. The millions of active-duty personnel who have so unselfishly dedicated their lives to protecting freedom deserve the highest degree of respect and a day of honor.

I recently had the privilege of being initiated to tour the U.S.S. Enterprise during a training mission off the Florida coast. My experience aboard Enterprise reminded me of the awesome power and strength of the United States Navy. But more importantly it reminded me of the hard work and sacrifice of the men and women serving in our armed forces.

The U.S. Enterprise was commissioned on Sept. 24, 1960 and was the world’s first nuclear-powered aircraft carrier. This incredible ship is the largest carrier in the Naval fleet at 1,123 feet long and 250 feet high. While walking along the 4.47 acre flight deck with Captain James A. Winnefeld, Jr., Commanding Officer, it was amazing to learn that “The Big E” remains the fastest combatant in the world.

Spending two days touring the Enterprise showed me what a hard working and knowledgeable military force we have. As I moved through the ship I was greeted with enthusiasm by the men and women of the enterprise, whom are between 18 and 24 years old. These young adults are charged with maintaining and operating the largest air craft carrier in the world—multi million dollar airplanes as they land on a floating runway. I was in awe of these men and women who work harder and have more responsibility than most do in a lifetime.

“The Big E” is a ship that never sleeps, it operates twenty four hours a day, a seven days a week. I watched as a handful of tired pilots sat down for “dinner” at 10:30 p.m. on a Sunday night. Hungry and tired, they wanted it no other way. I had the privileged of meeting Capt. Farrell from the arresting gear, honoring the ‘Sailor of the Day,’ Machinist Mate 1st Class Michael Gibbons, for spending three conservative days repairing the main condensation pump which is critical to the propulsion plant, taking only a few 30 minutes breaks to sleep. I witnessed the same degree of commitment in a separate part of the ship as Aviation Boatswain’s Mate Class Andre Farrell showed me how the cables on the flight deck operate and are maintained below. His task for the past two days was to replace the metal attachment which holds one of the four arresting tailhook cables together and his voice was filled with pride as explained the entire 8 hours process. Between giving orders to his crew, he pointed out a few tiny air bulles that formed during the cooling process of the metal attaches. Although he started his shift at 4:30 a.m. and probably won’t sleep for the next 24 hours, he smiles and tells me it will be redone, that it must be perfect—lives of our pilots are at stake. If it is not, the amazing thing is, they all do it with a smile.

When I think about Armed Forces Day, I think about two events I experienced on the Enterprise. First, the sailors from across Colorado who has down for breakfast with me in the enlisted mess hall, who gleamed with pride for the job they do and the important role they play in our nation’s defense.

In Second, was the “Town Hall meeting” I held, where I responded to questions and concerns ranging from military health care to social Security, from members of the crew. These one on one interactions were extremely valuable to me and I learned as much from these events as the crew did.

I have never heard a more dedicated or hard working group of people than the draw of the U.S.S. Enterprise. It makes me proud when I realize that the “Big E” crew is representative of the millions of American military personnel throughout the World. Nevermind that many of them could be paid more money for less work work in a civilian job, may not get eight hours sleep each night or see their for weeks at the time—they have those sacrifices for the country they love.

I hope that all of you can join me in using Armed Forces Day to thank those who are serving in the best military force in the world.

Mr. ALLARD. Mr. President, I ask for a strong and forceful response in order to get the much needed and well-deserved resources to our military personnel.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator Reid of Rhode Island be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. FEINGOLD. Mr. President, I yield 8 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. Mr. President, I recognize Mr. Lieberman.

Mr. LIEBERMAN. I thank the Chair and my friend from Wisconsin. I ask unanimous consent that Senator Feinstein of California be added as a cosponsor of the amendment.

Mr. LIEBERMAN. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, we have watched the steady deterioration of the vitality of our democracy under assault not from the kinds of foreign enemies that the Department of Defense authorization bill is aimed at protecting us against, but in some sense, an assault from ourselves. We have allowed our political system—particularly this Watergate reforms that were adopted to put limits on how much people could give to campaigns, to require full disclosure of those contributions—to be eroded, eroded, made a mockery of. The result is that the average person can’t know who is paying for them, how much, to what political organizations? Who is coming in to try to influence the sacred right of voting—the franchise that is at the heart of our democracy? I had hoped that this amendment, which is reasonable,
moderate, and only invoking the ideal of the right to know, would not evoke controversy on the floor.

So I am disappointed at the response today and disappointed particularly that it comes from those who apparently disdained the amendment. I understand this question of an objection—the so-called blue-slip objection being raised in the House because, technically—though really in a very minimal way, if at all—this may affect revenue. It is about political freedom, about electoral reform, about disclosure to the public. It is hardly at all, if at all, a revenue measure.

I understand the fear that if this amendment passes it may be objected to in the House, and as my distinguished chairman from Virginia, who I dearly love and respect, said before, it could sink this bill, which I enthusiastically support, to the bottom of the ocean, such that hardly Davy’s ones could rescue it. Here is my response to that, respectfully: I hope not. I say that this amendment is so important and gives us such a unique opportunity in the recent history of this body to come up, this one party line, to do something in the direction of campaign finance reform that it is worth putting it on the bill. I say, as one of the proponents of this amendment, that if, in fact, the fears expressed here are realized, it is in the House the bill is blue-slipped, objected to on constitutional grounds that it is a revenue-raising measure and should start in the House, then we can do what has been done with many bills, including the DOD authorization bills, in past years—bring it back here under unanimous consent. Who would object to bringing it back? Take this amendment off, send the bill back, and play the role.

They may continue referring to the metaphor of Davy J ones rescuing the bill, but let’s not, on a technical basis, miss the opportunity to take one significant step to defend our democracy against the forces of unlimited, secret cash that are corrupting it and distorting millions of our fellow citizens from the process itself.

Mr. President, how much time remains on the time yielded to me?

The PRESIDING OFFICER. The Senator has 1 minute of his 8 minutes.

Mr. LIEBERMAN. I thank the Chair. Some may ask why disclosure is so important. Well, the Supreme Court has spoken of the appearance of corruption. Here, there is the profound suspicion of corruption; but without information, we don’t even have the ability to know whether there is corruption, let alone to have the appearance of corruption. There is a demand for the disclosure of secret money, perhaps not even American money, raised by elected officials, raised by left-leaning, right-leaning ideological groups, by political groups, and trade and economic groups, do nothing but undermine our system. The least that we can ask is for disclosure.

Mr. President, I appeal to my colleagues, let’s break the reflex action and let’s rise to the moment. Let’s do something correct and courageous here. Let’s adopt this amendment and agree together, arm in arm, that if the House refuses to take the bill with this amendment on it, we will strip it off and put it on Davy’s vehicle, having spoken for this amendment to attach this principle and to advance the health and vitality of our democracy. No less than that is at stake here.

I yield the floor.

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

Mr. WARNER. Mr. President, I would like to ask a question of my colleague. I will charge the time of the entire colloquy to that under my control.

As always, the Senator from Connecticut is fair and straightforward, and clearly in his dissertation to the Senate he said, yes, there is a vestige that this blue-slip procedure could send it to the bottom to Davy J ones’ Lockyer, which I accept. I read the Descher’s House Precedents, which is the “bible” that guides the House.

This is fascinating. Listen to the title: “Invasion of House Jurisdiction or Prerogatives.”

Isn’t that interesting? Invasion of the House prerogative to originate revenue-raising legislation granted by article I, section 7 of the Constitution raises a question of privilege of the House.

I have studied this very carefully. Once that question of privilege is raised, the Senate is left to their interpretation.

Colleagues are clearly putting forward this amendment with the best of intentions. I said I would support the amendment in any other venue but this. It does raise it, and the House will not allow it. I can recite dozens of precedents. A year or two ago, they sent a blue slip to us on S. 4, the thrift savings accounts for sailors, soldiers, and marines.

I am saying to my dear friend: Why should we take the risk, given the few legislative days left, and given all the work? It is interesting. Our committee had 50 committee hearings and 11 markup sessions. That is a year’s work by 20-plus members of our committee and by the staff, paid for by the Senate, out of taxpayers’ funds. All of that is for naught if this bill goes down. It would be the first time in 40 years.

I say to my colleagues: No matter how strongly you feel about the merits of this bill, consider our own constitutional responsibility to provide under the Constitution for the men and women of the Armed Forces.

I say to my colleague: I would like to know what his reasoning is to take this risk. The Senator from Connecticut is not known as a risk taker.

Mr. LIEBERMAN. Mr. President, I will not respond to the description of the Senator from Connecticut. But let me say, if there is a risk, there is a risk that has a remedy. The reason the Senator from Connecticut is prepared to take the risk is the balance of equities involved and the balance of interests involved.

I am so incensed by the proliferation. We are using military terms, quite appropriately, on this campaign finance amendment. I note the House chose to use appropriately a militaristic term—“invasion”—when talking about their privileges.

But our democracy is so much under threat from the corrosive spread of money in our system that I think we need an opportunity here to get together to pass this amendment and make the statement; in other words, a procedural vote on this. My dear friend and chairman in the House on this very matter on another bill a week or so ago fell short of passage on a motion to recommit, I believe, by barely 10 votes.

I am not prepared to make a judgment about how the House will vote on this matter. But I think we have a chance to speak and pledge to the Senator from Virginia, the distinguished chairman of the Armed Services Committee, under whose leadership this committee on which I am honored to serve had a very busy and productive year resulting in this bill, I can’t imagine that any Member of this Chamber would deny a unanimous consent request. If, in fact, the House saw this as an invasion of their privilege and stopped the Department of Defense authorization bill, we would come back here and take this amendment off, and find another vehicle for it.

I appeal to my chairman just finally on this point. I appreciate very much his statement that he supports the substance of the amendment. If he proceeds on the course of a constitutional objection based on House prerogatives, I appeal to him to find a way to join with us, since we agree on the merits of this amendment, to get a guarantee that the Senate will be able to speak as soon and as clearly as possible on the next available bill to at least require disclosure of contributions and sources of contributions to these 527 PACs.

Mr. WARNER. Mr. President, I thank my colleague. When I regain the floor later I will talk about how long 527 has been around. The Senator from Connecticut sounds as if it has just come around. The Senator from Connecticut is fair and straightforward, and has had 50 committee hearings and 11 markup sessions. That is a year’s work by 20-plus members of our committee and by the staff, paid for by the Senate, out of taxpayers’ funds. All of that is for naught if this bill goes down. It would be the first time in 40 years.

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June 8, 2000

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holds up well under hostile fire and keeps his ship on course.

If anyone needs to be reminded, this is a debate supposedly about the bill to fund the operation of our armed services. It is a good bill for our military. It does pretty much everything we would like, but it certainly makes a vast improvement over what we have been doing.

I rise to show support for that bill. As a member of the committee, I helped to write it, and also to show support for my chairman who has endured some hostile fire, I think, unfairly.

During the recess last week, the Members had the opportunity to remember those who fought for the freedom that we enjoy in this Nation, and remember those who paid the ultimate price in giving their lives. That was the Memorial Day recess.

I think in deference to those and to those who now serve us, I think we ought to stay focused, as the chairman has tried to do here, on the issue at hand. This is not a debate about campaign finance, nor should it be. We owe it to the soldiers, sailors, and airmen who serve today, who will serve in the future, and to those who have already served, to get this bill passed, and to do so quickly.

I think we should be reminded that this bill authorizes over $300 billion in defense spending—a 4.4-percent real increase—reversing some 14 years of neglect.

You can go down the list: But aircraft, helicopters, submarines, surface ships, many other weapons systems, and missile defense, on and on—no to mention addressing some real critical needs in readiness.

The bill adds about $1.5 billion for key programs in readiness, including ammunition, spare parts, maintenance, operation, and training. This is very important.

I think it is below the dignity of those who have served and will serve and who are serving to reduce this debate to something other than what the issue is at hand. That is what disturbs me.

I understand and fully respect the right of any colleague to offer an amendment that is within the rules, and I respect it. But I also don't think it is good judgment to do it.

This bill is going to modernize our forces. It will allow us to develop the technologies that we need to address the threats that we face in the coming century in areas such as missile defense.

My colleague, Senator ALLARD, who chairs the subcommittee I used to chair on strategic forces, has done an outstanding job in addressing that, as have so many of my other colleagues. This will allow us to address the quality of life of our service men and women and their families. There is a 3.7-percent pay increase in this bill.

I am not commenting on the importance or lack of importance of the other issues that we debate here. But it is not the appropriate place to do it. Is it within the rules of the Senate to do it? Yes. In that sense, I suppose you can say it is appropriate. But is it the right thing to do on a military budget and on the defense budget of the United States? I don't think so. I think it does not do justice to those who might delay the passage of this legislation, to refrain from the debate and argument over what we have been doing.

I will highlight a couple of other things. As chairman of the Environment and Public Works Committee, I believe this bill has $1.27 billion for environment restoration. I thank the chairman for his outstanding leadership in putting this together, as well as Senator LEVIN.

The bill also authorizes additional funds for programs important to New Hampshire and the Nation. These programs address unfunded military requirements, continue or enhance current promising Department of Defense programs, or support the technology base needed for future military systems. Inclusion of these additional funds is testament to the technical expertise and successful competition for DOD contracts of defense companies and institutions in my home State of New Hampshire.

In addition to authorizing a $350 million increase for important missile defense programs that I support, this bill provides important funds that the President neglected in his budget that are important for the U.S. to maintain its leadership in military space power. It authorizes $25 million for the Kinetic Energy Anti-Satellite (KE-ASAT) program that will provide a last-resort "hard-kill" capability for the U.S. to protect our troops from enemy surveillance. It authorizes an additional $15 million for the Space Maneuver Vehicle to leverage the NASA X-37 investment in an area that also holds great promise for military applications. It also authorizes an additional $12 million for micro-satellite technology that demonstrates key future space-control concepts.

The bill also pays a fitting tribute to our former President Ronald Reagan and his vision for our nation's missile defense by renaming the Kwajalien missile test range in his honor—a facility we use to test and refine our missile defense concepts making an NMD deployment possible today.

Finally, it includes additional tasks for the Space Commission which is just getting started not only to assess the organizational and managerial changes needed to ensure U.S. space power in the years ahead but also address the cultural issues in the military that dampen our ability to become a true space power.

I will mention one other item before I yield the floor. I have an amendment that has yet been voted on that I will highlight for a minute. The amendment was modeled on the restrictions which have been placed on gun ownership. It says if you are a felon, you don't get a security clearance. That is the essence of it. It is pretty interesting that we are in this situation.

My amendment, which, hopefully, will be added to the bill, prohibits security clearances for persons actually sentenced to over a year—in essence, a felon. If you plead, bargain down a sentence to a year in prison, you can still never own a firearm but you could, without my amendment, get a security clearance.

I hope we will pass my amendment. I look forward to a vote on that amendment. If it is accepted, that will be fine. If it is not accepted, I look forward to the vote.

I urge my colleagues to support this legislation, to refrain from the debate that might delay the passage of this legislation, and send a message to our troops that we care about them, we are ready to help their readiness, we are ready to help with the new weapon systems they need, and we are ready to give them the pay raise they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent that Senators DURBIN, BRYAN, and BOXER be added as cosponsors to the amendment.

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

Mr. FEINGOLD. I yield to the Senator from New Jersey.

Mr. TORRILE. Mr. President, I state my regret over the position in which we find ourselves with Senator WARNER. There is no one in this institution more committed to the Armed Forces. His legislation deserves being supported.

Finally, I believe this amendment has become a complication. However, it is a necessity. This is an extraordinary moment in the national political process. Make no mistake, if this Senate fails to deal...
with the problem of 527 organizations and their influence in the American political process, what little remains of campaign finance laws in this Nation will collapse before our eyes. The Justice Department may be investigating contributions and the media may be discussing soft money, but the Members of the Senate know that the newest and largest challenge to the integrity of the American political financial system are the 527 organizations. It would be difficult for most even the staunchest supporters of these organizations to argue that these organizations are acting in the spirit of what campaign finance laws are supposed to be. Rather, it is a complex and coordinated set of organizations that are attempting to influence the political process. This is not a new problem. In 1996, $67 million was introduced to the American political systems through these organizations; 2 years ago, it was $250 million. It could easily be hundreds of millions of dollars in the ensuing months if the Senate does not act.

It is a contradiction with everything this Congress on a bipartisan basis has attempted to do to preserve some integrity in the American financial political system in the last 30 years. The donors to these organizations are secret. They are not necessarily American. They use tax deductions. They distort the national political debate. Everything they are doing is legal. That burden falls on us.

Some of these organizations may not be organizations at all. It could be a single individual writing $1 million or a multimillion-dollar check in the guise of an organization. Compounding the problem, adding insult to injury, they are reducing it from their taxes. Only a few days ago, in the State of New Jersey, two Republican primaries were influenced by these organizations. Candidates were campaigning, raising funds, gaining support, and these organizations were donors in their advertising campaigns. Not a single voter knew who they were, where they came from, what the moneys were about. They only heard the advertisements.

In some respects, this is not a policy question; it is a law enforcement problem. If these organizations coordinate with candidates and their campaigns, it already violates laws. It is incumbent upon the Justice Department to investigate them and prosecute them if necessary in the American financial political system for 30 years. That burden falls on us.

I regret the difficulty this causes for Senator WARNER on this very important piece of legislation. His constitutional argument may be sound regarding the reaction of the House of Representatives and the Senate, but if it is not acting are enormous. As chairman of the Democratic Senatorial Campaign Committee, I have urged every Democratic senatorial candidate in the Nation not to engage in this practice of 527s, not to coordinate with them, because it is unethical and it is illegal—denounce them.

If we have learned anything by the soft money example and other exceptions to the prevailing campaign finance laws, it is when a precedent is established and a campaign expenditure enters the political culture, it expands exponentially. This may be our last opportunity before the 2000 elections to close this new avenue through large, unregulated, undisclosed political contributions.

Make no mistake, if we fail to do so, we do not simply invite the abuses of the last few elections, we may create a political system where we return to the type of campaigns before Watergate, where no one knew where the money was coming from, who was providing it, and what was being spent. What little remains of this campaign finance law will collapse before our eyes, not in future years, but in future weeks. This Senate has failed to agree upon comprehensive campaign finance reform. While I regret that failure, I at least understand it. There are legitimate competing arguments, differences in philosophy and politics.

There can be no legitimate differences on outlawing these undisclosed, unregulated, 527 organizations. This should be bipartisan and it should be a deep commitment upon which we act immediately.

I am proud to join with Senator LIEBERMAN in his amendment as a sponsor. I urge the Senate to act before it is too late. The consequences of inaction are enormous, and reconstituting this system, if indeed these organizations proliferate in the ensuing months, will be extremely difficult to impossible. I urge the Senate to act.

I thank the distinguished Senator from Wisconsin on this issue and for his support for our amendment.

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

The Senator from Virginia.

Mr. WARNER. Mr. President, I yield 5 minutes to my distinguished colleague from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I regret we are doing this today. I can only say we must do the best we can, but if you wanted to do away with 527s for everybody and not leave anybody out, I would do it and do it in a heartbeat. But not on this bill. Everybody knows the consequences of putting something such as this on this bill. I hope in this very brief period of time—I was hoping to have more time—to at least address how significant this thing really is and what we are talking about.

Mr. President, I have said this since 1995. The concern is that the greatest threat it has faced in its entire history. But it is not just me saying this. Now we have George Tenet, who is the Director of Central Intelligence and an appointee of President Clinton, agreeing, in my committee, that we as a Nation are in the most threatened position we have been in in the history of America. So we need to turn this thing around. This is the first year in 14 years we are able to start turning the corner and rebuilding a deteriorated system.

At the National Training Center-Ft Irwin, units coming to the NTC today have not had enough time to train at the same stations to allow them to maximize the training opportunities. This means that the units are leaving the NTC less proficient than those who went thru the rotations in previous years.

At Ft. Bragg, according to the base commander, O&M funds have never been so tight. Commanders are being forced to make choices and trade-offs that their predecessors never faced. Insufficient Base-Ops funding has forced commanders to rob accounts. Insufficient RPM funding has resulted in the degradation of facilities in which the military personnel work and live.

Maintenance on barracks is so bad that every time it rains, one building leaks into the rooms where the troops sleep, and even into the armory where their weapons are stored which damages those weapons.

At the Norfolk Naval Base, the Navy is experiencing an increase in the cross deck of equipment and munitions as less modern systems are available to outfit all the hulls. In addition, supplies and spare parts are insufficient to support the training of the Navy to meet its 2 MTW requirements.

Insufficient steaming days and flying hours are amongst the biggest readiness concerns within some Navy units. At the San Diego Naval Base, on average, 20 percent of the deployed planes on the carriers are grounded awaiting parts or other maintenance requirements. Furthermore, the cannibalization of aircraft has gone up by 15% over the last three carrier deployments.

There have been notable reductions in the mission capability and the full mission capability rates of Naval aircraft over the past 4 years. This is true for the deployed and the non-deployed squadrons.

At the Nellis Air Force Base, reduction in Red Flag exercises from 6 to 4 means that fewer pilots can participate in Red Flag exercises. The new Air Force pilots thru Nellis once every 18 months vs. once every year. The high OPTEMPO of the forces—deployments are up fourfold while the force is down by a third—has been the principle reason for the reduction in the NH-11B.

Regarding Marine Corps Air Ground Combat Center-29 Palms, conditions at 29 Palms and the Marine Corps in general: money is low; ammo is short; and spare parts are scarce. The level of training and readiness has diminished, it is not what it was in Desert Storm.

At Camp Lejune, modernization delays have a serious readiness impact.
Equipment is more costly to maintain, less capable, and spare parts cannot always be obtained. In particular, the CH-46 is wearing thin. Some replacement parts are no longer available. One Marine officer estimated that if a Gulf War size operation were to deploy today, only about 50 percent of Marine units would be qualified to deploy. I can tell you, the problems are in all of these areas. We have retention problems because we do not have adequate accoutrements. The various military installations are taking money out of one account and putting it in another account. So at Fort Bragg, for example, they have not been able to maintain their barracks. When it rains, the troops have to lie down on the equipment to keep it from rusting. We have a crisis in terms of cross-decking at Norfolk as well as on the west coast.

So we have very serious problems, and these problems can only be met with this bill. I will just quote one thing out of the DOD Quarterly Readiness Report:

Readiness deficiencies are most readily visible in the late deploying, non-deploying forces, some forward deployed and first-flight-forces are also experiencing these difficulties.

What they are saying is, for several years we have been able to take all our assets and concentrate them in areas that are behind the lines in favor of the forward deployed. Now even the forward deployed are having a problem.

I can remember in our committee, the one I chair, the Readiness Subcommittee, we had the four chiefs in there. I asked them the question: if you were going to have to take a reduction somewhere to increase your modernization or some other accounts, would it be in force strength, modernization, quality of life, and so forth?

Up until a couple years ago, the Marines would always say "quality of life, because the Marines don't need quality of life." Now we are not even hearing that because the ones that are facing a crisis at a time when this country is in the most vulnerable position in which it has ever been.

I think we should really be looking at the overall picture and the fact we have something very serious going on right now. We need to address it with this bill. This defense authorization bill turns the corner for the first time in 14 years. It is being held hostage right now on a matter that has nothing to do with defending America.

Mr. President, I think we need to get on with the bill and away from extraneous, nongermane amendments.

The PRESIDING OFFICER. Who yields the floor to the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to my friend from Virginia, he is entirely correct. This is the wrong place for this amendment. But for the record, I want to make sure that no one will ever be persuaded that the fact that this is the wrong place for this amendment is enough to vote against it, I think it is important to understand that this is a rather limited disclosure amendment. Among the groups that are not covered in the 527 amendment the Senator from Virginia and others have been discussing are groups such as the Sierra Club and the AFL-CIO.

Mr. WARNER. Mr. President, let's clarify this. The Senator is talking about the McCain amendment now.

Mr. MCCONNELL. I am, indeed. I am talking about the McCain amendment. The Senator from Virginia was making the point that even if it were otherwise a desirable thing to do, this is the wrong place to do it and runs the risk of having this bill blue-slipped in the House.

On the substance of the McCain issue, virtually everybody in the Senate is in favor of enhanced disclosure, greater disclosure. That is hardly a controversial subject. But to single out 527's only, I would say to my colleagues—let's single out 527's only leaves out such groups as the Sierra Club and the AFL-CIO, which do not operate under section 527.

I have long believed we ought to have broad, comprehensive disclosure. I would be in favor of addressing this issue this year. But we ought to do it in a comprehensive way, I say to my friend from Virginia, not leave out some of the major players on the American political scene, many of whom are on the airwaves right now, beating up Republican candidates for the Senate.

From the more comprehensive approach, it is my understanding the Senator from Virginia may well have an alternative to offer that would give all of us an opportunity to go on record in favor of enhanced, comprehensive, across-the-board disclosure provision that would not eliminate some of the principal players on the American political scene—ironically, most of whom are hostile to Republicans.

Mr. WARNER. Mr. President, I wish to inform all Senators I have submitted an amendment to the desk. I cannot bring it up as a second-degree amendment at this point in time, but I have submitted the following amendment. I represent, as manager of this bill, at the first opportunity when this bill resumes, I will put this amendment on. I read it:

(Purpose: To express the sense of the Senate that all tax-exempt organizations engaging in political campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should be held to the same standard and required to make meaningful public disclosure of their activities.)

At the appropriate place, insert the following:

SEC. 2. SENSE OF THE SENATE REGARDING DISCLOSURES BY TAX-EXEMPT ORGANIZATIONS.

(a) FINDINGS.—The Senate finds that—

(1) disclosure of political campaign activities is among the most important political reforms;

(2) disclosure of political campaign activities enables citizens to make informed decisions about the political process; and

(3) certain tax-exempt organizations, including organizations organized under section 527 of the Internal Revenue Code of 1986, are not presently required to make meaningful public disclosures.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all tax-exempt organizations engaging in political campaign activities, including organizations organized under section 527 of the Internal Revenue Code of 1986, should be held to the same standard and required to make meaningful public disclosure of their activities.

That will be before the Senate hopefully before the day is out.

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

Mr. WARNER. Yes.

Mr. MCCAIN. I ask what force of law that sense-of-the-Senate amendment will have and what the prospects are that these organizations that are currently engaged in these activities will be motivated by a sense-of-the-Senate amendment.

Also, will the Senator from Virginia be willing to add to that sense-of-the-Senate amendment that on the next appropriate vehicle, as deemed appropriate by the Parliamentarian, the McCain-Feingold-Lieberman amendment be made in order for a vote with no second-degree amendment?

I ask that question because we clearly know that, without the force of law, there is no way these people are going to comply. I am sure the Senator from Virginia understands and appreciates that.

My question is, Will the Senator be willing to modify his sense-of-the-Senate amendment to make it in order
Mr. LEVIN. Mr. President, the section 527 loophole is driving elections and their financing deeper and deeper into the muck. We cannot stand by with the values we hold as Americans and watch elections driven deeper and deeper into the muck. That is what is happening with this 527 loophole. It is tearing this system to shreds. The soft money loophole has already cut a huge hole in the campaign finance system. This section 527 loophole just simply tears this system to shreds. It allows unlimited contributions and, even worse than the soft money loophole, it allows undisclosed unlimited contributions, stealth contributions, and the press reports already tens of millions of dollars of these contributions are totally off the campaign finance radar screen.

The only way people can use this is by trying to take inconsistent positions on two laws. The Internal Revenue Code defines an organization subject to tax exemption under section 527 as an organization which influences or attempts to influence the election of any individual to any Federal office. That seems pretty clear. The Federal Election Campaign Act defines a political committee which is subject to regulation by the FEC as one which is a political committee which is an organization that spends or receives money for the purpose of influencing any election for Federal office.

People are creating these 527 organizations because, and only because, they influence or attempt to influence an election. That is why they are exempt but then ignore the FEC’s requirements that people who organize for the purpose of influencing an election have to disclose. We cannot in good conscience stand by and permit this process, this charade, which is doing so much damage to the public, to continue. On this section 527 loophole question, first, the Senate should not agree to a House interpretation which something like this is a revenue raiser when it is not a revenue raiser. We should not simply accede to that. No. 1. That is a broad interpretation which the House uses to have a larger prerogative than the Constitution provides.

Secondly, we do not know that there is going to be a blue slip. We do not know that. The House, I believe, has to adopt a position. This is something which they adopt some meaningful disclosure of activity, is meaningless, not meaningful. We should not stand by and permit this charade to go on any longer.

While we do not know the universe of these organizations, because they do not even have to register with the Internal Revenue Service, we do know that this is a bipartisan problem that requires and deserves a bipartisan solution.

Section 527 was created by Congress in the 1970s to provide a category of tax exempt organizations for political parties and political committees. While contributions to a political party or political committee are not tax deductible, Congress did provide for a tax exemption for money contributed and spent on political activities by an organization created for the purpose of influencing elections. At the time Congress established the tax exemption, it assumed that such organizations would be filing with the FEC under the campaign finance laws for the obvious reason that the language for both coverage by the IRS and coverage by the FEC were the same—‘influencing an election’—an election as assumed that section 527 did not need to require disclosure with the IRS, since the FEC disclosure was considerably more complete.

The amendment before us would require section 527 organizations to file a tax return, something they are not required to do now, and disclose the basic information about their organization as well as their contributors over $200. On January 1 of this year, the staff of the Joint Committee on Taxation released a study of the Disclosure Provisions Relating to Tax-Exempt Organizations. In that study, the bipartisan staff addressed section 527 organizations, and the JCT staff recommended the adoption of an amendment section 527 similar to the language we now have before us. The JCT staff specifically recommended:

1. That 527 organizations be required to “disclose information relating to their activities to the public.”
2. And that 527 organizations “be required to file an annual return even if the organizations do not have taxable income and that the annual return should be expanded to include more information regarding the activities of the organization.

The JCT report said, “This recommendation is consistent with the recommendation that all tax returns relating to tax-exempt organizations should be disclaimable.

As the 2000 campaign evolves that we get closer to November, the American public is going to be seeing the consequences—the real life consequences of this loophole in our campaign finance laws. Candidates and both parties are going to be hit with ads by groups with names that sound like civic organizations but which in reality are nothing more than well-financed political opponents whose sole purpose is to influence an election. But the public will not be able to determine who the people behind the organizational name. It could be one person, one union, one corporation, or an association of unions, interest groups, or corporations. An organization with a name like Citizens for Safety could have as its sole contributor a leader of organized crime. We would never know. The examples are endless.

I urge my colleagues to support this amendment. Unfortunately, it does not stop the unlimited aspect of these secret contributions, but it does bring these contributions out in the open.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I strongly oppose this amendment for two reasons: No. 1, on its substance. If everyone is concerned about the damage to the political system and the damage to the public and the violation of things in which we believe, of organizations using unlimited contributions, the President should then cover those people who do it. If my colleagues are only concerned about certain political groups and not concerned about other political groups
that may happen to favor their political position, then this is all about politics and not about reform.

Let's be clear. This is a rifle shot on this bill. This does not cover labor unions, this does not cover the Sierra Club, this does not cover trial lawyers, all of which are the major funders of the other side of the aisle. I am one of those Senators up for re-election who is going to be at the butt end of the expenditures of those very same groups, so no one will be outraged by the “damage to the public,” these groups do. They are only concerned about the damage to the public that groups that do not favor them do. We heard so much: We need to talk honestly with the public. We are killing the American political process by picking winners and losers. At this point, the second reason I oppose this bill is because we are killing the Defense authorization.

So we have two losers here. We have the political process—the big loser—because here we are in Congress picking winners and losers. And the second, we have the authorization process, which I, as a subcommittee chairman, and like my colleague from Arkansas, a subcommittee chairman, we put a lot of time and effort into this bill because we understand, as the chairman of the Readiness Subcommittee, Jim Inhofe, said, we put in a lot of effort trying to craft a bipartisan bill.

We don't have too many coming to the floor these days. It is a bipartisan bill. I have worked with my ranking member, Joe Lieberman. We have worked together in concert to put together a bill we can all support—and we all did support in committee—that really meets the needs of our military, that does not make the critical issues we had in our subcommittee. We had to deal with the transformation of the Army. I know everybody in this Chamber is concerned about how we transform the Army.

There are some very critical decisions we made in this bill that affect the future of our armed services, and particularly the Army, that I don't believe will be made correctly if we do not pass this bill.

The other critical issues in the area of the Joint Strike Fighter. We made tough decisions that will not be met if we do not pass this bill.

A lot of people say we can wait. The House may not blue-slip this. The House voted on this issue. They voted it down. We know what they will do on this issue. The fact is, even if that is not the case, this is not the right amendment. This is not the right way to address this issue.

If you believe in the “corruption of the system” that these organizations do, cover everybody. If you care about gaining political advantage, vote for this amendment because you will gain political advantage. You will put a chilling effect on some groups and “Katie bar the door” on the others. If that is what you want, if what you want is political advantage, you got it. Vote for it and kill both fairness in public discourse and disclosure, which I am for.

I will vote for an amendment—but not on this bill because I think it will hurt this bill—at some time. I hope the leader brings up this issue. But make sure you do not pick our friends; You don't have to say anything. You don't have to disclose anything. And by the way, you guys who we really don't like, we are going to get you. We are going to chill your contributions. We are going to make you report everything.

That is what this is about, folks. If we are talking about honesty here, tell the truth. What does your amendment do? That is the truth. So I am happy to debate the truth. The truth is, I will support an amendment that is broad. I will support an amendment that provides disclosure for everybody who engages in political campaigns but not pick my friends over my enemies.

I say to the Senator from Arizona, there is no bill that just picks my friends. Even you said we are not going to cover those organizations, Senator, that help you; we are just going to cover the guys who do not help you, I would vote against it. Do you know what I mean? Do you know why? Because we should not be doing that. That is wrong. You want to talk about breeding cynicism? Bring up an amendment that calls for disclosure, which excludes the groups that favor you and punishes the ones that don't; that brings cynicism to the process.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. McCaIN. Can I engage the Senator for 30 seconds?

Mr. FEINGOLD. Yes.

Mr. McCaIN. Mr. President, apparently the Senator from Pennsylvania does not agree with the Bush campaign, in which, according to an AP story, Bush says:

Plenty of left-leaning groups led by the AFL-CIO help Democrats.

The AP goes on to say:

So far for Gore, the Sierra Club, an environmental group and one of the first to create a $22 spin-off, is in the midst of an $8 million ad campaign aiding Democrats running for Congress and attacking Bush on the environment.

I don't know where the Senator from Pennsylvania has been, but I will be glad to show him ample testimony that this comes from both the left and right equally. So the evidence is obviously contrary to that.

I would hope that the Senator from Pennsylvania would join the Senator from Wisconsin and me where the next amendment would be one that included all organizations.

Would the Senator from Wisconsin be willing to do that as well? The fact is, this is most egregious, because there is no reporting whatsoever in this newfound cornucopia, which would allow the Mafia, drug money, Chinese money, any other kind of money, to come into political campaigns undisclosed. If that is what the Senator from Pennsylvania believes is honesty, then I plead guilty.

Mr. FEINGOLD. In response to the question of the Senator from Arizona, the Senator from Pennsylvania, fortunately, is plain wrong about the issue of whether this covers other groups. As the Senator from Arizona said, in my opening remarks, I say to the Senator from Pennsylvania, I pointed out that this doesn't just cover the Sierra Club. The Sierra Club has said it has a 527 organization to use very large donations from wealthy individuals totaling $45 million.

How can the Senator from Pennsylvania even begin to say that we have not included groups on both sides? The amendment is evenhanded.

As the Senator from Arizona has pointed out, there were reports of groups from both the right and the left using this loophole. Any group claiming this loophole would have to disclose. So it is simply false that it would not include them.

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

Mr. FEINGOLD. We have limited time.

I also point out that the AFL-CIO has also said it is willing to make further disclosure itself as long as business is willing to do the same. I would invite the other side to actually offer a real amendment—not a sense of the Senate, but a real amendment—to try to address this.

It is simply untrue that we are not covering groups on both sides. I specifically mentioned the Sierra Club and $45 million to cover that.

Mr. President, I yield the floor.

Mr. WARNER. I yield to the Senator from Pennsylvania.

Mr. SANTORUM. I ask the Senator from Kentucky, does the Sierra Club run some of their campaign expenditures through their (c)(4), not through their 527 group?

Mr. McCONNELL. I say to my friend from Pennsylvania, if this bill passed, that do only issue advocacy would have to publicly disclose their donors. But other tax-exempt groups that do exactly the same kinds of issue ads, such as 501(c)(4)s, such as the Sierra Club, and 501(c)(5)s, such as the AFL-CIO, would not have to publicly disclose their donors.

So the problem is, if the idea is to have comprehensive disclosure, we have left out a huge percentage of those who are involved in political activities. The two things that happen to almost always be in support of candidates on the other side of the aisle. It would also not include the American Trial Lawyers Association.
It would not include groups such as Public Citizen, and environmental groups. As I mentioned, organized labor, all of whom would be exempt. As I understand, the point of the sense-of-the-Senate amendment of the distinguished chairman of the Armed Services Committee which would be offered, as I understand it, after a motion to table the McCain amendment is approved, would call for a comprehensive approach. The majority leader is going to address the issue of when to do that. It is my opinion—-I know he will announce it is his opinion—-we ought to do that this year in this session because disclosure is, as the Senator from Arizona has pointed out, an area where we have been largely in agreement. It is a question of making sure that this is the right kind of disclosure and not a kind of selected partial disclosure which happens to have the practical effect of leaving out, in my view, most of the major players who engage in issue advocacy in this country.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I yield 2 or 3 minutes to my distinguished colleague, the chairman of the Finance Committee.

Mr. FEINGOLD. I thank the distinguished chairman of the Armed Services Committee for this grant of time.

I rise today to make two announcements about the proposed amendment. The first announcement is that the Department of Defense authorization bill is not the proper vehicle for the issue raised by the proposed amendment.

The second announcement is that there will be a proper vehicle for the issue.

Let's explore my first point, that is, whether this defense bill is an appropriate vehicle for this amendment.

This amendment increases the amount of disclosure that certain tax exempt organizations that are organized under section 527 of the Internal Revenue Code have to make if they are not subject to the disclosure requirements under the Federal Election Campaign Act.

To do this, the amendment will subject these tax exempt organizations to tax on the contributions they receive if they do not follow disclosure requirements similar to the disclosure requirements set out in the Federal Election Campaign Act.

While the objective of the amendment is increased campaign finance disclosure, the amendment is framed in the context of a Tax Code change, which is a revenue measure.

Under the Constitution, all revenue measures must originate in the House of Representatives. If the revenue measure did not originate in the House, then any member could subject the bill to a "blue slip," thereby voiding the entire bill, not just the part of the bill that is a revenue measure.

Make no mistake, regardless of its merits, this amendment will kill this bill. If adopted, this amendment would mean that the Senate would be originating a piece of tax legislation. This is in direct violation of the Constitution. Rest assured, the House will not accept it and will refuse the bill when we seek to send it to them. Hence, the adoption of this amendment will kill this defense bill just as assuredly as if we voted it down.

We must not lose sight of the fact that there is no higher priority than our nation's defense. This bill provides much-needed funds for it. It gives a defense, the armed forces, the means for allowing them to enlist and retain the all-volunteer force that stands on perpetual watch over our nation. It provides for spare parts that will keep our Armed Services in service.

Now, I'd like to move to my second point, provision of the proper vehicle.

The House has passed a tax bill that deals with taxpayer rights and disclosure of information for tax-exempt organizations. That bill, known as the "Taxpayer Accountability Act of 2000," is in the Finance Committee.

The taxpayer rights legislation will be the vehicle for proposals to curtail corporate tax shelters, which both the majority and the minority staffs of the Finance Committee have been working to draft. The taxpayer rights legislation will be the appropriate vehicles for this amendment. I support increased disclosure. Section 527 needs to be amended. It is my intention to move to such legislation later this year.

Mr. WARNER. Mr. President, may we have the time allocation remaining between the proponents of the amendment and the Senator from Virginia?

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

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona has 5½ minutes remaining.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment is not about politics. I assure my colleagues, this amendment covers all groups regardless of their politics. Not only do we not cover the AFL-CIO, we don't cover the Chamber of Commerce. The National Right to Life, as with those aspects of the Sierra Club that are 501(c)(4), has to publicly disclose through a tax return whether they are constituted in that manner.

The concern is that some have attempted to somehow suggest that the rules will be one way for some groups rather than others is simply false, as were the other points made by the Senator from Pennsylvania.

This is an appropriate place to raise this issue.

Let me take a moment to respond to the trumped up charge that the Senate cannot consider this amendment because the House might blue-slip the bill. I think some people are trying to use this charge as a fig leaf for voting against campaign finance disclosure. My first response to my opponent's attack is that this is not a bill for raising revenue. The McCain-Feingold-Lieberman amendment is merely a reporting requirement. It requires that those with a certain status report specified actions.

Second, the House's decision to blue-slip a bill, to refuse to consider a bill, is not the point of this amendment. Only the Senate can send a bill to the House of Representatives. It does not happen automatically. It requires the House to pass a resolution to put this blue-slip into place, and the House can choose to consider this measure if it so chooses.

Third, the Senate can and must be its own judge of what it considers to be "bills for raising revenue" within the meaning of the Constitution. The Senate does not have to adhere slavishly to the most wildly blown interpretation of what somehow constitutes bills for raising revenue, or else in the end the Senate would never be able to send to the House of Representatives any bill the House didn't favor. Someone in the House, anyone, could raise a claim, however baseless, that the bill was a bill for raising revenue and then just somehow stop it dead in its tracks.

In this regard, I note it is deeply ironic that some in this majority are suddenly becoming so zealous about enforcing the House's prerogatives to originate bills for raising revenue. The House has a longstanding tradition of considering all appropriation bills to be bills for raising revenue within the meaning of the Constitution. If the Senate were to send the House an S-numbered appropriation bill, the House could blue-slip that bill as well. Of late, the majority has shown a great enthusiasm for taking up S-numbered appropriation bills notwithstanding this threat. The majority cannot have it both ways on this point.

I ask unanimous consent that a list of instances when the Senate has considered such bills that the House would have considered "bills for raising revenue" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1)

Mr. FEINGOLD. Finally, Mr. President, the most powerful argument against the opponents' attempt to hide behind the fig leaf of this sham constitutional objection is that their primary concern for the prerogatives of the House of Representatives will not fool anyone. This is a vote on campaign finance reform, pure and simple. In the end, when colleagues go back home and when a constituent asks them why they opposed campaign finance reform, if they answer, Well, it might have had a blue-slip problem, I don't think the explanation is going to work very well. That is not cover. The fig leaf is transparent, and the people will see right through it.

This is a vote against campaign finance reform, pure and simple. I urge my colleagues to support this commonsense amendment, and I yield the floor.
Rather interesting. Mr. President, I yield 1 minute to each of my colleagues, the Senator from Arkansas and the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I am for campaign finance reform. I voted for cloture on the McCain-Feingold bill, and I would do it again.

I think this has merit, but it is the wrong time, the wrong vehicle, the wrong scope. If this is the U.S.S. Warner, this is the torpedo that could sink it. That is wrong.

There are too many important things in the bill to destroy it. There is health care for our military retirees forever. By a 96-1 vote yesterday, we put that in. There are retail and mail order pharmacy prescription benefits. I don't want to face those military retirees and say: We thought this was a good vehicle for campaign finance reform. We should not put a non-germane provision such as this on an important DOD bill.

Mr. SESSIONS. Mr. President, I have worked with Chairman WARNER for nearly a year on this bill. It is time to pass this bill. If we put this non-germane Internal Revenue Code amendment on it, it will be blue-slipt by the House as a revenue bill. It will come back like a rubber ball off the wall.

This is not what we are here for. This is not a campaign finance vote. It is a vote involving the defense of these United States of America. That is what we need to do. I support the chairman. I believe this is a good bill.

Mr. J. EFFORDS. Mr. President, I rise today to speak in support of the McCain amendment on Section 527 organizations. I would first like to thank Senator LIEBERMAN and Senator McCaIN for their work in focusing the attention of the nation on the problems Section 527 organizations are creating in our campaign finance system.

Most people don't know what a Section 527 organization is, and that is understandable, it is a highly complex issue. But the fundamental issue, I understand, is that our campaign finance system is broken and that we must do something to fix it.

A recent report by Common Cause reinforces the point that there are serious loopholes in our campaign finance system.

We must close the loophole allowing so-called "Stealth PAC's" organized under Section 527 of the tax code, to hide their donors, activities, even their very existence from public view.

Many years ago, Senator Madsen said, "A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

In clearer terms, Francis Bacon converts the same principle in the saying, "Knowledge is Power."

Mr. President, the passage of this amendment would help arm the people with the knowledge they need in order to exercise their civic duty and sustain our popular government.

I have also long believed in Justice Brandeis's statement that, "Sunlight is said to be the best of disinfectants." People deserve to know before they step into the voting booth which individuals or organizations are sponsoring the advertisements, mailings, and phone banks they may see or hear from during an election. We need to shine some sunlight on these secretive Section 527 organizations so that people will know who or what is trying to influence their vote.

I have watched with growing dismay the increase in the number of troubling examples of problems in our current campaign finance system. These problems are leading to a perception by the public that a disconnect exists between themselves and the people that they have elected. I believe that this perception is a pivotal factor behind the disturbingly low voter turnouts that have plagued national elections in recent years.

It is time to restore the public's confidence in our political system. It is time to increase disclosure requirements and ban soft money. It is time to work together to pass meaningful campaign finance reform.

I urge my colleagues to support the McCain amendment.

Mr. WARNER. Mr. President, is there any remaining time?

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes remaining, and the Senator from Arizona has 2 minutes.

Mr. WARNER. I will let the Senator from Arizona proceed.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will quote from the Washington Post on June 4, this Sunday:

Both parties use these section 527 committees. Failure to disclose is the insidious, ultimate corruption of a political system in which offices, if not the officeholders themselves, are increasingly sold. Are they selling the public that a disconnect exists between themselves and the people that they could vote for, or is the truth too embarrassing for either donors or recipients?

Mr. President, we have heard some very interesting arguments and discussions about whether it is appropriate, or whether it favors one side or another. There isn't an American who is well informed who does not know that this system has lurched completely out of control, when people are allowed to engage in the political system and give unlimited amounts of money and have it undisclosed.

The reason this is on this bill, I say to the chairman of the Armed Services
Committee, is that we have been unable to propose an amendment on any bill so far. This has been the first opportunity I regret doing so. But I was willing to enter into a time agreement to get this done. And I told my friend we'll continue on this issue until we resolve the objections that may exist concerning it. It is too important. If we are concerned about these men and women in the military—and he and I share that concern—then we should also be concerned about the Government and political system they are formed about it, they are ashamed. Concerned about these men and women in objections that may exist concerning continue on this issue until we resolve the done. I must tell my friend we will continue on this issue until we resolve the regret doing so. But I was willing to bill so far.

The PRESIDING OFFICER (Mr. DeWine). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleague for the courtesies he has extended me. I said clearly, given the opportunity, I would vote with him. But this time I say to my old sailor friend, man your battle station, torpedoes are on the horizon headed for the port bow of the armed services annual authorization bill. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask my friend from Virginia, may we enter into a unanimous consent request to make the time on the next amendment not start running until the leader, who will be here, finishes his work.

That is in order. I ask that the time consumed by the quorum call not be borne by the next amendment coming up.

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

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. LOTT. Mr. President, I know we are now prepared to go to the debate on the next amendment. But I do have a unanimous consent request to make and some brief comments.

For the information of all Senators, the two managers have previously exchanged amendment lists on each side of the chamber. Senator DASCHLE and I have talked about the need to get some finite list identified so that our whips and the managers can begin to work through the lists and see which can be accepted and which ones are a problem, or maybe will not be offered, and which ones will have to have debate or votes.

I ask unanimous consent that the list I now send to the desk be the only remaining first-degree amendments in order for the DOD authorization bill other than second-degree amendments which must be relevant to the first degree.

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

The list of amendments is as follows:

- Stevens: Environmental fines.
- B. Smith: Security Clearances.
- B. Smith: Relevant.
- Crapo: DOE Construction.
- Chafee: UUV’s.
- Thomas: Transferring of Veterans’ Memorial.
- Jeffords: National Guard Education.
- Brownback: NCAA gambling.
- DeWine: TARS.
- DeWine: Air Force planning.
- Stevens: Increase funding for FUDS.
- Fitzgerald: overheard out of arsenal bids.
- Murkowski: payment rates for doctors.
- Gramm: relevant.
- Gramm: export controls.
- Gramm: relevant.
- Bennett: transfer of Naval Oil Shale Reserve.
- Enzi: export controls.
- Helms: 3relevant.
- Gorton: relevant.
- Thompson: Information Management.
- Thompson: contracts.
- Thompson: Export Admin. efficiencies.
- Domenici: nucl. cities.
- Domenici: directed energy.
- K. Hutchison: uniform services health care systems.
- K. Hutchison: access to health care.
- K. Hutchison: Balkans.
- K. Hutchison: DoD Schools.
- Inhofe: DoD to review qui ram cases.
- Bennett: Computer export controls.
- Domenici: Melrose and Yakima ranges.
- Domenici: R&D Projects (4).
- Enzi: Control tower, Cheyenne, WY.
- Gramm: Retransfer of former naval vessels.
- Grams: Land conveyance, Winona, MN.
- Grams: Student Loan Repayments.
- Inhofe/Robb: Apache Readiness.
- Inhofe/Nickles: Industrial Mobilization Capacity.
- Kyl: NIF funding.
- Lott: Concurrent Service—CNR/CTO.
- Lott: Acoustic mine detection technology.
- Santorum: Funding for AV-8B.
- Hatch: HI-B’s.
- Hatch: F-22.
- Hatch: Hate crimes.
- Lott: 2 relevant to any amendment on list.
- Warner: Marine Corps Heritage Center.
- Warner: Indemnification of transfers of closing defense properties.
- Warner: NIMA/research.
- Warner: Technology for mounted maneuver forces.
- Warner: APOBS.
- Warner: Agreed to package of provisions with Govt. Affairs Committee.
- Warner: MK-45 maintenance and the MUCT site.
- Warner: USMC Procurement.
- Warner: Close in weapons system.
- Warner: Close in weapon system modifications.
- Warner: Gun mount modifications.
- Warner: A-76 Study.
- Warner: Anti-personnel obstacle breaching system.
- Warner: Future years defense budget (DOE).
- Warner: 12 Relevant.
- T. Hutchinson: Revise BAH.
- Stevens: Alaska Territorial Guard, Student Loan Repayments.
- Amend Sec. 2854 to authorize interim lease.
- Roberts: DOE Computer Export Controls.
- Snowe: NMCI.
- Inhofe: Relevant.
- Inhofe: Air Logistics Technology.
- Inhofe: Ammo Risk Analysis Capability Research.
- Lott: Keesler Hospital Repairs.
- Bennett: Altas uranium mining site.
- Lott: Weather proofing.
- Bennett: Critical Infrastructure Protection.
- McCain: 2 Relevant.
- McCain: 1 Gambling.
- McCain: Internet.
- McCain: 5 Campaign Finance.
- McConnell: 3 Campaign Finance.
- Grams: Reserve Grade Level Exemptions.
- Voinovich: Workforce Reassignment.
- Mack: U.S. Foreign Policy.
- McCain: Assistance to Service Members in Claims Process.
- Johnson/Sarbanes: Export Administration.
- Johnson: Genetic Pharmaceutical Access.
- Johnson: Medical Prescription Drugs.
- Johnson: Livestock Packers.
- Kerrey: Missile Defense.
- Kerrey: National Guard.
- Cleland: Plaid.
- Cleland: Relevant.
- Feingold: National Guard Reserve Duty Pay.
- Feingold: Trident Missiles.
- Feingold: McCain-Feingold CFR.
- Feingold: McCain-Feingold-Lieberman 527.
- Feingold: Extension of Law Enforcement Public Interest Conveyance.
- Feingold: McCain-Feingold CFR.
- Durbin: 2 relevants to any amendment on list.
- Durbin: Relevant.
- Durbin: Registration Deadline in OPM re: Student Loan Repayments.
- Murray: Abortion in the Military.
- Murray: Air National Guard.
- Feinstein: Relevant.
- Feinstein: Relevant.
- Robb: Land Conveyance for the National Guard Intel Center.
- Robb: Resource Management Program.
- Kennedy: School Hate Crimes.
- Kennedy: Environmental UXO Detection Technology.
- Kennedy: HMO.
- Kennedy: Minimum Wage.
- Lautenberg: Safe Streets & Schools.
- Reid: Relevant.
- Reid: NCAA Gambling.
- Reid: NCAA Gambling.
- Reid: NCAA Gambling.
- Reid: NCAA Gambling.
- Reid: NCAA Gambling/Civil Rights.
- Reid: Date of Registry.
- Daschle: Relevant.
- Daschle: Relevant.
-Daschle: Any on list.
- Daschle: Immigration, Technology Job Training.
- Daschle: Immigration, Technology Job Training.
- Daschle: Immigration, Education Access.
- Daschle: Immigration, Education Access.
- Wellstone: CFR.
- Wellstone: Ag. Concentration.
- Wellstone: Domestic Violence.
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Wellstone: Welfare Tracking.
Wellstone: States Rights to Enact Public Financing.
Wellstone: Mental Health Equitable Treatment Act.
Wellstone: Relevant.
Wellstone: Relevant.
Kerry: Environmental and Public Health Compliance.
Dorgan: SoS Air at I’ Guard F 36A.
Dorgan: B 52.
Dorgan: Cubagc Sanctions.
Dorgan: Relevant.
Schumer: Money Laundering.
Schumer: Critical Infrastructure.
Conrad: EB 52A Alert.
Conrad: Global Missile Early Warning.
Conrad: Relevant.
Bryan: National Guard.
Bryan: Iran.
Harkin: WIC Troops Families.
Harkin: Generals J et Procurement.
Harkin: Secrecy Policy.
Harkin: Health Care.
Boxer: Executive Planes.
Boxer: Transfer Amendments.
Boxer: Use of Pesticides on Bases.
Boxer: Privacy of DoDM Medical Records.
Torricelli: Relevant.
Torricelli: Relevant.
Bingaman: Education Partnerships.
Bingaman: Labs.
Bingaman: Relevant.
Levin: Organ Transplant.
Levin: Relevant.
Levin: Relevant.
Reed: Date of Registry.
Lieberman: Campaign Finance Criminal Enforcement.
Dodd: Veterans Gravemakers.
Dodd: Firefighter Support.
Dodd: Cuban Commission.
Byrd: Bi-Lateral Trade.
Edwards: SoS Special Pay.
Edwards: SoS Hurricane Floyd.
Lange: Relevancy of Deep Submergence Submarine System.
Landrieu: Special Assault Aircraft and Inflatable Boats.
Landrieu: Relevant.
Landrieu: Relevant.
Landrieu: Relevant.
Mr. LOTT. Mr. President, there are almost 200 amendments, I think, on this page. The number of them are not related to the national security of our country. They are not related to the Defense authorization bill. There are two amendments now pending that are not related to national security.
I am very concerned about how long this could go on and what these amendments are. They do run the usual range, from the HMO amendment, to campaign finance amendments, to minimum wage, and a whole long list of unrelated or nongermane amendments.
I know when we moved to this legislation this would be possible. I wanted to see how we could do, see if progress could be made, see if a little steam perhaps could be let off here. This is important legislation, so we are going to have to work through these amendments and cut them down to a reasonable number. Senator Daschle and I have discussed the possibility, after we get these amendments and see how we are doing, that we went the bill aside and go to the Department of Defense appropriations bill. With the understanding that when that was completed, we would come back to the authorization bill, and then we would have some idea of what amendments we would have to take time on.
This is not part of the unanimous consent request. We are not locking in on that neither I nor Senator Daschle. But we have to find some way to work through this list and, hopefully, be able to conclude this bill. I know Senator Warner would like to do that.
I wanted to make those observations. I ask Senators on both sides to, if you can, withhold your amendment if it is not essential. Please do that, because there is no way we can do 200, or 100, or 50 amendments and complete this work.
I yield the floor.
Mr. DASCHLE. Mr. President, let me second what the majority leader has just said. I appreciate the fact that he has taken this bill to the floor under the regular order. I have indicated a desire to work with him to complete work on this bill under regular order. Again, as I always do, I thank the assistant Democratic leader for his efforts in trying to narrow the scope and the list.
We have to start here. Now we know what the universe is. Unfortunately, I think the universe includes the "kitchen sink" in this case. I think it is important to try to eliminate the "kitchen sink" and other matters that may or may not be essential to take up. I think there are nonrelevant matters that could be taken up under very short time constraints, as we are about to do. We need to finish the bill as well. I certainly plan to work with the majority leader to see that we accomplish that over the course of the next couple of days.
Mr. WARNER. Mr. President, I thank our two distinguished leaders. No matter how diligent the managers are—there is this question, particularly historically, on this bill that Senator Levin and I have worked on for some 22 years—only the leadership can come down and get that list of amendments. I thank them very much for that.
We will now deal with that as expeditiously as and fairly as we can. I thank the Chair.
The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Democratic leader is recognized to offer an amendment relevant to HMOs on which there will be 2 hours of debate equally divided.
The Democratic leader.

AMENDMENT NO. 3273

(Purpose: To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.)

Mr. DASCHLE. Mr. President, under the order, I send an amendment to the desk.
The PRESIDING OFFICER. The clerk will report.
The executive clerk read as follows: The Senator from South Dakota (Mr. Daschle) proposes an amendment numbered 3273.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.
The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DASCHLE. Mr. President, it is with some reluctance that I come to the floor this afternoon—reluctance because we had hoped that this would not be necessary. We had hoped that the action taken by the Senate—now almost a year ago—would have provided us with an opportunity to have finished by now the work begun more than a year ago. The Senate acted in a way that we felt was not as acceptable as we would have liked. The House acted in a way that met the expectations of many of us. On a bipartisan basis the House passed a bill to protect patients' rights on the floor of the House immediately behind me. The first chart shows what is happening to patients day by day as this Congress fails to act. The Patients' Bill of Rights affects thousands and thousands of people on a daily basis—thousands of people in hospitals and clinics hoping that they might be able to get the care they so desperately need.
This chart says it all when it comes to what happens to patients as a result of our inaction.
Thirty-five thousand Americans on a daily basis fail to get the kind of care they absolutely have to have to restore their health.
Thirty-five thousand people are denied specialty care in instances when doctors have prescribed it.
Thirty-one thousand are forced on a daily basis to change doctors, against their will in many cases.

Wellstone: Relevant.
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Wellstone: Mental Health Equitable Treatment Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.)

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Thirty-five thousand Americans on a daily basis fail to get the kind of care they absolutely have to have to restore their health.
Thirty-five thousand people are denied specialty care in instances when doctors have prescribed it.
Thirty-one thousand are forced on a daily basis to change doctors, against their will in many cases.

Eighteen-thousand are forced to change medication.

Fifty-nine thousand a day, as a result of the inaction in the Congress—a number exceeding the second largest city in
the State of South Dakota—subjected to more pain and suffering and a worsening of their condition.

Those aren't our figures. Those are figures from the California Managed Care Improvement Task Force and other organizations that have analyzed the cost of the inaction in the Congress over the course of the last year.

A second way to look at this issue is doctors' perceptions of our inaction.

The number of doctors each day who see patients with a serious decline in health as a result of health plan abuse is striking.

Fourteen-thousand people are denied coverage of recommended prescription drugs as a result of our inaction.

Ten-thousand are denied coverage of needed diagnostic tests.

Seven-thousand are denied referral to needed specialists.

Six-thousand are denied overnight hospital stay, and 6,000 are denied referral to mental health and substance abuse treatment.

One could just sit down after that and say the Senate must act. Let's vote. I think those numbers are as compelling a reason as I have heard about the importance of this body acting on this legislation, as we should have acted now more than 12 months ago. We have not acted. And tens of thousands of people are paying a price they shouldn't have to pay because we have not acted.

I have been encouraged by correspondence that has been sent just in the last few hours: One from the sponsors of the legislation on the House side, Congressman CHARLIE NORWOOD, and Congressman JOHN DINGELL. I will simply read an excerpt, and ask unanimous consent that the entire letter be printed in the RECORD.

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

AMERICAN MEDICAL ASSOCIATION, June 8, 2000.

AMA Calls on Senate to Pass NORWOOD-DINGELL Patients' Rights Bill as Amendment to DoD Reauthorization Act

“The Senate must give Americans the patient protections they want and need now.”—Thomas R. Reardon, MD, AMA President.

“The AMA strongly supports attaching the Norwood-Dingell patients' rights bill to the DoD reauthorization bill. Patients and physicians have worked for more than a half a decade on a bill to protect patients—and now is the time to make that bill a law.”

“Patients and their physicians have waited too long. The Senate must give Americans the patient protections they want and need now—not just a bill, but a real law that protects patients.”

Patients and physicians are frustrated with the lack of progress in the House-Senate conference committee. We will aggressively pursue all avenues until meaningful patients' rights legislation is signed into law.

“A Republican staff counterproposal put forward June 4 is unacceptable, making little better than the HMO Protection Act passed by the Senate last summer. That bill was a sham. Now the Senate has a chance to make it right.”

“A May NBCWSJ poll found that patients' bill of rights was the most important health issue among registered voters. A recent Kaiser/ Harvard poll found that an overwhelming 80% of Americans support patients' rights legislation, including the right to sue health plans.

“The AMA-endorsed Norwood-Dingell bill, overwhelmingly approved by the House on a bipartisan basis last fall, acknowledges the people's clear call for meaningful protections. Patient protections should not be a partisan issue. Republicans and Democrats must work together to address well-documented problems.”

“Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell patients' rights bill.”

Mr. DASCHLE. Mr. President, this is an excerpt from the statement:

Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell provisions.

We can't say it any more directly or any more powerfully than that—whether it is the sponsors of the House-passed bipartisan bill, or whether it is those in the trenches on a daily basis who recognize the importance and the urgency of this reform.

We are pleased that you are bringing the bipartisan compromise bill that we passed overwhelmingly in the House last October to the Senate floor today.

They want us to act.

That is from the sponsors of the House-passed legislation.

The doctors so directly involved in our critical health care needs are also asking the Senate to act today.

I ask unanimous consent that a statement released by the American Medical Association be printed in the RECORD.

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

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“Patients and their physicians have waited too long. The Senate must give Americans the patient protections they want and need now—not just a bill, but a real law that protects patients.”

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“Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell patients' rights bill.”

Mr. DASCHLE. Mr. President, this is an excerpt from the statement:

Rhetoric is not enough. The Senate must do the right thing and pass the Norwood-Dingell provisions.
addresses that issue. The Republicans do not.

Guaranteed access to specialists is also an issue that so many people believe needs to be resolved. We address it. The Republicans barely address it at all.

We can go down the list. Access to OB/GYN, access to clinical trials, access to nonphysician providers, choice of providers, point-of-service, emergency room access, prohibition of improper financial incentives. On all of these issues and many more, there is a clear choice between what the Republicans have proposed and what the bipartisan plan adopted in the House requires.

Time is running out. We have about 21 legislative days between now and the August recess. We have about 15 legislative days when we come back from the August recess. We have fewer and fewer days with which to resolve these differences. The time has come now to simply take what has been passed in the House, pass it in the Senate, add it to this bill, get it to the President, and send a clear message that our commitment to resolving these issues could not be stronger.

Our commitment has not eroded. We are determined to deal with this issue this year on a bipartisan basis. We join with our House colleagues in addressing the issue in a comprehensive way. That is what this amendment does. That is why we hope on a bipartisan basis we can make an unequivocal statement about our commitment for resolving this matter first and foremost in this context today.

I am deeply appreciative of the extraordinary leadership provided, once again, by the senior Senator from Massachusetts. No one has committed more time and effort and has demonstrated more leadership on an issue than he. On behalf of the entire Democratic Caucus, I am extraordinarily grateful to him, appreciative of his leadership and his determination to resolve this matter in a successful way before the end of this session of Congress.

I yield the floor.

The PRESIDING OFFICER. Would you yield time?

Mr. DASCHLE. I yield such time as the Senator from Massachusetts desires.

Mr. KENNEDY. Mr. President, I yield myself 12 minutes.

At the outset of this debate, I express my sincere appreciation to the leadership on both sides, particularly on our side, Senator Daschle, as well as to Senator Lott, to permit an opportunity to vote on a matter which I think is of central concern and importance to families all across this country. I think the timing of this is enormously significant for the reasons we will outline in the time available this afternoon.

The American people have waited more than 3 years for Congress to send the President a Patients' Bill of Rights that protects all patients and holds all HMOs and other health plans accountable for their actions. Every day that the conference on the Patients' Bill of Rights fails to produce agreement on meaningful patient protections, 60,000 more patients endure added pain and suffering. And 8,000 patients report a worsening of their condition as a result of health plan abuses.

For more than 3 months, we have participated in a charade of a conference committee to progress on these basic issues. We have tried to reach agreement with the Republican leadership on the specific patient protections that are critical to ending abuses by HMOs and other managed care plans. But the Congress has failed to guarantee patients even the most basic protections. This is not rocket science. It is long past time for this Congress to stop protecting HMO profits and start protecting patients' health.

The House passed a strong bipartisan bill last year to give patients the rights they need and deserve. It has the support of more than 300 leading organizations representing patients, doctors, nurses, working families, small businesses, religious organizations, and many others.

The House bill has overwhelming bipartisan support. One in three House Republicans voted for this legislation. President Clinton would sign that bill today, unfortunately, the Republican leadership in Congress and the Republican conferees appear to have no intention of reaching a conference agreement that can be signed into law.

We have repeatedly asked the Republican conferees to produce an offer on the critical issues that need to be resolved such as whether all patients will be protected by the reforms and whether patients can sue for injuries caused by HMOs. My staff submitted a document on Sunday night which they claim is a starting point, but it falls far short of what is needed to start a serious discussion. That isn't only our opinion. That happens to be the opinion of the principal Republican sponsors in the House of Representatives.

We continue to hope that the conference can be productive, but so far it has been an endless road to nowhere. The clock is running down on the current session of Congress. It is time to take stronger action. Make no mistake, we want a bill that can be signed into law this year. There is not much time left. We need to act and act now.

The gap between the Senate Republican plan and the bipartisan legislation enacted by the House in the Norwood-Dingell bill is wide. And the insensitivity of the Republican conferees is preventing quality progress. The protections in the House-passed bill are critically needed by patients across the country, yet the Republican leadership is adopting the practice of delay and denial that HMOs so often use themselves; delay and deny patients the care they need.

It is just as wrong for Congress to delay and deny these needed reforms as it is for HMOs to delay and deny needed care. It is wrong for HMOs to say that a patient suffering a heart attack can't go to the nearest hospital emergency room. It is wrong for Congress not to take emergency action to end this abuse. It is medical malpractice for HMOs to say that children with rare cancers can't be treated by a qualified specialist. And it is legislative malpractice for Congress not to end this abuse. It is wrong for HMOs to deny access to patients to clinical trials that could save their lives. And it is wrong for Congress not to guarantee that the routine costs of participating in these lifesaving trials are covered.

The Clinton administration announced yesterday that Medicare will offer the medical care citizens participating in clinical trials. Congress should demonstrate equal leadership and do the same for all patients.

The House-Senate conference has made almost no progress on issues of vital importance to patients across America. The slow pace is unacceptable. After many weeks, despite the rhetoric from the Republican conferees, only two issues have been settled. They were virtually identical in both bills. While there seems to be conceptual agreement on a few more provisions, we have yet to reach agreement on the actual legislation. The critical issues of holding health plans responsible for their actions and assuring that every American with private insurance is protected have not even been discussed seriously.

Staff of the Republican conferees have provided proposals that they portray as a step towards consensus. Those who support genuine patient protections on both sides of the aisle are committed to making real progress towards a successful resolution of the differences between the Senate bill and the bipartisan House bill. However, the GOP proposals fall far short of what is needed to give patients the protections they need. With a minor exception, their proposal would essentially maintain the current gaping loophole that allows so many health plans to escape responsibility when they make decisions that cause injury or death of the patient.

The Republican author pretends to indicate a sudden willingness to hold health plans accountable in some circumstances, but the American people would be shocked to see the details of the proposals. It is little more than a slap on the wrist for HMOs that refuse to comply with the law. It does nothing to address the vast majority of cases in which patients are injured or killed because of the health plan abuses that arbitrarily deny or delay needed care.

It is riddled with restrictions and limitations. It would protect employers
from liability when they were the ones who made the decisions that led to injury or death. In countless cases where persons were injured or even killed by the wrongful actions of their health plan, there would be no remedy.

If we want patients to go through an external appeals process, even if the disputed benefit could no longer help the patient because the injury was irreversible or because the patient has died.

Our amendment requires patients to exhaust the external appeals process before turning to the courts, but there is a key exception that allows patients who have already been harmed, or the family members of those who are killed, to go directly to the court. Few, if any, patients would ever be helped by the Republican proposal. It gives the appearance of a remedy without the reality.

The Republican proposal on the scope of the patient protections is another smoke screen. It does nothing to provide realistic guarantees for any individual not covered by the original Senate Republican bill. In fact, the proposal would reduce current protections for some patients in HMOs by explicitly preempting State laws. The result is that teachers, farmers, firefighters, police officers, small business employees, and many others would be turned into second-class citizens with second-class rights.

Here is the list: 23 million to 25 million State and local employees. These are the teachers, these are the firefighters, these are the police officials, these are the nurses, these are the doctors. They are effectively excluded from the GOP coverage. Not under the Norwood-Dingell proposal. I don't know why they want to have second-class citizens with second-class rights for those individuals. All Americans deserve protection against HMO abuses. Nor do they want to be denied adequate protection because of where they live or where they work.

The Republican claim that they have offered a serious compromise rings hollow for the millions of patients across this Nation who deserve protection for their rights, their health, and their lives. We are committed to passing a bill that protects all patients. At this point, the conference does not seem to be willing to produce a bill that will do the job, so we intend to pursue other options to enact these critical protections.

President Clinton has repeatedly urged the conference to complete work on a strong bill he can sign into law. That bill should include the key provisions of the Norwood-Dingell measure. It should not be delayed by controversial and unrelated tax or other proposals.

Our amendment contained the House-passed bipartisan consensus reform written by Republican Majority Leader NORWOOD and Michigan Democrat JOHN DINGELL. It says we are putting patients first, not HMO profits. It says medical decisions will be made by doctors and patients, and not insurance company accountants.

The amendment establishes important protections for all patients, including coverage for emergency care at the nearest hospital, access to needed specialty care, transitional care for certain patients, direct access to obstetrical and gynecological care, coverage for routine costs of life-saving clinical trials, prohibition of improper HMO gag clauses on physicians, and many other protections.

It establishes a fair, prompt, independent appeal process for all decisions involving medical judgments. It holds HMO health plans accountable by holding them liable in cases where patients are injured or killed by HMO abuses. It protects employers from liability, with an exception only if they actually participate in the decision that results in injury or death in a particular case. It prohibits punitive damages if the HMO follows the recommendation of the independent reviewers.

The Senate stands, today, at a major crossroad for millions of patients across this Nation. We have an opportunity to provide long-overdue protections for all Americans in managed plans. We have an opportunity to hold HMOs accountable for their abuses. For the first time, the Senate has the opportunity to vote on the bipartisan compromise that passed the House overwhelmingly last year.

Last October, the House passed the Patients' Bill of Rights. Month after month, the Senate has refused to give patients across the Nation the protections they deserve. Today, at last long, the issue is out of the back rooms where it has been stalled for so long. The issue is in the open, and it is time for the Senate to vote.

I withhold the remainder of our time. The PRESIDING OFFICER. Who yields time? The minority has used 24 minutes. Mr. DASCHLE. Mr. President, I designate the distinguished Senator from Massachusetts as my designee for purposes of managing the remaining time.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. NICKLES. Mr. President, I wish to respond to my colleague, first to say I very much regret our colleague from Massachusetts is bringing this amendment to the DOD authorization bill. I heard the Secretary say we want to pass the DOD bill, but there is certainly no evidence of that when you introduce this bill, totally extraneous to DOD, campaign finance, and other unrelated matters. It appears as if defense does not want to pass the DOD because there is an unaccomplished agenda.

Have we voted on these matters before? Yes, we have. Senator KENNEDY is basically saying let's pass the House-passed bill. We are now in conference. I am somewhat resentful of some of the statements that were made by our colleagues. They said the conference was a charade. Tell that to the members of the conference who worked over 400 hours this year—probably more time spent in this conference than any other conference, maybe, in years.

They said there is intransigence on the part of the Republicans. Not so. Republicans have made significant compromises and adjustments in willingness to try to see if we cannot close the gap on two extremely different bills. Then House passed a bill called the Norwood-Dingell bill. Now we have Senator KENNEDY saying, we don't care what is going on in the conference, let's just pass the House bill. He tried to pass it before in the Senate. It was not successful. I don't think that thing is successful today. As a matter of fact, if he did not have this amendment on the floor today, we would probably be in conference, trying to work out some of the differences.

So really we have to ask ourselves, are the Democrats interested in an issue or political theater—and that is exactly what this is. This does not change a thing. Senator KENNEDY a couple of weeks ago said, I am just going to warn you, maybe I'll have to take it to the floor." I said, fine, you are going to find out the House can probably pass Norwood-Dingell again and it will not pass the Senate. Does that help resolve the differences? I don't think so.

We made an offer. I heard some comments made: Well, that offer was a charade; or it wasn't any good, or didn't mean anything. We made some comments. The problem is we have heard back—we didn't get a written response. All we heard is verbally, it did not do very much.

Wait a minute, we have done a lot. If your interest is real protection, we have done a lot. We have agreed that everybody who has an employer-sponsored plan would have an external appeal. If they are denied health care by their HMO, they have an external appeal, an independent appeal decided by physicians, that would be binding. If for some reason the HMO would not agree to that binding decision, they could be sued.

Let me read to you Senator KENNEDY's comments in the beginning of the discussion. This Senator KENNEDY:

"I think the overriding issue—and others have spoke about it, is really whether we are ultimately going to have the important medical decisions which affect families in this country made by the doctors and by the families and the medical professionals, or whether these decisions will be made by a bureaucrat. That is really the heart of it. There are other provisions that are relevant to that and to making the basic and fundamental right a reality that is really the heart of the whole situation."

We have done that. Senator KENNEDY said we haven't agreed upon anything.
But we have agreed that doctors will have the ultimate decision.

An independent appeals process, independent of any plan? We have agreed upon that. He says that is the main thing. Now he is saying that is not good enough.

I am just very displeased, I guess, that language be used that there is insincerity, we had no choice but to bring this to the floor. If anybody wants a bill and have it become law, this is the last thing they should do. And have press conferences blasting the process. This process has been open. This process has been bipartisan. This process has tried to reach across the aisle repeatedly. It is very disappointing. Yet they say, we don't care what you have done. As a matter of fact, did they offer the compromise, an appeals process that has been agreed to by Democrats and Republicans? No, they can't back and said, we want the House bill an inferior product compared to what we have agreed to in the appeals process, far inferior.

It is the same with some of the patient protections. We have strengthened protections upon which we have agreed. Did they offer that? No. They want to go back to the House. It is an insult to the Senate to say: We have a conference, but we are not going to take anything from the conference; we will disregard the Senate; we are just going to take the House position.

Any chairman of any committee should think about that: Yes, you are working on a conference; we will insist we accept the other body's position, as if it is superior. What about the other body's position? What about the Norwood-Dingell bill? That is bipartisan, people know it has unbelievable unlimited liability. We are criticized because we want to exempt employers.

I yield myself an additional 4 minutes.

The Senate bill, we have liability against HMOs, but we protect employers. Senator KENNEDY says that is not good enough; we want to be able to sue employers.

As a former employer, if we make employers liable for unlimited punitive damages, class action suits, the whole works, we are going to have a lot of employers saying: I don't have to provide health care; I will drop it. Employers, here is some money; I hope you will buy health insurance.

Some employer will and, unfortunately, a lot of employees will not. We will have a dramatic, draconian increase in the uninsured.

The Norwood-Dingell bill, by CBO estimates—and I think it is grossly underestimated—increases health care costs, one estimate, by 4.1 percent; another estimate of the Democrat bill is over 6 percent. Health care costs are already going up 10, 12, 14 percent. Add another percent on top of that. We are talking about a 16-, 18-percent increase in health care costs, and we will have millions more join the ranks of the uninsured.

We absolutely, positively should draw the line and say: Let's not do anything that does damage to the good health care system we have. It is not perfect, but we should not be passing legislation that is going to increase the number of uninsured. We should not be passing legislation that is going to dramatically increase the cost and make it unaffordable for a lot of Americans.

We passed legislation in this body and the House that makes health care more affordable. We passed tax provisions giving tax, not just those who work for a large corporation, tax benefits, tax deductions. That is positive. That is the reason we called our bill Patients' Bill of Rights Plus.

We want to make health care more affordable for all Americans. We want to increase the number of insured Americans. Unfortunately, the Kennedy bill, the Norwood-Dingell bill will do the opposite; it will increase the number of uninsured. We do not want to do that. We want to do the opposite. We want to help people get insurance.

The legislation before us has no provision to help finance health care costs for those people who do not have it. We did in our bill. We had it in the House bill that passed the House.

I have one other comment. The President said he would veto the bill that passed the House and he would veto the bill that passed the Senate. People say: The President will sign this bill. The President stated he would veto the bill that passed the House, and the President said he would veto the bill that passed the Senate. Unfortunately, a lot of people are more interested in politics and maybe political theater and seeing if they can scare people. Maybe they think that will be to their political advantage. I very much resent that.

I want to pass a good, constructive Patients' Bill of Rights bill this session, on the Senate floor, that is going to be of help. Keep out the politics. Let's see if we can pass a bill that has a good external appeal process; a bill that does keep HMOs accountable. Let's protect employers. Let's not do something that will increase the number of uninsured.

Let's not do something that will damage the system. I am afraid the process our Democratic colleagues are pulling right now is going to be very disruptive to the conference.

I am going to pledge we will pass a bill out of conference this year, and I hope it is one both Houses will pass and the President will sign that will increase patient protections for all Americans and also keeps health care affordable and attainable for millions of Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada. Mr. REID. Mr. President, I ask unanimous consent that the time Senator DASCHLE used—he used 32 minutes—of the 12 minutes be considered leader time.

Mr. NICKLES. I object.
you paid him, he went to prison for 15 years. That is their idea of HMOs they like, one HMO run by the Government. That is not our idea. We reject it, and we will fight it until it is dead. They will never give up on it. They do not care that they destroy the health care system of this country. They do not care if millions of people are uninsured because they know how to insure them: Insure them by having the Government take over the health care system. We say no.

In our bill, we expand coverage. We gave tax deductibility to the self-employed. We want to give tax deductibility for buying health insurance if a company does not provide it. Why should General Motors get a tax deduction for buying health care and your family does not? We try to encourage people to buy long-term care insurance, so we make it tax deductible.

We want to give people choices, so we have medical savings accounts. Yet in this legislation before us, there is not one mention of tax deductibility for health insurance, not one mention of expanding coverage, not one mention of expanding freedom by letting people use tax-free money to buy health insurance. Why not? What does Senator KENNEDY have against the self-employed getting the same treatment as General Motors, or people who do not work for an employer that can provide health insurance getting a tax deduction? We know why he has against it. He does not want people to spend their money on health care. He wants the Government to spend the money for them. That is what this issue is about.

As much as we have tried to write a bipartisan bill, unfortunately, this is an election year. We are proving it right here on the floor of the Senate. We are going to reject this amendment, and I hope we will come to our senses. I hope that we will go back into conference and talk about a bill and bring it to the floor, a bill that does not allow employers to be sued, a bill that holds HMOs accountable, a bill that lets people buy health insurance with tax-free dollars, and then let Senator KENNEDY vote no. But I believe that America will vote yes. And this is about choice.

Senator KENNEDY protests that we are not making progress. We are not making progress in the wrong direction. That is what Senator KENNEDY is unhappy about. He said the conference is dead. We are going to provide tax relief to people to buy health care. We are going to hold HMOs accountable. We are not going to let the Government take over and run health care.

As for the principle of compromise, I am willing to compromise and go part way, as long as we are going in the right direction. But I do not have any interest in compromising, in going part way in the wrong direction because that means we have further to go in going the right direction.

I congratulate the chairman of this conference. He has done a great job. He has provided the best leadership on any conference that I have seen since I have been in Congress. He deserves better treatment. I believe Republicans ought to be outraged about this. And I am outraged. I have worked hard on this conference.

We are also going to produce a good product. I am happy to have people judge it at the polls on it. I believe when you ask people do they want employers to be sued, I think they are going to say no. Senator KENNEDY wants them to be sued. I say no. Let the American people decide.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself half a minute.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. KENNEDY. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent that the minority leader's statement be charged against his leadership time, and I ask that my statement be charged against our leader's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 30 seconds, and then 5 minutes to Senator MIKULSKI.

Mr. President, we know a stall when we see one. This conference is a stall. And we know when we are on an endless road to nowhere. That is where we are. It isn't the Senator from Massachusetts saying it. It is here. It is the Republican principal leader in the House of Representatives, CHARLIE NORWOOD, I say to the Senator. He is the one who is saying it:

"The Senate had eight months to develop a concise, eminently sensible, and fair alternative to the Health Care Providers' proposal," said NORWOOD, "and if all they have to show is a three page staff-level letter that could mean nothing and everything, it's impossible to take this conference process seriously."

Dr. NORWOOD is trained in the right profession. He is a doctor and he is a dentist; and he knows how hard it is to pull teeth around here. That is what we have been trying to do with our Republican conference.

Several Senators addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. For the information of my colleague, Dr. NORWOOD is not on this conference. Dr. NORWOOD may or may not know that we worked very hard to come up with the appeals process to which we basically have agreed. Dr. NORWOOD may or may not know that we agreed basically on a lot of patient protections. He may not know we spent weeks on the appeals process. We negotiated in a bipartisan fashion.

I think to refer to somebody outside the conference trashing the conference is a little extraneous. The conference knows that we worked in a bipartisan way to come up with the appeals process.

Ask Dr. FRIST. Ask other people who participated in the conference. To have an outsider say, "Oh, we haven't done it yet, it is time to turn this into the House bill," I think is disingenuous.

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

Mr. NICKLES. No, on my time.

The PRESIDING OFFICER. If the Chair could, just to remind the Members of the Senate, the time is controlled by the Senator from Massachusetts and the Senator from Oklahoma.

Mr. NICKLES. I yield 5 minutes to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to support Senator KENNEDY and my colleagues in moving forward on this issue on a very strong Patients' Bill of Rights.

In the debate the question was, Do you remember the Clinton plan? I sure do. I remember it with fondness. I wish we had passed it because we would not be in this mess that we are in today.

When the Clinton plan was before the Senate, they said: We can't pass it. It is going to create a big bureaucracy. It is going to shake the decisionmaking by physicians. And it is going to lead to rationing by proxy.

What do we have now with this mess that we are rendering in the delivery of health care? This plan, the way health care is being given in this country now, was created by a group called the Jackson Hole group. It might have been created by the Jackson Hole group, but for most patients they go through a black hole trying to get the medical treatment they need.

Who do we refer ourselves? Doctors unionizing, hospitals closing, and the American people up in arms. There is a reason for this. This is because our delivery system has turned into a bureaucratic-rationing-by-proxy nightmare.

This is why we are trying to move this legislation.

This legislation we are talking about—Norwood-Dingell—passed the House in October 1999 by a vote of 275-151. That is bipartisan. The Senate moved quickly to have conferences in October. The House did it in November. But we did not have our first bipartisan meeting until February 23. The first Members' meeting wasn't until March. So I am very frustrated by the slow and stodgy pace of these deliberations.

Our progress has been minimal and meager. The snail's pace of the conference leads me to conclude that unless we act quickly, we are not going to have any legislation that we can implement.

It is high time we deal with this issue. No more delays. No more partisan stalling.
Mr. NICKLES. Mr. President, I yield 7 minutes to the Senator and doctor from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise in opposition to Senator Kennedy's amendment for a reason of number, but basically it has already been debated and defeated by this body after a week of discussion and debate. And it will be defeated today.

I do wish to make three points over the next several minutes. No. 1, the offering of this amendment today, I believe, a bad bill that could very negatively influence the quality of care of this country, and for sure it will drive people to the ranks of the uninsured. No. 2, the amendment is underlining. I believe, a bill that could just provide insurance if it could very negatively influence the quality of care in this country, and for sure it will drive people to the ranks of the uninsured. No. 3, the bill is inadequate, as has already been mentioned.

It doesn't address the basic rights of patients. The right of access to care is not addressed.

First, I hope this is not just political posturing, but I tend to think it is. It is a bill that people simply don't want a bill. They want to politicize it by introducing today an amendment on a totally unrelated, underlying bill. We will see how it plays out over the next couple of hours.

To me personally, as a physician, as a Senator, as one who believes we must, can, and will, because the American people expect us to, produce a strong Patients' Bill of Rights, what is most disappointing to me is I am afraid what is happening is the good faith efforts being made by this Congress, where we are spending, as Senators, hours every day, not just over weeks but months on this bill, that this is going to destroy, poison, the good-faith efforts and progress that are being made in the conference where we take a Senate bill that has already passed through this body and a House bill that has passed that body and, in a bipartisan, bicameral way, develop a bill that can and will be passed this year by the Congress.

We are making real progress in merging a 250-page bill on this side and a 250-page bill on the House side. I am afraid today's action, the introduction of this bill, is playing politics with an issue that is the death of millions of Americans. It is playing politics with an issue that is the death of millions of Americans.

Because we know this amendment will cost four times what the Senate-passed bill will cost in terms of an increase in premiums. The estimated increase in premiums under the bill which passed this body is about 1 percent. Under the bill that was initially proposed by Senator Kennedy, it would go up around 4 percent, four times what is provided in the underlying bill. Ask your constituents back home: How do you feel about possibly being one of those people who no longer can afford their insurance and, therefore, go without health care?

No. 2, if you think your child is getting the care he or she deserves today and if you decide that they are not, what do you really want? What do you want is to be able to take that child to a doctor and have them say, yes, we will treat the child now. If they say, no, you want to go to a quick appeals process, not some court award years later but today, shortly. If you disagree, then you want to go to another physician unaffiliated with the plan. That is what our underlying conference bill does.

Unfortunately, the bill being introduced today by Senators Daschle and Kennedy has these perverse incentives that, instead of going through that process of internal appeals and external appeals and an independent physician making a final decision, you are encouraged, through incentives, to go directly to the courtroom and file a lawsuit. We need to say to patients, the care you deserve when you need it or when your child needs it or would you rather spend your time in a courtroom weeks, months or years later?
In the conference bill, we have strong internal appeals, strong external appeals, an independent physician making a final decision. We address quality of care for you and your family right now. We address access to the care you need. We address the final decision about when the final decision is made in the conference bill. We have those disputes settled by independent physicians, doctors making the final decision. They are the ones with the best science, the best evidence. We have a provision in the bill that is not in the Republican bill. This is a vote that these issues will be settled and that care will be improved. The conference bill is the one that we have worked on, the one that we have been working on for the last several weeks.

My third and final point is that this bill is inexcusably and embarrassingly inadequate. It does not cover the provision which will be in the conference bill, that is access. Right now, there are 44 million people without health insurance. Since President Clinton has been in office, 8 million people have lost their health insurance. It has gone from 36 million to 44 million while Mr. Clinton has been in office. We must address that.

The PRESIDING OFFICER (Mr. Gordon). The Senator’s time has expired.

Mr. NICKLES. I yield the Senator an additional 2 minutes.

Mr. FRIST. The underlying conference bill addresses many issues which go well beyond the amendment being introduced today. By voting for the Daschle amendment today, we are basically saying these issues, which are in the Republican bill, are being discussed in conference today, are not important: Access; provisions such as the above-the-line deduction for health care insurance costs; accelerating the 100-per-cent self-employed health insurance deduction; expansion of medical savings accounts; a new above-the-line deduction for long-term care insurance; a new additional personal exemption for care-takers, all of which make those 44 million people more likely to have health insurance in the future.

Genetic discrimination: The prohibition of having genetic testing be used against you when you apply for insurance, it is not in the Daschle-Kennedy bill today. It is in the conference bill, the underlying bill passed by the Senate.

We have heard over the last several months that 80,000 people a year die because of medical errors or lack of patient protection. That is why we are in the conference bill because it was in the underlying Senate bill which did pass this body. A vote for the amendment today is a vote that these issues should not be part of the basic Patients’ Bill of Rights.

Let us not play politics. Let us continue to do what we have been doing over the last several weeks and months; that is, advance, taking the 250-page bill passed here, the 250-page bill passed in the House of Representatives, bringing them together in a bipartisan, bicameral approach that comes back to looking that patient in the eyes and saying: We are going to improve the quality of care you receive, not decrease that quality of care.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Tennessee, I am glad to hear him talk about increasing the number of people who are uninsured. With all due respect, I do not hear a lot from Senators on the other side about the need to have health security for all Americans. That, truly, is the unfinished agenda.

Secondly, on the playing politics of it, I do not want to turn around and say he is playing politics with it, but people in the country are wondering how long they can go without a reform that is comprehensive.

This is all about quality health care. All of our citizens want to be covered, not just the small number in the Republican bill. All of the citizens in our country want to make sure that the doctors are making the decision and there is independent review of their decisions. That is not in the Republican bill. All of the people in our country want to make sure that when they need to purchase prescription drugs or they need to see a specialist, a doctor who can give them and their children the best quality care possible, they will be able to do so. That is not in the Republican bill.

We have been waiting and waiting—3 months, 4 months, I do not know how many months—for the conference committee to act. With all due respect, people in Minnesota and people in the country want to bring some balance back into this health care system. They do not want it run by the big insurance companies. They do not want it just run by the big managed care companies. They want us to be responsive to their concerns. This is what we represent. Do we represent these large insurance companies and large managed care companies, the vast majority owned by just a few large insurance companies, increasingly corporatized, industrialized, and insensitive medicine or do we support a health care system that is responsive to the people we represent—the people back home, the mothers, fathers, and children who want good quality health care, who want to be able to go to the doctor that will help them, who want good quality treatment when they need it.

That is what this is all about—patient protection and protection for the caregivers, the providers, the doctors. Demoralized caregivers are not good caregivers. The reason the AMA and other professionals support this is they want to be able to practice the kind of medicine they thought they would be able to continue to practice when they went into nursing school or medical school.

Really, this is a real simple proposition: Are we on the side of the consumers and people back in our homes? Or do we represent just a few large insurance companies who only control most of these big managed care companies? I think we should be on the side of the consumers and families.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. I yield 6 minutes off of the manager’s time. Mr. President, I will start by commending the conferees for this legislation for their tremendous hard work. They have worked very hard to resolve many of the issues involved in this very complex bill, and they have made tremendous progress. I find it incredible that we are not allowing the conference time to complete its work when they have, indeed, made such progress.

The Senate-passed bill accomplishes three major goals: First, it would protect patients’ rights and hold HMOs accountable for providing the care they promise. As Senator Frist says, our legislation would get people the care they need when they need it. You should not have to hire a lawyer and file a lawsuit and wait years in order to get the health care you need. Instead, you have a quick process to help people get the care they need when they need it, without resorting to an expensive lawsuit.

Second, our legislation would improve health care quality and outcomes.

Third—and this is the critical difference between the two approaches being discussed today—our legislation would expand, not contract, access to health care. The fact is that costs matter. We cannot respond to the concerns about managed care in a way that resorts to unduly burdensome Federal controls and excessive lawsuits that drive up the cost of insurance so that we cause people to lose access to health care altogether. That is the crux of this debate.

We have a growing number of uninsured Americans in this country. There are 44 million uninsured Americans—the highest number in a decade. In my home state of Maine, 200,000 Maineres are without insurance. I have met with so many employers who have told me that if the Kennedy legislation passes, they will drop their health care plans. They simply cannot afford to be exposed to endless costly lawsuits in turn for providing a health care benefit.

Just yesterday, I met with a manufacturer from Maine who has 130 employees. He is a good employer. He provides an excellent health care plan. But he told me that if he is going to be exposed to endless liability and endless lawsuits, then he will no longer provide that health insurance to his employees. Many other employers will respond the same way.

So the problem is, if we pass the Kennedy bill, we will drive up the cost of health insurance that will make it further out of reach for those uninsured.
Mr. President, the significance of this debate, in my view, is this: The Norwood-Dingell bill—the Daschle amendment here—is a good bill. It would provide coverage for 161 million Americans, as opposed to the 48 million Americans covered by the Republican bill. I am confident that, given time, the continued opposition to this bill is happening only because of the Republican bill. The bill would pass, and we would have health care reform in the United States. The bill would go directly to the President, it would be signed, and the bill would be passed. Instead, the concern of many of us is that this is simply not going to happen. And we have a chance to make it happen today. I contend that no one should go out there and say they are for health care reform and not vote for a bill that has the opportunity to become a reality. That bill is the House-passed Norwood-Dingell bill, and we have that chance today.

After the consideration of the bill on the floor I went to California. California has the largest penetration of managed care in the Nation. I called together the CEOs of the big managed care companies and the California Medical Association. We proposed four things to them—four very simple things. One of them was the definition of "medical necessity." The Senator from Tennessee just said: It is important to get the HMOs out of the business of practicing medicine. That is exactly what we have done in the debate on the floor when the Senate bill was up—to change the medical necessity provisions to make sure doctors decide what is medically necessary, not insurance companies.

So I thought I would go to them and ask them to voluntarily make changes in how medical necessity is determined, in medically necessary drugs and in two other areas. There was a lot of discussion and several meetings. The bottom line is that they are unwilling to change. The simplest thing is that they did not come forward with a plan.

The bottom line is that we are going to be in this situation where Americans are dissatisfied with the level of managed care provided to them by their plans until we pass a basic law. What law could be more basic essentially than Norwood-Dingell? Let's look at what it does.

It assures nearby emergency room treatment for emergencies. That is common sense.

It provides access to specialists for patients needing specialty care. In my view, that is a no-brainer. If you need it, you should get it.

It provides access to drugs not on the plan's formulary, if medically necessary.

It provides the ability to stay with your physician at least 90 days or until treatment is complete if a doctor terminates his contract with your plan and you require specialized care.

It provides coverage of the routine costs of clinical trials.

It provides access to a clear internal and external review process for denial of benefits.

It holds plans accountable in the event of death or injury.

A key issue in this debate and reflected in several parts of the Daschle amendment is whether it is the doctor in consultation with the patient or is it an HMO bureaucrat, a green eyeshade? Under this amendment it is the medical expert who knows the patient and who decides, not the plan. This means that doctors decide which treatment is best, doctors decide which treatment is appropriate; doctors decide when specialty care is needed; doctors decide how long someone will stay in the hospital.

For example, this amendment requires health plans that have formularies to cover drugs that are not on a plan's formulary, if the doctor believes the non-formulary drugs are medically necessary. It also requires plans to refer patients with a serious or complex illness to a specialist for care. If a patient's condition requires the use of a specialist that is not available through the health plan, this amendment requires that plans cover services, at no additional cost, through a non-participating specialist. Both provisions are essential for persons living with a life-threatening or chronic illness.

Restoring medical decision-making to those trained to make medical decisions is at the heart of this debate. Doctor after doctor in my state talks about how their decisions are challenged, countermanded, second-guessed, and undermined by HMOs, to the point that they can hardly practice medicine.

Another important provision says that patients can continue the treatment with their doctors for at least 90 days if plans have terminated their contract. A plan must continue to cover treatment for pregnancy, life-threatening, degenerative or disabling diseases and diseases that require special medical care over a prolonged period of time with the terminated provider.

The amendment also requires plans to cover the routine costs of clinical trials, costs like blood work, physician charges and hospital fees. Clinical trials are research studies of new strategies for prevention, detection and treatment of diseases for which patients volunteer. These trials often involve analyzing new treatments, like promising new drugs, for diseases such as cancer. This provision is needed because a major deterrent to participation in trials is that insurers refuse to cover the day-to-day costs. For example, in the case of cancer, only 3-4 percent of adult cancer patients (40,000 people out of 1.2 million diagnosed) are enrolled in cancer trials.

Another provision of the amendment would allow patients to go to the closest emergency room during a medical emergency without having to get a
health plan's permission first. Emergency room staff could stabilize, screen and evaluate patients without fear that plans will refuse to pay the costs.

According to the University of California, Los Angeles, Health Insurance Policy and Research Center, "California is confused about where they should turn for help in resolving their problems and most are not satisfied with the resolution of their problems. There is a need for a clear grievance procedure and independent review of health plan decisions to prevent adverse health outcomes to the extent possible."

The Daschle amendment requires plans to have both an internal and external review for benefit denials. The review must be conducted and completed by a medical professional within 14 days or 72 hours in the case of an emergency. For external reviews, the reviewer must have medical expertise and a determination must be made within 21 days after receiving the request. In the case of an emergency, that decision must be made within 72 hours.

Senator Daschle's amendment would also allow patients to sue health insurance plans in state courts for denials or delays of care if the internal and external review process has been exhausted first, unless injury or death has occurred before the completion of the process. Plans complying with an external review decision would not be subject to punitive damages. Additionally, plans whose formularies were not made available in a claim decision would be exempt from such legal action. This provision helps patients keep their health plan accountable for the decisions made about their health.

Another key issue before us is who is covered. Under this bill, all 161 million insured Americans would be protected. This is a vast improvement over the Senate bill which only covers 48 million Americans. How can we say one group deserves protections and another does not?

The words of this Californian provide an accurate and poignant summary of the problem. Kit Costello, president of the California Nurses Association, said:

"Most Americans see a confusing, expensive, unreliable and often impersonal assembly of medical professionals and institutions. If they see any system at all, it is one devoted to maximizing profits by blocking access, reducing quality and limiting spending... all at the expense of the patient. Who's in charge of my care? The average American believes that health insurance companies have too much influence and exert too much control over their own personal care—more than their doctor, hospital, the government or they themselves. Sometimes more than all of them combined.

Mr. President, people should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

Last fall, after the Senate completed consideration of the HMO bill, I convened a group of HMO officials and health care providers in an effort to address some of the complaints we were hearing from patients and doctors in California. They met several times early this year.

I asked them to try to reach agreement on at least four issues. One, disclosure: Include clear language in contracts between plans and providers on medical necessity. I suggested the language like that that I proposed in the Senate which defined "medically necessary" or "appropriate" as "a service or benefit which is consistent with generally accepted principles of professional medical practice."

Two, payment of claims: Because at the time, 50 percent of physicians and 75 percent of California medical groups were reporting serious delays in payments by plans, I asked them to agree on a system for promptly notifying doctors when patients leave plans and an assurance of prompt payment of claims.

Three, low premium rates: According to a 1999 Price Waterhouse Study, California has one of the lowest average per member premium rates per month by the patient in the commercial managed care marketplace. Of this, doctors receive around $35 for actual patient care. Payments in California are 40 percent lower than those in the rest of the country. Over 75 percent of medical group practices are in serious financial trouble in my state.

I suggested that they develop payment rates to providers that are sufficient to cover the benefits provided in an enrollee's contract, rates that thus are actuarially sound.

Four, formularies: Finally, physicians were telling me that it is difficult to find out which drugs are and are not on plans' formularies and that it was difficult to get exceptions from plans. Patients who drug not on the formulary were medically necessary and more effective than those on the formulary.

I had hoped they could work out better methods for listing drugs, that is, which drugs are on the plans' formularies and to agree on a uniform method for allowing exceptions to formularies when nonformulary drugs are medically necessary.

There were several meetings in January and February. It is now June. Even though there were several constructive discussions, little resolution was reached.

And so, without voluntary action by the industry, legislation is all the more necessary.

I hope the Senate passes this amendment today and sends it to the President for signature.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 37 minutes; the Senator from Massachusetts has 34.

Mr. NICKLES. Mr. President, I yield to the Senator from Vermont 7 minutes.
Action Policy. Managed Care Reform

NCSL supports both the establishment of needed consumer protections for individuals receiving care through managed care entities. We also support the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to obtain affordable health coverage. We strongly oppose preemption of state insurance laws and efforts to expand the ERISA preemption. The appropriate role of the federal government is to: (1) ensure that all employees have access to adequate care; (2) establish a floor of protections that all individuals must have; and (3) provide adequate resources for monitoring and enforcing federally-regulated provisions. The Senate-passed version of the “Patients’ Bill of Rights” generally preserves the traditional role of states as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans.

The impact on state insurance markets. Recent state reforms have guaranteed small employers access to health insurance and have made coverage more affordable for many small businesses by creating large insurance rating pools. These large pools assure that all small firms can obtain coverage at reasonable rates, regardless of the health of their employees. The success of these state small group reforms, however, depends on the appropriate remedies when a carrier departs. By expanding the exemption provided in ERISA, the House-passed bill would shrink the state-regulated insurance market and threaten the viability of the markets and any reforms associated with these markets. These proposals undermine HIPAA by creating new opportunities for states to leave the state-regulated small group market, only to return when someone becomes ill. This increases for adverse selection and forces state-legislatures to choose between preemption and raising health care costs for many small firms and individuals.

Fraud and abuse. MEWAs have become notorious for their history of fraudulent activities. The House-passed bill would undermine the role of state insurance departments as regulators. State-AHPs from critical areas of the external appeals process, the appropriate remedies when a major carrier leaves the state-regulated insurance market. The offer would provide for a new Federal appeals process for the oversight and enforcement of health insurance regulations is inadequate. The federal government will not be able to deliver on the promise and may very well prevent states from delivering on theirs regarding patient rights.

The Senate-passed version of the “Patients’ Bill of Rights” generally preserves the traditional role of States as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans.

The Senate-passed bill would undermine the role of state insurance departments as regulators. State-legislatures goes on to say: “The Federal Government will not be able to deliver on the promise and may very well prevent States from delivering on theirs regarding patient rights.”

Mr. President, I ask unanimous consent to have the full text of the National Conference of State Legislatures policy statement be printed in the RECORD.

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

ACTION POLICY. MANAGED CARE REFORM

NCSL supports both the establishment of needed consumer protections for individuals receiving care through managed care entities. We also support the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to obtain affordable health coverage. We strongly oppose preemption of state insurance laws and efforts to expand the ERISA preemption. The appropriate role of the federal government is to: (1) ensure that all employees have access to adequate care; (2) establish a floor of protections that all individuals must have; and (3) provide adequate resources for monitoring and enforcing federally-regulated provisions. The Senate-passed version of the “Patients’ Bill of Rights” generally preserves the traditional role of states as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans.

The Senate-passed version of the “Patients’ Bill of Rights” generally preserves the traditional role of states as insurance regulators, and focuses most of its attention on the federally regulated, self-funded ERISA plans. These plans have not benefited from the state laws enacted to provide needed protections for individuals who receive care through managed care. It is appropriate for the Congress to address the needs of these individuals.
Our goal is to give Americans the protections they want and need in a package that they can afford and that we can enact. This is why I hope we will be successful in our efforts to develop a conference committee report that includes a true Patients' Bill of Rights, which can be passed and signed into law by the President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield to the Senator from West Virginia 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Massachusetts. I thank the Presiding Officers.

The American Medical Association says:

The AMA strongly supports attaching the Norwood-Dingell patients' rights bill to the DOD reauthorization bill. Patients and physicians have worked for more than half a decade on a bill that protects patients. Now is the time to make it law.

They further say:

The Republican counterproposal put forward on June 4 was unacceptable making it little better than the HMO protection act passed by the Senate last summer. The bill was a sham.

That is the American Medical Association.

I listened to my colleagues, all of whom I have enormous affection for, and they know I respect them. I work with them. I appreciate them. I believe the conference process, I can't really believe what I am hearing, because I have been in that conference. What I am hearing on the floor and what I have heard in the conference is two entirely different worlds.

I would like to expand on that, but I don't have the time. But we have asked for proposals. We haven't gotten proposals. We should not be in the business of suing HMOs or corporations. We said we wouldn't do that. Senator KENNEDY said it many times. Congressman DINGELL said it many times. If you want to write the language which says that corporations cannot be sued under this bill, we will accept the language. We don't want to sue corporations unless they themselves intervene in the decision which produces death or injury. What could be clearer than that?

To listen to the argument from this side, one would think it was something entirely different. This is reduced to a political discussion. As Democrats, we feel passionately about the Patients' Bill of Rights and want 361 million Americans or more to be covered by this, rather than the 48 million which would be covered by the present Senate bill. First of all, we don't believe the coverage if the bill passes; and second, if the bill doesn't pass, to know so that there could be created a ground swell for future action over who is accountable. It is accountability not only for HMOs but accountability for Congresspeople on both sides.

Our Patients' Bill of Rights—basically, the one that has been introduced which I urge my colleague to support—is incredibly sound and sensible. It gives people the kind of protection they want.

Senator FRIST understands well that a child needs a pediatric cardiologist; an adult needs a cardiologist. An adult's fist is not the same as a child's fist. They require different kinds of surgery. In the bill the other side proposes, that would not be possible. They could not go out of their plan to get that kind of help. In our bill they could.

That is an example of the kind of attention we placed in this amendment.

I urge my colleagues to support the bill we have before the Senate. It is much better for the American people.

Mr. NICKLES. I yield 3 minutes to the Senator from Wyoming, a member of our conference who also has additionally been a small businessman and former mayor.

Mr. ENZI. Mr. President, I am disturbed at this attempt to derail a conference committee that has been working months on end. If this bill were easy, we would have done it in a few minutes. If this were easy, both versions would be acceptable.

We have a system of government that is based on both bodies, considering, to their greatest capability, every problem. When legislation is different on one side from legislation on the other side, there is a conference committee. This conference committee has probably put more time into trying to resolve the issues, rather than to jam one side against the other, trying to get an understanding of what is trying to be achieved and reach a conclusion that incorporates both bills. There has been a lot of progress.

The amendment before the Senate does not include the compromises that have been made to date, some very important ones. This bill has a big city approach to it. Wyoming doesn't have any big cities. Our biggest city is 50,000 people. I have one city in Wyoming, the biggest city in a county the size of Connecticut, and they don't have a hospital or emergency facilities. They drive themselves in an emergency an hour to get to a doctor.

What works in Massachusetts won't work in Wyoming. The bill has to serve both areas. It has to serve the cities and the rural areas. We have to have a unique approach to that. We can't force one method on everybody. That is what happens if we go to the bill that the Senate passed. We have been getting some things in that meet the needs of the small retailer, that meet the needs of the small communities that are isolated. We have some things in the bill that take care of the patients.

It isn't just going to effect the small businesses. My staff was talking to Pitney Bowes. Their health care person is not just an average guy. He was the personal physician to President Ford. Now he is administering one of their numerous health plans. He has said if the Norwood-Dingell version passes, they will have to eliminate the kind of health care they have. That is a big employer with a lot more capability than the small employers.

We cannot derail a process that is working, a process that worked for the country for years and years, one that solves difficult problems such as this, one that brings into consideration all of the parts of this vast country—not just a solution that a few people write down in Washington. We have to get the opinions of the people of this country included in the bill.

Mr. President, I'm more than a little surprised that in response to a first-time ever Republican offer on a Patients' Bill of Rights to expand liability and scope, the Democrats have walked away from the table. That's an incredible counter-productive reaction to a giant step towards compromise. This conference has been long and time-consuming, by the Federal Government. There is not a single reason why we should abandon a process that is working. Yet, politics is being invited in, and I think the majority of us are here to highlight why that's such a terrible thing. Conference meetings were an important part of process—for our country. It should be. For example, the biggest town in just one Wyoming county—which is the size of Connecticut—doesn't have a hospital, don't have an emergency room.

Among the handful of principles that are fundamental to any true protection for health care consumers, probably the most important is allowing states to continue in their role as the primary regulator of health insurance.

This is a principle which has been recognized—and respected—for more than 50 years. In 1945, Congress passed the McCarran-Ferguson Act, a clear acknowledgment by the Federal Government that States are indeed the most appropriate regulators of health insurance. It was acknowledged that States are better able to understand their consumers' needs and concerns. It was determined that States are more responsive, more effective enforcers of consumer protections.

As recently as last year, this fact was re-affirmed by the General Accounting Office. GAO testified before the Health, Education Labor, and Pensions Committee, saying, "In brief, we found that many states have responded to managed care concerns about access to health care and information difficulties. However, they often differ in their specific approach, in scope and in form."

Wyoming has its own unique set of health care needs and concerns. Every state does. For example, despite our economy for years and years and years, regarding skin cancer that Florida has on the books. My favorite illustration of just how crazy a nationalized system of health care mandates would be comes from my state of Wyoming and Wyoming Legislature. It's about a mandate that I voted for and still support today.

You see, unlike in Massachusetts or California, for example, in Wyoming we
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have few health care providers; and their numbers virtually dry up as you head out of town. So, we passed an any willing provider law that requires health plans to contract with any provider in Wyoming who's willing to do it. While I didn't entirely sound, there is to my eyes in another context, it was the right thing to do for Wyoming. But I know it's not the right thing to do for Massachusetts or California, so I wouldn't dream of asking them to shoulder that kind of mandate for our sake. I simply, reasonably, apply it within our borders.

As consumers, we should be downright angry at how some of our elected officials are responding to our concerns about the quality of our health care and the alarming problem of the uninsured in this country.

It is being suggested that all of our local needs will be magically met by stomping on the good work of the states through the imposition of an expanded, unfettered federal bureaucracy. It is being suggested that the American consumer would prefer to dial a 1-800-number to nowhere versus calling their State Insurance Commissioner, a real person whom they're likely to see in the grocery store after church on Sundays.

As for the uninsured population in this country, carelessly slapping down a massive new bureaucracy on our states does nothing more than squelch their efforts to create innovative and flexible ways to get more people insured. We should be doing everything we can to encourage and support these efforts by states. We certainly shouldn't be throwing up roadblocks.

And how about enforcement of the minority's proposal?

Well, almost one year ago this body adopted an amendment that stated, "It would be inappropriate to set federal health insurance standards that not only expand the responsibility of the 50 State insurance departments but that also would have to be enforced by the Health Care Financing Administration if a State fails to enact the standard."

Yet here we are one year later where, not only is it being suggested that we trample the traditional, overwhelmingly appropriate authority of the states with a three-fold expansion of the federal reach into our nation's health care system, but also we have yet to see HCFA be in charge. HCFA, the agency that leaves patients screaming, has doctors quitting Medicare, and, lest we not forget, the agency in charge as the Medicare program plunges towards bankruptcy.

And guess what, it looks even worse for consumers under HCFA's "protection," according to a new report released by GAO on March 31st of this year. The model the Democrats are supporting is that of HCFA, the federal government, that tramples the traditional, overwhelms the States, and is responsible by GAO states, "HCFA is responsible for directly enforcing HIPAA and related standards for carriers in states that do not. In this role, HCFA must assume many of the responsibilities undertaken by state regulators, such as responding to consumers' inquiries and complaints, reviewing carriers' policy forms and practices, and imposing civil penalties on noncomplying carriers."

Is this supposed to give consumers comfort? First we should usurp their local electoral rights or their ability to influence the appointment of their state insurance commissioner and then look to a federal regulator? I'm not sure I could find a single Wyomingite to clam up on the back for this kind of public service.

I could go on at length about the very real dangers of empowering HCFA to sweep into our states market, with its embarrassing record of patient protection and enforcement of quality standards. Such as how it took 10 years for HCFA to implement a 1987 law establishing new nursing home standards intended to improve the quality of care for some of our most vulnerable patients. But I think the case has already been crystallized in the minds of many constituents: "enable us to access quality health care, but don't cripple us in the process." The next, equally important issue is that of exposing employers to a new cause of action under a Patients' Bill of Rights. Employers voluntarily provide coverage for 133 million people in this country. That will no longer be the case if we authorize lawsuits against them for providing such coverage. This is basic math. If you add 133 million more people to the 46 million people already uninsured, I'd say we have the situation on our hands. In my mind, a simpler decision doesn't exist. We should not be suing employers.

Mr. President. Let me close by saying that the conference has worked in incredible good faith, logging more than 400 hours and counting. We have come to conceptual agreement on a bipartisan, bicameral basis on more than half of the common patient protections. We have come to bipartisan, bicameral concept agreement on the overwhelming demand for the independent, external medical review process. Most dramatically, the bicameral Republicans have offered a compromise on liability and scope, to which the Democrats have given no formal, substantive response, just rhetoric and political jabs in the press. It is absolutely bad faith to have done so. I think it would be regrettable if these continued public relations moves torpedo what, so far, has produced almost everything we have for a far more substantive conference product. I encourage all of my colleagues to take the high road and support the legislative process our forefathers had in mind, versus a public relations circus.

Let me share an employer story. Here's another employer "real life" story. Within the last hour, my staff was on a conference call with the Medical Director of Pitney Bowes, a large employer that self-insures and self-administers a Cadillac-style health plan for more than 23,000 employees and retirees. All of my colleagues should take note that this is not just any private citizen. Dr. Mahoney was the personal physician to President Ford. Now serving as the chief medical officer of numerous health plans that this amendment threatens to dissolve.

Everything from on-site medical centers to on-site fitness centers to the educational seminars on skin cancer awareness to mental health awareness and stress management that Pitney Bowes currently offers would be jeopardized. They've said the worst case result would be terminate the employer plan altogether. That sentiment has been echoed from countless other employers from IBM to caterpillar to mom-and-pop shops.

I urge my colleagues not to crush plans like Pitney Bowes over politics. Mr. Kennedy. I yield 5 minutes to the Senator from North Carolina.

Mr. Edwards. Mr. President, thank you all of my colleagues who are involved in this conference and thank them for their hard work and certainly defer to all of them about the specifics of what has occurred in the conference and the work they have done here.

There are some specific issues about which I am concerned. First, it is important for the American people to understand that the Patients' Bill of Rights means nothing unless those rights are enforceable. Under any of these bills that are being considered, there are only two enforcement mechanisms. Without those mechanisms working, without them being effective, the rights don't exist because the insurance companies can do anything they want and can't be held responsible for what they do.

There are two enforcement mechanisms. First, if we have a real and meaningful independent appeals process, that is an enforcement mechanism. Second, we do for health insurance companies the same thing we do for every single American listening to this debate—when they hurt somebody, we hold them responsible.

There has been a lot of argument about lawyers, lawsuits, and HMOs. Why in the world are HMOs and health insurance companies entitled to be treated any differently than the rest of
us? When we walk out the door and with our automobile or some other way cause injury or death to somebody, we are responsible for that. Everybody listening to this debate can be held responsible. Why is the health insurance company entitled to be treated differently? Are they a special cut above the rest of us?

We need real and meaningful enforcement mechanisms. The appeals provision that came out of the Senate was not truly independent because the insurance company had control over the people who made the appeals decision. Something has to be done about that; Otherwise, there is no independent appeal. That issue, as I understand it, has not been resolved. If it is not resolved, the appeals process means nothing. It is not independent.

The other issue I want to talk about is holding HMOs accountable for what they do or do not do, treating them as every other American citizen, every other consumer. It is important to not pay too much attention to the rhetoric. There is lots of rhetoric in this debate. We are creating a cause of action, a right to sue, and we just want to exempt employers from that.

Unlike the use of the language makes a huge difference in whether the patient really has a right or not. Let me give an example. This is a language that was proposed recently in the conference from the Republicans about creating a cause of action:

A new federal statutory cause of action would be created in ERISA to allow for lawsuits for failure to comply with the decision of the independent medical reviewer.

In other words, no matter what the insurance company does, as long as they do what the independent reviewer says they have to do, they can never be held responsible.

Here is the problem with that: A patient goes to the hospital. They need emergency care. They call the HMO. The HMO says we will not cover it; we will not pay for it. The patient dies as a result or is seriously injured for the rest of their life. Three days later, after an appeal is filed, some independent reviewer says, of course this was covered by the policy. So the insurer says: Now I will comply; I will do what the independent reviewer says. As long as they do that, under this provision, they cannot be held responsible.

The problem is they did the damage when they made the initial decision. If they make an absolutely egregious decision, for whatever reason, no matter how bad their conduct, we are not going to cover this care. Then, if 4 or 5 days later they are reversed by an independent review, they cannot be held responsible for that original decision no matter what the damage is, no matter how irreversible it is.

It creates an almost natural incentive to deny coverage, because, No. 1, if they deny coverage, the chances are the patient won't appeal; No. 2, if they deny coverage and they are reversed 4 days later, there are no consequences. There is absolutely no reason, no financial reason whatsoever, for the insurance company to do anything other than, when in doubt, deny coverage because we can never be held responsible for that decision.

Let me give a couple of very specific examples. A patient with adult onset diabetes has been on insulin, injectable insulin, his entire life. The insurance company—this is a real example, real-life example:

The PRESIDING OFFICER. The time yielded to the Senators has expired.

Mr. KENNEDY. I yield 2 more minutes.

Mr. EDWARDS. The insurance company says: You can take oral medication; you don't need insulin. He appeals. During the time the appeal is being considered, 3, 5, 7 days, he has a stroke and goes blind.

Then the independent review says: Of course, he was entitled to keep his insulin. So the insurance company says: All right, we will provide insulin now. Now we have a 55-year-old man who has had this disease: he cannot work anymore; he cannot care for his family. Where does he go? Who is going to help his family? The insurance company cannot be held responsible for what they did, not under this proposal. This language matters. It is critically important, what the language says.

A young boy, Ethan Bedrick, with cerebral palsy, 5 years old, all his doctors say he needs to have physical therapy, every one of them. The insurance company says: We don't need him. They appeal. The independent reviewer happens to be somebody who has absolutely no experience with children with cerebral palsy. This is a real-life example. So he says: The insurance company is right; we are not going to give this 5-year-old child with cerebral palsy physical therapy.

Where does he go? The independent reviewer, who knows nothing about children with cerebral palsy, has denied coverage. The insurance company has denied coverage, coverage for which his parents have been paying for 20 years. So where does he go? For the rest of his life he has cerebral palsy. He is contracted, bound up, can't get the daily physical therapy he needs, and he has nowhere to go. There is absolutely no remedy for Ethan Bedrick.

I say to my colleagues in the Senate, what happens to this little 5-year-old boy when this happens? He cannot go to court, not under this proposal. He cannot go anywhere. The insurance company has cut him off, and he has been cut off from the care he needs.

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

Mr. EDWARDS. It is the Chair. Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There remain 27 minutes to the Senator from Oklahoma, 24 to the Senator from Massachusetts.

Mr. NICKLES. I yield 7 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Senator from North Carolina is certainly one of the finer trial lawyers who has come to this body in a long time. I simply note, on at least two of his examples, they were compiled in the sense if it was an emergency-room situation, there could be no denial because under our bill emergency rooms have to be covered; and second, in the instance he just described about the child, which was a compelling instance, if he, unfortunately he failed to mention in our bill we require that the reviewer be a medical person who has expertise in the discipline and in the area where the person is claiming to have received injury.

The point I do think has been made by the Senator from North Carolina, and has been made by a number of other Senators on the other side of the aisle, is that employers will be sued. Employers will be sued under the bill that is being brought forward by the Democratic membership. That is a serious problem.

We put an offer out, an offer to the other side, which was fairly substantive. It may have been two pages, but the other side understood there was a lot of documentation behind it, and in fact there were actually months of negotiation relative to the appeal process behind that offer. In that offer, we said employers cannot be sued. Why? Because when you start suing employers, employers drop out. They start creating uninsured individuals. We have already heard from a number of major employers, and testimony has been given here today by Senators who represent States where major employers have informed them that they are going to drop insurance if they start being sued. We know small employers will do that in droves because they cannot afford the risk of putting their businesses through a lawsuit over medical insurance.

So it is not about suing HMOs, I say to those on the other side of the aisle, this is about opening up lawsuits to everybody, not only against HMOs, which by the way we allow to occur in our bill which was admitted to by the sign that was put up—we allow HMOs to be sued—but, more important, it is about suing employers.

Look at this chart. This chart is a reflection of the various elements of what is essentially the bill the Democratic Party has brought to the floor today. It is so convoluted and so complex that, literally, you would have to spend probably a month just figuring it out, just to figure out what it all means.

That is one of the reasons this conference has taken so long, because we have been trying to sort through all the different complications. I want to point out, at almost every element in this chart, every one of these white lines, every one of these crossing lines, every
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one of these agencies that is being created, every one of these decision processes being placed upon the community, there is a lawsuit waiting to happen under the Democratic bill.

This is the attorneys annuity act. The Democratic bill is that they go to the employers; they are the ones who will be at risk. As a result, you will drive many people into an uninsured status because employers will stop running their insurance programs in droves. I mean literally millions of people.

Why would you want to do that? I hate to be cynical about this, but I honestly think, if you look at the process this administration has pursued over the last 8 years, they are trying to continually raise the cost of insurance, health insurance, in this country and make it less and less affordable, so more and more people become uninsured, so at some point they can make an argument which they have already made saying they have to nationalize the health care system in order to pick up all the people they have created as uninsured.

It is the old orphan argument. You know, the problem they are going to sue employers left and right.

There is a law firm up in New England which represents Car Talk. They are called Dewey, Cheatum and Howe. Today, they have about three people working for them, according to Click and Clack, the Tappet brothers, who work at Car Talk Plaza. But I will tell you something. If this bill passes, they are going to give up automobile insurance and they are going to go into suing companies, suing businesses, suing employers who happen to supply health insurance to their people. They are going to add probably 20 or 30 or 40 new attorneys.

So Dewey, Cheatum and Howe is going to just keep on going and going and expanding, because they will have received an annuity under this bill—not an annuity to see HMOs, because that is not really in contest anymore; we have already put that on the table. It will be an annuity to sue employers. As a result, not only will there be a heck of a lot of lawyers working at Dewey, Cheatum and Howe; there will be a lot more people in this country who have health insurance, and the ones we will hear from this administration, from Vice President Gore: My goodness, look at all the uninsured—who were created by this bill we just passed—we will have to nationalize the system. And then we will end up with a system that really doesn’t work.

We put on the table some fairly substantive and very good proposals which have come from months of work. I hope the administration proposal does, and what the result of the conference report is to the politics of this debate.

Mr. President, I yield any time I have remaining back to the Republican leadership.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to the Senator from North Carolina 1 minute.

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

Mr. EDWARDS. Mr. President, I say to my colleague who just argued about employers, that is another example it is so critical we look specifically to the language and not the rhetoric.

Our bill at page 246 specifically exempts employers from any liability unless they intervene in the process of making decisions about claims. Period. If all they do is buy health insurance, which is what 99 percent of certainly small employers do, they cannot be held responsible. On the other hand, if they decide they are going to engage in the business of deciding what claims are going to be denied, like General Motors or a big company that runs its own plan, then they ought to be held responsible. The majority of employers cannot be held responsible at all unless they intervene.

Second, Ethan Bedrick, a 5-year-old boy, is a real-life example. His claim was denied by the independent reviewer. If the language we have been talking about becomes law, we will not have a real Patients’ Bill of Rights, and Ethan has nowhere to go. He cannot go to court. He does not have any other appeal. The reality is people make mistakes. A 5-year-old boy who has a lifetime of needed care needs a place to go.

The PRESIDING OFFICER. The time yielded to the Senator has expired. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, if this was a dance contest, I say to the majority party, over here, you have never seen a shuffle like this. We are not stalling, they say, and yet this conference committee has had more than six months to reach an agreement and there has been no movement. Do not take it from me, take it from Dr. Norwood, a long-time friend from the State of Georgia. He says:

It is impossible to take this conference process seriously.

That is from a Republican.

While this Congress fiddles, people die. Yes, they die. Senator Reid and I had a hearing in Nevada. A mother named Susan Roe spoke up at this hearing about her 16-year-old son, Christopher. Christopher is now dead. He had leukemia. Chris's pediatric oncologist recommended that he receive a bone marrow transplant, his only hope for long-term survival. But before Chris could receive a bone marrow transplant, his cancer needed to go into remission. The oncologist felt that the only drug available that would help him achieve remission was a Phase III investigational drug known as B43-PAP. However, this treatment he needed for a chance at life was denied him.

At the hearing, Susan held up Christopher’s picture and told us, through tears, how, as her son lay gravely ill, she looked at her and said: Mom, I just don’t understand how they could do this to a kid.

People die while this Congress fiddles. This debate is about whether there should be a Patients’ Bill of Rights. This amendment says, among other things, that every patient has a right to know all of their medical options, not just the cheapest. If you need to go to an emergency room for care, you have a right to get it.

If you stand with patients, you will support this amendment. This legislation ought to have been passed last year, but the fact is, it is locked in conference. There is a giant stall going on. The only difference between this conference and a glacier is that a glacier at least moves an inch or two a year. The Senator from South Dakota and the Senator from Massachusetts and others have every right and responsibility to bring this proposal to the floor of the Senate because we insist that this Congress take seriously the need to pass a Patients’ Bill of Rights.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. NICKLES. Mr. President, I yield to the Senator from Arkansas 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, as a member of the Armed Services Committee, I am deeply concerned that this non-nongermane amendment is being offered on this very important bill. As a member of the conference committee, I am very disappointed it has been described and depicted in the way it has by the Democrats today.

I have never seen a group of my colleagues work as hard as the members of this conference committee have for the last few months. Over 400 hours have been logged by staff and members in trying to negotiate very tough and very difficult issues. These are tough issues, and there are big differences between the House and the Senate. There has been enormous
movement, and most of the movement has been on behalf of Republican Senators who have made compromises and concessions to move this bill forward. There has been no stall. One does not stall a bill by spending the kind of time and energy we have seen expended on this bill.

In reference to the Kennedy amendment that has been offered today, we spent a week debating this issue. One of the biggest problems I see with the Kennedy bill is that all of the access provisions have been removed. Even the access provisions we saw in the Dingell-Norwood bill have been removed. There are none of the means by which more people can get insurance.

The only access left in this bill is access to the lawyer and plenty of access to lawsuits. That is the real purpose of why we have seen this brought forward, to provide a whole new realm of litigation for trial lawyers. I want to give one particular example, a company in my State. I do not mention it particularly because it is from my State, but it happens to be the largest employer in America, and that is the Wal-Mart Corporation. It sounds like a combination of Vax, Wal-Mart, and bad Wal-Mart; let’s sue corporations.

Let’s put it in practical terms. They have 900,000 employees in the United States. Forty percent of them chose voluntarily to go under the Wal-Mart health plan. There are about 10 percent in HMOs and many are insured by their spouses who are employed in other places.

Those 40 percent represent 700,000 Americans in this one company who receive their health care through Wal-Mart. The 10 percent who are in HMOs pay three to four times more in premiums. It costs three to four times more than those who are under the Wal-Mart plan.

Recently, they surveyed all the employees in the Wal-Mart plan. Ninety-five percent expressed satisfaction, but more significant, not one of them mentioned they wished they had a right to sue their employer. Not one of them.

I want to read what they said in a letter. We met with them off the floor a few moments ago. This is what they said in a letter:

Our concern is that unavoidable litigation costs will increase health care costs and in turn increase premiums for everyone.

There is no doubt about that.

Depending upon cost, we will be forced to move into the premiums or a portion of their premiums and will be pushed into the ranks of the uninsured. That is going to be the intended or unintended consequence of the Kennedy bill if it is adopted.

The plain truth is, Democrats want to get rid of employer-sponsored health insurance. Mr. President, 103 million Americans receive health care through their employers, and it will take one lawsuit with an egregious award to force employers to drop their health care and add their employees to the ranks of the uninsured.

Senate Republicans are dead serious about producing a bill out of this conference and one that puts patients first, not trial lawyers first.

The Kennedy amendment is in bad faith. The question is, Do you want an issue or do you want a law? We can produce a bill that can become law and protect millions of Americans, but this is too important to do it quickly instead of doing it right. We want to do it right. I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is with mixed feelings that I stand in support of this amendment. I am a member of the conference committee on the Patients’ Bill of Rights. When we began the conference, I had high and great hopes for this because my colleague from the Republican side told us how committed they were to meaningful HMO reform. Let us look at the history and the record.

This passed the Senate almost a year ago, in July of 1999. It passed the House in October. The first meeting we had was on March 2 of this year, and we conducted no business. Then there was another meeting on March 9 that lasted a little while. Not much was done. Then we had two more reduced meetings in the conference, but just a few members of the conference behind closed doors in Senator Nickles’ office off the floor. There were four meetings. We have heard about 400 hours and all this hard work. Four meetings? That is tough work.

Maybe they have been talking with each other for 400 hours. I do not know. It reminds me of a story about a car stuck in a snowbank. The guy spends 10 hours in the car spinning the wheels going nowhere. Someone shows up and he says: I spent 10 hours trying to get my car out of the snowbank. He is sitting there gunning the gas pedal, spinning the wheels, and going nowhere. If he had just gotten out of the car with a shovel, he would have been out of there.

That is what this conference committee is doing; it is spinning its wheels. Since we started meeting, we finalized agreement on two provisions — out of 22 in disagreement, 2 provisions.

These were noncontroversial provisions to which both sides easily agreed. The first was on access to pediatric care. That took about 30 seconds to decide. The next issue was provider nondiscrimination. That was identical in both the House and the Senate bills. That is what we have agreed on. That is all we have to show for 400 hours! Four hundred hours! What is that we have to show for it?

As I said, we are spinning our wheels. Slowly, over time, I have come to the reluctant conclusion that our Republican Senate colleagues are not serious. They have too many stories about patients they cannot see the doctors in a timely manner, who cannot get access to the specialists they need, patients who could not get the coverage for the type of care they thought was covered under their plan.

For a very simple: Insurance either fulfills its promises or it doesn’t. We are hearing enough to know in too many cases it does not. Employers and patients pay good money for health care coverage, only to find that the expected coverage evaporates at the time they need it.

So we have a choice to make here, a choice between real or illusory protections, a choice between ensuring care for millions of Americans or ensuring the profit margins of the managed care industry.

The Norwood-Dingell bill, the amendment before us, passed on a bipartisan vote in the House. It is commonsense patient protections by which the managed care plans must abide.

Over 300 organizations representing patients, consumers, doctors, nurses, women, children, people with disabilities, and small businesses support the Norwood-Dingell bill.

Unfortunately, I cannot help but think that if Members of Congress—Senators sitting right here in this room today—were in the same health care boat as the average American family, this bill not only would have been made law, it would have been made law years ago.

We have all the protections that are in the Patients’ Bill of Rights. It is good enough for us, but it is not good enough for the American people, according to my friends on the other side of the aisle.

The Senate majority pretends their bill offers real protections. But when you read everything below the title, the bill offered by the Senate Republicans sounds more like an “Insurers’ Bill of Rights” than a Patients’ Bill of Rights.

It is my hope that this amendment will spur our colleagues on the other
side of the aisle to renew their commitment to this conference committee and to do it in a bipartisan fashion. Spinning your wheels for 400 hours is not getting the job done.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to inform my colleague, he is incorrect. He said, if we gave every other employee what the Federal employees have, Federal employees cannot sue their employer. Federal employees don't have a right to appeal. Federal employees, if they appeal, they appeal to the OMB, their employer. Federal employees, including Senators, do not have the right to sue. You cannot sue. To say, if we just give everybody else what we have, is factually incorrect.

When my colleague said we have had all these meetings and we only agreed to two things, one of the reasons people say the conference did not go anywhere is that our Democratic colleagues never say yes—even if we give them a yes. We have not quite gotten to agreeing.

But, frankly, in conference, I might say, we agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated with Congressman Dingell. The Senator from Massachusetts. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell. We agreed to access to emergency room treatment. We didn't pass an HMO. We negotiated it. We negotiated with Congressman Dingell.

To say, if we just give everybody else what we have, is factually incorrect.

Why did that take so long? Because we negotiated it. We negotiated with the Senator from Massachusetts. We negotiated with Congressman Dingell. We negotiated with his staff. We went over every single letter, every single word, every single paragraph. And then people say: Oh, we have not negotiated. Maybe that is the reason we don't have a conference—because you won't agree to anything.

Who is not agreeable? Who is not moving? It is a little bit frustrating, a little bit disingenuous to say: Oh, nothing is happening. Where did those 400 hours go? I will tell you, there were hundreds of hours—and 400 is conservative—time spent by staff and by Senators trying to come up with a positive agreement.

Some people do not want one. I think the very fact that we are here today means people do not want one. They would rather have theater. They would rather have an issue. I was planning on having a bipartisan, bicameral conference this afternoon—on Thursday, as we have done for the last several Thursdays—to work on these very issues.

The people say, oh, some people want to have an issue on the floor, as if they think that is going to help the progress. It is not going to help the progress. That is unfortunate.

I am going to continue to try to see if we cannot pass a positive, bipartisan, bicameral bill. But, frankly, I do not think the efforts that have been made today are helpful to the process. I think it undermines the process. Again, I tell my colleagues, I cannot think of any other instance where you have had ongoing conference where people said, oh, let's just adopt the House bill, even though we made significant concessions. We worked and we have negotiated. They say, oh, let's just pull out and adopt the House bill. That is a real slap on the Senate, not just the Senate, but the House. But that is a real slap on the entire Senate. It is going to be interesting to see how committee chairmen vote. Two people can play this game. Maybe there will be a conference in the future where it is said: Oh, let's just adopt the House bill. We like it better. I think that undermines the whole nature, frankly, of the legislative process.

I again urge my colleagues to vote to table the Kennedy amendment. Mr. DEDAK. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

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

Mr. REED. Mr. President, I rise to join my colleagues by supporting this important amendment. For months we have been bogged down in a conference without real progress, and without hope of concluding the conference and bringing this bill to the floor for a final vote in the last days of this Congress. I think we have to move forward. I think we have to move forward, particularly when it comes to access to health care for children in this country. I know there has been some discussion that progress has been made in terms of allowing access to a pediatrician. But there are other important aspects of health care for children included in the context of the Norwood-Dingell bill that have not been agreed to yet by the conference committee.

For example, ensuring that an appeals process is sensitive to the particular needs of children, the developmental needs of children that do not exist for adults; and also ensuring that there are quality assurance provisions for outcomes that are tied to the particular concerns of children.

If we do not do these things, then we are not only missing an opportunity, we are also disregarding our obligation to all the children of this country.

We have all heard stories today about lawyers and stories about HMOs. Let me tell you a story about one child. It is a story I heard down in Atlanta with Senator Max Cleland. Lamona Adams, the mother of James Adams, was concerned about her child. He had a fever. He was ill. She did what she was told to do by her HMO; that is, to call up and get advice over the phone about what she should do. She desperately pleaded for help. She was told to go 42 miles to a hospital because the HMO had a contract with the hospital to receive their patients. While driving 42 miles to a hospital on the other side of Atlanta, an area she didn't know anything about, the child became so ill that the father just saw a sign that said "hospital," went there, and they treated the child. They saved the child's life. However, they could not save the child's hands and feet. They had to amputate. That is what HMOs have done in too many cases in this country.

Today should not be Groundhog Day. It should be D-Day. We should seize this initiative and pass this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield 4 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, first, I want to make it perfectly clear that I strongly support making health care reform legislation years ago. Guess what. More and more Americans have lost their insurance coverage. We can do something now—limited, purposeful, appropriate—make sure that HMOs treat people as patients, not as objects of economic profit on their balance sheet. We can do it. We should do it.

Today should not be Groundhog Day. It should be D-Day. We should seize this initiative and pass this legislation.
plans. And let me assure you that these stories are deeply troubling to me—
that’s why Congress is addressing this important issue. We are listening to
our constituents and we are taking ac-
tion.

There is one point where all of us agree—people deserve to receive the best
care possible when they are sick. I believe that when the conference com-
mittee has completed its work, this im-
portant goal will become a reality. None of us think that someone should
be turned away from medical treat-
ment because his health plan won’t
cover it. Our legislation provides pa-
tients the ability to appeal these types
of decisions, quickly, by offering both
interim and final appeals and appeal
processes. It is my hope that by providing
these options, people will receive qual-
ity health care, in a timely fashion,
when they need it the most.

All of us in this chamber know very well
that there have been competing bills
that have been introduced over the years
that provide a variety of legis-
lative remedies to address this issue.
In many respects, these bills have com-
mon components intertwined with
similar and, in some cases, identical
provisions. Approximately 47 bills
were introduced in the Senate and the House
last year to provide patient protections
to managed care enrollees.

So it is that we all are con-
cerned about this issue—we all want
patients to receive the best care pos-
sible.

However, for Congress to pass respon-
sible managed care legislation, we must
find middle ground and put forth the
best bill for the American people.
We have done this many times before
on health care legislation, and there is no
reason why we cannot do this again.

The Senator from Massachusetts is
trying to make this process work. He has
offered an amendment that flies in the
face of every effort we have made to
achieve that consensus.

There can be nothing more to this
amendment than public relations value,
since it surely will not pass in the
Senate. We have spent hours and
hours on the Senate floor, in
conference, and in the back rooms of
the Capitol on this legislation.

The Senator knows well why the Din-
gell-Norwood approach will not pass.
He knows it is likely to cause health
insurance premiums to rise and, as a
direct result, cause employers to drop
their health plans. He knows this will
lead to higher numbers of uninsured
Americans. And, he knows that this is
an unacceptable outcome.

I remain hopeful that, in the end, we
will reach consensus on this bill. I com-
mend you, and, in some cases, identical
and leadership as chairman of the
House-Senate conference committee
and urge my colleagues to support the
conference and let them continue their
work.

The PRESIDING OFFICER (Mr.
SMITH of Oregon). Who yields time?

MR. KENNEDY. How much time do I
have?

The PRESIDING OFFICER. Thirteen
minutes.

MR. KENNEDY. I yield 5 minutes to
the Senator from Connecticut.

MR. DODD. Mr. President, in another
15 or 20 minutes we are going to be vot-
ing on some very important issues. In some
30 working days, the way I calculate,
maybe 40 legislative days remaining in
this session of Congress. Probably the
only vote we’re going to have on this
issue this year will occur in just a few
minutes.

I don’t like to count noses at this particular juncture, but I suspect,
based on what I have heard so far, that
my good friends on the Republican side
will probably prevail politically. I say
to them with great respect and affec-
tion that while they may win politi-
cally today, there are an awful lot of
people all across the country who will
lose.

I have been in Congress 25 years. I have been in conferences, a lot of
them. Every now and then, conferences just
don’t move. I am not going to engage
in the debate back and forth about
whether or not this conference has ac-
tually resolved some particular issue
or not. Enough has been said about it.
The fact is that occasionally things just
don’t move. There are just too
many differences of opinion. That’s all
there is to it and that is what has hap-
pened here.

It doesn’t make anyone comfortable to have to deal with this issue on
the Department of Defense authorization,
but we find ourselves in a situation in
which it is probably the only chance we
are going to have to do something
about patient protections this year.

Despite the way our colleagues have portrayed this amendment, the kinds
of protections that we want to provide
to the American people are not radical
ideas. This is not about destroying the
insurance industry and enriching trial
lawyers. If it were, I wouldn’t be a part
of it. My colleague knows that as a
Senator from Connecticut I represent
more insurance companies than any other Member except my colleague,
J. C. LIEBERMAN. And, I think I would
be recognized as someone who has taken
on the trial bar when it was warranted.
I’ve worked with my friend, PHIL
GRAMM, on securities litigation reform.
We did uniform standards. We did Y2K
legislation. I am a cosponsor of tort re-
form. I don’t take a back seat to any-
one on these issues.

But, I also happen to believe, as
strongly as I feel about the good work
of many of the insurance companies in
my state, that when they make a med-
ical decision or when a business makes
a medical decision, just as when a doc-
tor makes a medical decision, they
ought to be held accountable. I don’t
think that is a radical idea. Others
may think so; I don’t think so. The
idea that the insurance industry should
be exempt?

That is what this bill of ours tries to
do, along with ensuring access to clinic-
tal trials, providing access to the same
protections to all Americans with private
health insurance, that patients should
have access to emergency care, that
women should have access to their Ob-
Gyn, these are not groundbreaking
ideas. These ideas are pretty straight-
forward. In fact, a third of the Repub-
licans in the other Chamber thought
so and voted for the Norwood-Dingell
bill. The author of the bill, Dr. Nor-
dell, is a Republican. This is not some
great partisan battle except here in the
US Senate. Across the country it is not
a partisan issue. When people get sick
and families are hurting, they don’t
talk about themselves as Democrats or
Republicans or conservatives or lib-
erals. They talk about themselves as
individuals who need help.

I hope enough of our colleagues on the other side will join with the minor-
ity here in voting for this, voting for the
very same bill that an over-
whelming majority of Democrats and
Republicans supported in the House al-
most a year ago.

Again, I respect my good friend and
colleague from Oklahoma for his ef-
forts. It has not been an easy job. It is
a complicated bill and it is a complex
issue. But, we have come to a point,
with the few days left in this session,
that if we don’t try to do something
about this here, I am convinced noth-
ing will happen in this Congress on this
issue. Every now and then you begin to
read the tea leaves. It is like the stu-
dent who didn’t get the homework
done. First the dog ate it. Then some-
how it ended up in the garbage. Then
the computer crashed, and, assuming
while you, have to say maybe the student
just isn’t going to get the homework
done. In a sense, that is what has hap-
pened here.

In the 3½ months since conferences
began working on this bill, essentially
almost nothing has happened. We sim-
ply have not moved forward. So, with
40 days left, we are put in the position
of asking colleagues to join us in sup-
porting a bill that has already passed
the House, that the President said he
would sign, that would leave this Con-
gress with a mark of achievement, even
if we did nothing else in the next 40
days.

Can you imagine in future years how
this Congress would be recognized if we
were to pass a Patients’ Bill of Rights
that said all Americans ought to have
access to basic patient protections,
that doctors ought to be able to make
medical decisions for their patients,
that businesses and insurance com-
panies that make health care decisions
ought to be held responsible when they
make a decision that affects the lives
of others? There is not a single citizen
in this country who, if they make a de-
cision that causes harm to another,
could hold the responsibility of paying
a price. Why should insurance companies
be exempt?

That is what this bill of ours tries to
do, along with ensuring access to clinical
trials, providing access to the same
protections to all Americans with private
health insurance, that patients should
have access to emergency care, that
women should have access to their Ob-
Gyn, these are not groundbreaking
ideas. These ideas are pretty straight-
of people in this country would like to see us achieve.

In the next 15 minutes we will have a chance to do it. I hope some brave souls on the other side will join us and make a record of this Congress, something all of us can be proud of for years to come.

I yield back to the distinguished Senator from Massachusetts whatever time remains.

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

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes. The Senator from Massachusetts has 8 minutes.

Mr. NICKLES. I yield to the Senator from Tennessee 3 minutes.

Mr. FRIST. Mr. President, over the last hour and a half, we have been talking about the issue of the Patients’ Bill of Rights. It comes down to a question of should we allow the normal course of events to proceed, and in the House of Representatives to proceed—the conference report, which is our challenge. It is a challenge because we are taking a 250-page bill passed in the Senate and merging it with a 250-page bill passed in the House of Representatives on issues that will affect the quality of care of millions of people. Our challenge is to allow that process to continue.

How much progress has been made? Clearly, from the other side of the aisle, there has been made over the last hour and a half to say that progress is not being made, that there is a stalemate, that we won’t see a bill. In 1 minute, let me review what has happened.

On July 15, the Senate passed a bill. The amendment being proposed today is looking backward because that is the very bill we defeated last year on this floor for very good reasons, and it will be defeated again today. On October 6, the House of Representatives passed a Patients’ Bill of Rights which included some very important access provisions. Conferences were named and we have addressed it as conferences, and we essentially have agreement on many of the issues we have talked about. That is progress.

Access to emergency care: If you are injured, you can go to the closest emergency room.

Direct access to a pediatrician: If you have a child, you have a right to have access to somebody who specializes in that care. That has been agreed to. That is progress.

Direct access to specialists: An example was given about a pediatric cardiologist, or a cardiac surgeon. You will have access to the specialists. That has been agreed to.

Continued care from a physician: In the event there is a pregnancy and there is a loss of your insurance plan, you can continue with that physician throughout your pregnancy, or with a terminal illness.

Direct access to obstetricians and gynecologists.

That is true progress. A Democratic offer was made to the Republican conferees on May 23. That is progress—the fact that the proposal has been made.

I should say that very few concessions were made from the original bill. That is progress, though. A Republican response to the Democratic proposal on June 4. That is progress. Again, as has been pointed out, a number of concessions, trying to pull those two bills together, have been made. Again, that is progress.

The sponsors of the amendment today again are taking a bill that was introduced 6 or 7 months ago, debated on the floor, and they are looking backward. That bill has been defeated and defeated in this body after careful deliberation. We are looking forward with the progress that we have put out.

I urge defeat of the proposed amendment the conference can continue with the underlying business.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, as I understand it, we have 7 or 8 minutes left. Usually, the proponents have the opportunity to do the final summation. I wonder if my friend and colleague from Oklahoma would do that.

I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the question be suspended.

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

Mr. NICKLES. Mr. President, I yield 3 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, this has been a long debate and, I think, a good debate. It has been proven once again that this is an election year. I am not going to insult everybody’s intelligence by telling them that I am shocked that Senator KENNEDY is engaged in partisan politics this afternoon. This is an election year. We are politicians. This is a political act to basically try to win, again, what Senator KENNEDY lost when we had the debate on the floor of the Senate.

Senator NICKLES won. We are in conference trying to work out an agreement, and Senator KENNEDY doesn’t like the way the agreement is going; he is unhappy about it. But rather than get into all this “who shot John,” I have tried to come up with a simple example for somebody back home who is trying to figure out what this is all about, and let me try to give it to you as succinctly as I can.

Somebody goes into the treatment room and the doctor comes in there and takes his stethoscope and they tell him to take off his shirt. In comes somebody else. They say: Well, who is that in this room? And that is the gatekeeper for the HMO. Now, what the patient wants is to get that gatekeeper out of the examining room so it is them and their doctor. Senator KEN- NEDY says he has the answer. His an- swer is: Well, keep the gatekeeper but here is how we will fix it. We will bring in a lawyer, to sue the HMO, the insurance company, and the employer that bought the insurance. So we have the lawyer there and he gets part of the stethoscope. And then we bring in a bureau- crat to regulate it. So Senator KENNEDY’s answer is, rather than get the gatekeeper out of the examining room, bring in a lawyer and a bureaucrat; and here is the poor patient with his heart at the end of the stethoscope and now four people are listening to the heart.

Now, what we are trying to do here is simple. We are trying to empower the American health care consumer to fire the HMO. We give them the ability to have innovative ways of financing health care, such as medical savings accounts, so if they didn’t like the way the HMO is treating them, they don’t go see a lawyer, or a bureaucrat, or they don’t see Senator KENNEDY; they simply call up their HMO and say: You are fired. They go out through a medical savings account, and they have the credit card or their checking account through their medical savings account, and they pick up the phone and they don’t say: Are you a member of our HMO? My baby is sick and needs care. Will you see him? They simply say: Will you take a check? Do you take MasterCard or Visa?” If they do, they are in.

In reality, that is what this debate is about. Do you believe in bureaucrats, or do you believe in freedom?

Senator KENNEDY, in all his heart, believes—and he is sincere, and I admire him for it—that having a lawyer there and having a bureaucrat in there improves the system.

He supported a health care bill where if a doctor provided you health care that an advisory panel appointed by the Government said they could be fined $50,000. He supported the Clinton bill where if your baby is sick and the Government said this child doesn’t need treatment, and you said to the doctor, treat my child and I will pay for it, if the doctor took the money he could be sent to prison for 15 years.

That is what their alternative was.

What we want to do is give people freedom. One of the freedoms under our bill is to say to your HMO: You are fired.

If you think having a lawyer and a bureaucrat is good, then you are for Senator KENNEDY. But if you believe in freedom and what is right for you and your family, what we are trying to do is the right way to go.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my good friend from Texas—he is my good friend—talks about freedom. He has put his finger on an issue. He wants to
give freedom to the HMOs and not provide the important services to patients. That is his kind of freedom.

I always enjoy listening to the Senator from Texas. I remember listening to him in 1993 when we had President Clinton's reform program. A Republican from Texas, I remember—someone can correct me—said: If we pass President Clinton's economic bill, we are going to have unemployment all around the nation, all around the nation. If we pass President Clinton's bill, we are going to have interest rates right up through the top of the roof.

We heard that speech. PHIL GRAMM was wrong then, and he is wrong tonight.

This issue is very basic and fundamental. It is an important one. This bill should have passed and become law in the last Congress. The first HMO bill to make sure that patients' rights were going to be protected was in 1997. It took us 2 years to get this legislation out of the committee. It took months of delay to get it before the Senate. It was passed almost a year ago. We still have not been able to have an agreement that will protect patients.

That is what is at issue, when you come right down to it. As much as PHIL GRAMM might like to say it, it isn't just Senator KENNEDY saying it. It is the fact that 300 organizations—representing the doctors and nurses in this country and every other health and medical group—support our position today. Two Republican leaders on this issue in the House of Representatives stood before their constituency earlier today and said that they believed we ought to take this action this afternoon.

I ask my friends from Oklahoma and Texas: What particular rights don't you want to provide to the American people who are included in our Patients' Bill of Rights?

What about the ability to hold plans accountable? Is that unacceptable?

What about making sure that children get specialists? Is that unacceptable?

What about having clinical trials? Is that unacceptable?

What about guaranteeing women access to an OB/GYN? Is that unacceptable?

What about having the right to get prescription drugs? Is that unacceptable?

What about prohibiting gag rules? Is that unacceptable?

What about independent external appeals? Is that unacceptable?

When you cut through the rhetoric—and we welcome the opportunity to cut through the rhetoric—you tell us that you are going to vote against this this afternoon. You spell out for us those agreements made in conference. We challenge you to lay out on the floor of the Senate the last agreement that was made. The last agreement that was made was in March of this year. That was the last one in open session. We want to know what kind of protections you are not prepared to give the American people. We stand to protect the consumers, protect the patients, protect the children, protect the women, and protect the disabled in this country. That is what this is about.

In the movie "As Good As It Gets" last year, that wonderful picture for which Helen Hunt won the Oscar, there was a wonderful scene that everyone remembers. Helen Hunt starred as a mother whose child was not being provided medical care by an HMO. And every parent across this Nation laughed as they commiserated and said that is the way it is.

The consumers of America understand what is going on here. The question is whether the Senate of the United States is going to understand.

We have an opportunity to do something about it. I hope the Senate will vote for the Daschle amendment. I withhold some of my time.

Mr. GRASSLEY. Mr. President, I oppose Senator KENNEDY's amendment. Introducing this amendment at this time is a clear statement that Democratic leaders want an election issue, not a Patients' Bill of Rights. It is a cynical ploy, made in bad faith, and they ought to be ashamed of themselves.

The Senate voted on this bill last year, after full debate, and rejected it in favor of a better product. Since that time, the conference has been working on a compromise. In the past week, Republican negotiators made an offer with major new concessions. Was this greeted with a Democrat counteroffer that moved toward the middle? No, it's answered with this attempt to blow up those negotiations. If my colleagues don't want to legislate, if they just want to create election issues, they don't deserve to be here.

Let me be specific. Republican negotiators have made an offer to their Democrat counterparts that would allow lawsuits to be brought if a health plan has rejected the decision of an independent reviewer and the enrollee has fully utilized the plan's appeal mechanism. Full economic damages could be sought, and punitive damages would be available, subject to limits. Employers, however, would be expressly protected from lawsuits, addressing a key concern of those who have coverage for workers. These are major, major concessions. That's obvious.

In my view, this offer reasonably balances the need for fairness to consumers who are wronged with the need to keep health insurance costs low so that employers continue to offer coverage. But it was dismissed without even a serious response by the other side. If no agreement is reached this year, let everyone understand who will be to blame. It is the Democrats who have the leverage, who have to be better off with no bill than with a bill.

After this stunt fails, I hope that the President and Congressional Democrats will change their obstructionist strategy so that the Patients' Bill of Rights can become a reality, this year. In the meantime, I am voting against Senator KENNEDY's attempt to short-circuit our legislative process.
While I appreciate the important contributions of managed care, we must protect the rights of patients in our nation's health care system. Too many Americans feel trapped in a system that does not put their health care first. They believe HMOs value a paper dollar more than they do a human life. It is time for us to finally help these fine Americans and begin working together to get safe, quality health care for Americans.

As you know, last summer I reluctantly voted for the Senate version of the Patients Bill of Rights. At that time I made it known that my vote for passage was contingent on a strong conference agreement that would protect the health care needs of patients rather than those contained in the Senate bill. I supported the Senate bill because it was important to move forward and send legislation for strengthening in conference with the House. It was my strong hope that the House would pass stronger, more reasonable health care reform similar to the Norwood/Dingell legislation that honestly puts the needs of patients first. Then we could work together for a practical and fair compromise during conference.

Mr. President, I am voting today in support of the proposed Norwood/Dingell amendment before the Senate because I share the frustration of millions of Americans who are waiting for the conference to begin making substantial efforts towards reaching a viable agreement providing patient protections. This conference has labored for more than four months to work on reaching an agreement and yet they are not even close to finding a solution. And I am concerned that once again, partisan politics and special interests are blocking us from enacting health care reform for our constituents.

It is time for all of us to finally put aside partisanship and the influence of special interests to work together for what is right for all Americans—safe, quality, affordable health care. This is too important an issue to allow the influence of special interests to work together for what is right for all Americans.

While I am supporting this amendment I would like to make clear that I believe that there is still work that must be done in conference before it is enacted into law. I support the intentions of the Norwood/Dingell bill but there is much that needs to be strengthened and improved before it becomes law, including the liability provisions. Real patient protection must permit individuals to resolve insurance disputes through the courts but it must accommodate common sense limits on excessive non-economic damage awards and ban punitive judgments that make health care more costly. This must be structured in a manner that does not encourage frivolous lawsuits, unnecessarily make health insurance more costly or make employers vulnerable for health care decisions they are not making.

In addition, I do not support extending U.S. Customs Service user fees to pay for this proposal. Before agreeing to this amendment I was assured that the extension of the user fees was merely a tactical move to help prevent this amendment from being defeated by partisan parliamentary procedures. I have been assured that if this amendment were to pass that an alternate means of paying for it—one that does not undermine Customs operations or commercial activities—would be incorporated. It is important that US Customs continue having adequate funding for conducting their programs including implementing a new automation system for reducing backlogs at ports of entry to help facilitate the dramatic expansion of commerce that has helped fuel our strong economy. Let me reiterate in no way does my vote for strong patient protections in any way provide an endorsement for extending user fees and placing a further burden on businesses and our economy.

It is my strong hope that today's vote will provide the impetus for the conference to finally work together on finding a viable and real solution for providing Americans with the health care protections they deserve. The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield to the Senator from Texas 30 seconds.

Mr. GRAMM. Mr. President, in 1992 and 1993, when Senator KENNEDY and I were trying to raise taxes, which, unfortunately, they succeeded in doing, and when they were trying to have the Government take over the health care system, which, thank God, they failed to do, I said people would lose their jobs if they were successful. And they did. Democrats lost their jobs. Not one Republican was defeated as an incumbent in 1994. We won nine seats in the Senate. And we are in the majority.

Some people did lose their jobs, because Americans did not want the Government to take over and run the health care system. I say to Senator Kennedy that, as sad as I know it makes him, they still don't, and they never will.

Mr. KENNEDY. Mr. President, could I ask the Senator a question on my time?

Does that stethoscope show any beating hearts over there on that side of the aisle?

Mr. GRAMM. Mr. President, I might remind the Senator KENNEDY's time, talking slowly as I do, this stethoscope picks up a strong heartbeat that believes in freedom, and that believes in the right of consumers—even health care consumers—to fire an HMO rather than call in a lawyer or a bureaucrat. That is what we call freedom. That is what we are for.

We disagree, and that is what makes democracy work.

Mr. KENNEDY. I thank the Senator. Mr. NICKLES. I ask the Senator: Did he conclude his remarks? I am getting ready to move to table.
Senators, including the chairman of the Finance Committee and others, that would achieve this goal and, in fact, would be a broader bill in its application.

As this is drawn, I understand it would be a subject to a number of groups, including the trial lawyers, Sierra Club, and others. We ought to make sure it is broad and applies to everybody. We ought to have full disclosure, and do it so it is not a technical problem on a bill such as the Defense authorization bill.

I urge my colleagues to think about this very carefully and support the Warner point of order that will be made with regard to the blue-slip problem. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. McCain. Mr. President, the Senator from Wisconsin has 1 minute.

Mr. Feingold. Mr. President, very simply, this is a vote on campaign finance reform. The question is whether this body will take the opportunity, offered by this amendment, to shine some sunlight on the secret money that these 527 organizations are pouring into our elections.

Here it is on this chart, in black and white, from the web site of one of these groups. The contributions can be given in unlimited amounts. They can be from any source. And they are not political contributions and are not a matter of public record.

All this amendment does is make it a matter of public record. The American people have a right to demand this information from any organization that is given tax exemption.

The blue-slip argument is a fig leaf. It is an excuse made up for those who oppose reform but have said they support disclosure.

I urge my colleagues to vote against the point of order and for the amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCain. Mr. President, just to repeat, this amendment would mandate disclosure of all contributors to, and expenditures by, 527 organizations—a new phenomenon in American politics, with unlimited amounts of money from any source. China, the Mafia, and drug dealers can be part of our political campaign and we will never know who they are.

It affects both parties and all ideologies. For the benefit of my friends on this side of the aisle, it was the Sierra Club that first began the 527 new gimmick example of corruption in American politics.

It will not harm the defense bill. If the defense bill is blue-sliped, I will be the first to say that bill, when it comes back, should have no amendments on it, and I would work as hard as I can to get it done.

Please, do not believe that the defense bill would be harmed or blue-sliped. The fact is, every Member on both sides of the aisle of this body has said they are for full disclosure. Now we are going to find out whether we are for disclosure or we will continue to allow the corruption of American politics.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to make a constitutional point of order.

I raise a point of order that the pending McCain amendment violates the U.S. Constitution in that it is clearly a revenue-raising measure that is initiating in the Senate, not the House of Representatives, as provided for in our Constitution.

The PRESIDING OFFICER. The question before the Senate is, Is the point of order well taken?

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

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

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

Mr. Feingold. Mr. President, I call to my colleagues’ attention the fact that the McCain amendment will be a killer amendment to this Defense authorization bill. It will be blue-sliped. I have discussed this with Chairman Archer.

He assured me, after reviewing the way the amendment was written, that he will have no choice but to blue-slip it. I also discussed it with Senator Moynihan from New York. He has concerns about the constitutionality of this revenue amendment being added to the Defense authorization bill.

I want to make that perfectly clear and add to that, this compounds our problem. We are dealing with a very important bill, the Defense authorization bill. We are talking about national security. We need to find a way to come to a conclusion. We have 11 appropriations bills remaining, and we have to find time to act on the China PNTR and other issues.

If we continue to work in good faith trying to find a way to get votes on amendments and complete the Defense authorization bill and then we face, on top of everything else, a blue-slip problem in the House, we have done ourselves damage.

I think, disclosure is the way to go. I have been quoted to that effect. I still think that is the way to go. There is a bill that has been drafted, I understand after talking with a number of
Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, before I move to proceed to the DOD appropriations bill, let me say that we have a problem now with this amendment, the way the language is written, in terms of a blue slip, if and when it gets to the House of Representatives.

I have discussed this with Senator DASCHEL and Senator MCCAIN and others who are concerned about the underlying Defense authorization bill and those who are concerned about the disclosure amendment.

During the period of time that we are going to be working on the DOD appropriations bill, we will work to see if we can come up with some sort of agreement or some sort of procedure that would get this amendment off of the Defense authorization bill and onto some other bill—perhaps some revenue bill we will have before us; perhaps even the repeal of the telephone tax that the House has acted on; and also give us an opportunity to work with Senator McCAIN and others to see if we can broaden the application.

But we need to go ahead and proceed with the DOD appropriations bill. We will work together to see if we can find a way to resolve this issue.

Does the Senator from Arizona have any comments?

Mr. MCCAIN. Mr. President, I thank the majority leader for pursuing this issue. I would like to broaden it as well. I think it is a fair agreement. I would like to try to move forward, meanwhile, having adopted this amendment, and the President to sign the bill.

I thank the majority leader and the Democratic leader.

Mr. ASHcroft. Mr. President, I rise today to speak on behalf of this year’s National Defense Authorization Act. Senator WARNER and Senator LEVIN, along with the entire committee, have my deepest thanks for their tremendous work with respect to this country’s national defense. Their hard work and dedication on behalf of our servicemen and women is evident throughout the entire Act. Senator WARNER, in particular, has been instrumental in bringing to the floor a bill that provides our country with the national defense it desperately needs and deserves.

To the Committee’s credit, this Act continues the trend, begun with last year’s Authorization Bill, of providing a real increase in the authorized level of defense spending. The Committee has once again recognized that people are the most important aspect of our military and our troops must be treated accordingly. This Act authorizes, among other things, a well-deserved 3.7 percent pay raise for military personnel, important quality-of-life provisions, as well as several important health care concerns to ensure our active-duty and retired personnel have the medical care they justly deserve.

Mr. President, although people make our military the best in the world, our troops must have the superior equipment to ensure continued success in every conflict. We must not send our sons and daughters into war without the right tools for victory. To this end, I would like to thank Senator WARNER specifically for his support of a very important project—the extended-range conventional air-launched cruise missile project (CALCM-ER). In addition to Senator WARNER, I would also like to thank Senator CONRAD, Senator LANDRIEU, and Senator BREAX for their work in support of this important project, in the Defense Authorization Act.

The Conventional Air-Launched Cruise Missile, or CALCM, is a converted nuclear cruise missile that is launched from a B-52. This invaluable weapon is the Air Force’s only conventional air-launched, long-range, all-weather precision weapon. Fired more than 700 miles from its target, this missile can strike strategic targets deep inside enemy territory without significant risk to our pilots or planes.

General Mike Ryan, the Air Force Chief of Staff, praised the CALCM’s invaluable capabilities when he said in a written statement dated February 10, 2000 that “CALCM continues to be the Commander in Chief’s first strike weapon of choice during contingency operations, demonstrated by its superb performance during Operations Desert Fox and Allied Force.”

Due to the weapon’s great performance and subsequent heavy demand, the number of CALCMs in the Air Force inventory dwindled to below 70 last year. Through continued conversion of the nuclear cruise missiles, the current number is around 200, but the Air Force has concluded that this is simply not enough to meet our military’s need.

To the limited number of convertible nuclear cruise missiles, the Air Force needed to search out additional avenues of creating an extended range cruise missile with similar capabilities of the CALCM.

Mr. President, the Air Force has identified a suitable solution. In a study commissioned in late last year’s Defense Authorization bill to deal with this problem, a commission concluded that and I quote, “Of specific interest to the Air Force is the need for an extended range cruise missile mid-term that would be a modification to an existing cruise missile in the inventory.” This option meets the Air Force’s two-fold requirement of increasing the inventory of cruise missiles as quickly as possible and providing an extended range missile capability to protect our aging bomber force from current and mid-term threats while long range cruise missile requirements are studied.

In order to see these conclusions become a reality, I, together with Senators BOND, CONRAD, LANDRIEU, and BREAX, have worked to see the addition of $86.1 million in the Air Force’s Research and Development account for the extended range conventional air-launched cruise missile program. The Armed Services Committee has graciously agreed upon and authorized this funding in the Defense Authorization Act—and I thank the Committee, and particularly Senator WARNER, for their assistance.

In the upcoming Defense Appropriations bill, Senator STEVENS has been particularly understanding of the Air Force’s need of the Extended Range Cruise Missile and has worked with me to provide appropriations for this program. I want to offer him a personal thanks for his support of this vital program. I truly appreciate his efforts.

However, I have been informed that in order to start the process and see these important weapons are in the hands of our troops, additional funds will be needed. In order to rectify this situation, I plan on amending the Appropriations bill to increase the available funds for the Extended Range Cruise Missile program by $23 million so that work can begin on the new cruise missile. This will bring the total amount to $43 million—which is half of the authorized amount and enough to start development on this important missile.

Mr. President, again I want to thank Senator WARNER and Senator STEVENS for their continued and tireless service to our nation’s defense.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to H.R. 4578, the House DOD appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Will the majority yield?

Is there a pending amendment on the DOD authorization bill?

The PRESIDING OFFICER. There is a pending amendment offered by Senator SMITH.

Mr. LOTT. That is the first-degree amendment that was amended with the second-degree amendment. But then I believe after that would be the Dodd amendment.

Mr. DODD. I wish it were a Dodd amendment. I was curious about Senator WARNER’s amendment. That is what I was curious about.

Mr. WARNER. Mr. President, I thank the Senator. We have that Warner-Dodd amendment on the Cuban commission at the desk. Had we remained on this bill, it would be my intention to ask that it be the pending issue. That is now moot.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DASCHLE. Mr. President, reserving the right to object, I ask unanimous consent that we amend it to allow the Warner amendment to be the next amendment to be considered following the Smith amendment.